Regina v Ceri Louise Shipman

No. 2013/02452/A2

Court of Appeal Criminal Division

13 August 2013

[2013] EWCA Crim 1698

2013 WL 5336679

Before: Lady Justice Rafferty DBE Mr Justice Griffith Williams and Mrs Justice Thirlwall DBE

Tuesday 13 August 2013

Representation

Mr S Thornton appeared on behalf of the Appellant.

Judgment

Tuesday 13 August 2013Lady Justice Rafferty:

I shall ask Mrs Justice Thirlwall to give the judgment of the court.

Mrs Justice Thirlwall:

1 Ceri Louise Shipman is 26. On 20 March 2013 at Hull Crown Court she pleaded guilty to doing acts tending and intended to pervert the course of public justice. On 17 April she was sentenced to 30 months' imprisonment. A victim surcharge was also imposed. This is her appeal against sentence which she brings by leave of the single judge.

2 The appellant drafted the grounds of appeal and skeleton argument herself, although today she had been represented by Mr Thornton who has presented her case with commendable focus. It is accepted by him on her behalf that immediate custody was inevitable. It is Mr Thornton's submission that the sentence was manifestly excessive on the facts and in the circumstances of this case.

3 The background was this: the appellant was the partner of Jason Savage. On 16 November 2009 he pleaded guilty to several offences. In January 2010 he was convicted after a trial of further offences. On 26 April 2010 he was sentenced to life imprisonment with a minimum term to serve of nine years for 13 offences, which included three offences of rape and three offences of causing grievous bodily harm with intent, contrary to section 18 of the Offences against the Person Act 1861 . Savage is no doubt a vicious and violent man. Two of his victims, "X" and "Y", gave evidence against him. One of them was a former partner. It is plain from the judge's

sentencing remarks in this case that the trial was a difficult and painful ordeal for both of those women. Both were believed by the jury at trial. It is equally plain that the appellant at that time thought that her partner had been wrongfully convicted. This was an absurd belief, not least because she herself had suffered at his hands during the course of their relationship, although that was not something she was able to acknowledge until relatively recently. However, she had remained with him and in May 2009 gave birth to their daughter who is now 4 years old.

4 The facts of the offence with which we are concerned were these. Shortly after the trial had finished the appellant set up two false Facebook accounts with matching e-mail accounts in the names of the two victims. This is easy to do. She used her own laptop computer. She copied from their genuine Facebook accounts pictures and profiles to make the false accounts look genuine. She then sent from the two accounts messages to her own account, to which she replied. She fabricated conversations, the gist of which was that the two women had lied about Savage at trial. She did this between April and September or thereabouts of 2010. The two women knew nothing of it since they were not "friends" with the appellant on Facebook. They would have had no reason to see what was passing between the bogus accounts and that of the appellant.

5 In September 2010 the appellant printed off the Facebook conversations and gave them to the police. She also made to the police a statement about what she alleged had happened. None of it was true. As a result the two women, who were both of good character as the judge found and both the victims of a violent offender, were arrested and held in custody, one for seven hours and one for five and a half hours. Their computers and mobile phones were taken from them. Both were distressed. One was particularly upset as she was concerned, as she was entitled to be, about who was going to look after her children while she was in custody. In the event, they were both later released on bail. After some months they were told no further action would be taken against them. Elementary checks of the computers demonstrated that the appellant was responsible for all the Facebook traffic. However, the two women were inevitably anxious throughout the period of months during which the investigation took place.

6 It was clearly the appellant's intention to cause the two women to be investigated and discredited. Her aim at that stage was to achieve a successful appeal which would lead to the release of a violent and guilty man. In addition, as the sentencing judge found, it was her intention that the two innocent victims would be prosecuted for making false allegations of serious offences.

7 The sentencing judge had presided over the original trial and plainly considered that anyone who had attended would have been in no doubt as to the guilt of Savage. He also observed that the picture the appellant had built up in the Facebook conversations was subtle and sophisticated, designed to lead the police down a particular path. It was only after four months that she submitted her dossier to the police, so there was, he found, persistence.

8 It is well established that perverting the course of justice almost invariably results in an immediate prison sentence. That is conceded in this case. An offence like this strikes at the heart of our system of justice. It cannot be tolerated. Deterrent

sentences are essential.

9 It is unnecessary to go through the authorities. As has been said by different constitutions of this court on a number of occasions, the offences are fact-specific, but in every case three matters must be considered: first, the seriousness of the substantive offence; second, the degree of persistence in the misleading conduct; and third, the effect of the attempt to pervert the course of justice on that course of justice.

10 In carrying out the sentencing exercise the judge correctly considered the seriousness of the underlying offences which the appellant sought to undermine. They were very serious, hence the life sentence and the significant minimum term. He also considered, as he was entitled to do, that there was some sophistication and persistence in the attempt to attack the honesty of the two victims, as we have described.

11 It is upon the third matter which the appellant seeks principally to rely. It is submitted, correctly, that this attempt to pervert the course of justice had no prospect of success. It was doomed to failure. The most it could achieve — and for this she must be punished — was the distress and anxiety which we have already described earlier in this judgment. The conduct, however superficially sophisticated and deliberate, was bound to lead nowhere. It had no prospect, in fact, of perverting the course of justice.

12 We turn to the personal mitigation. The appellant was of good character. She was very young (22) when she committed the offence. That is often the case with this type of offence. However, we have read with great care the pre-sentence report. The probation officer was firmly of the view that Savage was behind the offence, although initially the appellant denied that — a denial she persisted in until recently. She now accepts that she had for many years been a victim of his violence — again, something she has not found easy to admit, but which is recorded in the records of the Police Domestic Violence Unit. To an extent she had plainly been manipulated by Savage. She has a daughter of whom he is the father and for whom she is the main carer. Her mother is looking after her while the appellant is in prison, as she had arranged before sentence.

13 There is a further matter which is of some concern to us. It is that this offence took some two and a half years to come to this court. We have received no explanation from the prosecution as to why that was the case, notwithstanding the questions from the single judge. We assume, therefore, that there is no good explanation. It means that the appellant had this offence hanging over her for a very prolonged period, when she knew that she had no defence and that she would be going to prison. She acknowledged, we note, the waste of resources — police, court and prosecution — that she had caused in committing this offence. She pleaded guilty at the earliest possible stage and was therefore entitled to a reduction of one-third in the length of the sentence.

14 We consider that on the facts of this case, taken together with the long delay, a sentence before reduction for plea of three years and four months was too long. In our judgment a sentence of 30 months would have been appropriate after a trial. It

follows that the sentence passed was too long and a sentence of 20 months' imprisonment should stand in its place.

15 Accordingly, we quash the sentence of 30 months' imprisonment and substitute for it a sentence of 20 months' imprisonment. In addition, we quash the victim surcharge which should not have been imposed. To that extent this appeal is allowed.