

Application for leave to appeal a sentence of 12 years imprisonment, imposed by the Royal Court for the offence of attempted murder.

[2021]GCA075

**IN THE COURT OF APPEAL OF THE ISLAND OF GUERNSEY
ON APPEAL FROM THE ROYAL COURT**

CRIMINAL DIVISION APPEAL No. 502

27 July 2021

BEFORE:

**CLARE MONTGOMERY QC JA
SITTING AS A SINGLE JUDGE**

BETWEEN:

ROBIN DUPONT

APPLICANT

and

LAW OFFICERS OF THE CROWN

RESPONDENT

Montgomery, JA

1. There is before me, sitting as a single judge of the Court of Appeal, an application for leave to appeal a sentence of 12 years imprisonment imposed by the Royal Court (Finch LB sitting with Jurats) on 12 July 2021 for an offence of attempted murder. The Applicant, a 57 year old man of effective good character, contends that this sentence was manifestly excessive. I have considered the application on the papers.
2. The victim of the offence was the Applicant's wife. At approximately 11.30 pm on 19 February 2020 the Applicant took two knives he had selected earlier from the kitchen drawer in the matrimonial home and went into the bedroom where his wife was sleeping and stabbed her chest and neck with the knives in an effort to kill her. The Applicant inflicted 7 stab wounds to his wife's shoulder and chest and 2 separate stab wounds to her neck. There were defensive injuries caused to her hands. The Applicant then placed a pillow over his wife's face although not with any great force so that she was able to wriggle away and escape. When his wife rang 999, the Applicant left the house. The wife took refuge with a neighbour before being admitted to hospital. Save for the inevitable scarring she has made a good physical recovery from her injuries.
3. It is common ground that the Applicant was suffering from a recurrent severe depressive disorder at the time of the offence which would have significantly impaired his thought processes. His illness is likely to have contributed to him developing thoughts about self-harm and suicide and a wish to commit suicide as well as to kill his wife. He was however still capable of knowing that what he was doing was wrong in the sense of being morally and legally wrong as well as being contrary to his wife's wishes. His decision to leave the scene

of the crime and to attempt to kill himself demonstrated his awareness of his actions and their consequences. He attended hospital to report his actions but only after his own suicide attempt had failed.

4. The Applicant did not plead guilty at the first opportunity but sought expert advice on his mental state. Following a joint psychiatric report dated 28 January 2021, which concluded the Applicant was not insane, the Applicant pleaded guilty to attempted murder.
5. The Royal Court concluded this was a premeditated attack, with knives which the Applicant had picked out in advance, that involved the infliction of serious injuries on a vulnerable sleeping woman in a domestic context. Although the wife expressed her support for the Applicant at the sentencing hearing, the Royal Court regarded the offence as constituting a breach of marital trust. The Royal Court considered that the appropriate starting point for sentence was 22 years imprisonment to which a significant discount of over 40% was applied to reflect the personal mitigation including the Applicant's mental health and the testimonials and support from a large number of referees as well as the Applicant's wife.
6. I share the view of the Royal Court that the offence was very serious. The attack was the result of some premeditation and the knives were selected by the Applicant in advance of his attack. The injuries inflicted were serious and the Applicant's determination to kill his wife in the context of his own suicide demonstrated a lack of any respect for her autonomy, overvaluing his own thoughts and beliefs at her expense. His mental illness does provide some mitigation, but this remains a case that involves high culpability and serious harm.
7. In these circumstances I consider that the starting point of 22 years imprisonment was justified although it might have been possible to identify a lower starting point in the region of 18-20 years imprisonment given the absence of any history of violence and the presence of a significant mental illness.
8. That said, the reduction of over 40% made by the Royal Court appears to me to have been too high. The allocation of even a one third discount by the Royal Court would in my judgment have been generous.
9. In the circumstances I cannot conclude that the sentence of imprisonment was manifestly excessive. Twelve years imprisonment appears to me to reflect a sentence that is well within the range of appropriate sentences, albeit that the calculation leading to the sentence may not be one that I would have performed. I do not consider it is appropriate to grant leave to appeal to permit the sentence to be recalculated when the net effect of any recalculation will result in the same or a higher sentence. The sentence of twelve years' imprisonment was a proper one in all the circumstances.
10. For these reasons this application for leave to appeal and for legal aid is refused.