IN THE CAYMAN ISLANDS COURT OF APPEAL

CRIMINAL APPEAL 5 of 2021
IND. 79/2018
SC#02454/2018

BETWEEN:

ERNIE EMMANUEL RAMOON

Appellant

- and –

Her Majesty the Queen

Respondent

BEFORE: **The Rt. Hon Sir John Goldring, President**
The Hon Sir Richard Field, Justice of Appeal
The Hon C Dennis Morrison, Justice of Appeal

Date of Hearing**:** 12th November 2021

Appearances: Mr Keith Myers appeared for Appellant (amicus)
Ms Kerri-Ann Gillies Office of the DPP for the Respondent

JUDGMENT

Transcript of oral judgment dated 12th November 2021 and Approved for Release 29th November 2021

GOLDRING, PRES.

1. On the 2nd of December 2020, the Applicant was convicted by a jury in the Grand Court of common assault and of causing grievous bodily harm with intent. He was subsequently sentenced by the trial judge, the Honourable Justice Richards QC, to six months' and eight

years' imprisonment concurrently. He seeks leave to appeal against conviction and in respect of the sentence of eight years' imprisonment.

2. The facts as advanced by the Crown were these. On the evening of the 30th of October 2018, the parties were inside, or in the vicinity of, the Sea Inn Bar. Some time after 9:00 pm there was an exchange of words outside the bar between someone called Jeremy Parchman and the Applicant. It escalated. The Applicant was punched by Jeremy Parchman. A fight followed between the two of them. Kevin Parchman, who had been quite near, intervened to assist his brother Jeremy.

3. In the course of the altercation the Crown alleged that the Applicant, swung a machete at Kevin Parchman, who was then unarmed. That was the alleged common assault). Thereafter, the Applicant was seen on the CCTV footage to go to his green Toyota motor vehicle, which was parked close to the bar.

4. Somebody called Mr Watson, who had been inside the bar, came out. He is a nephew of the Applicant. Mr Kevin Parchman and his brother left and walked along the road. Mr Watson could be seen on the CCTV footage taking a shovel from his truck and striking Kevin Parchman with it. Mr Parchman, fell to the ground.

5. The Applicant got into his Toyota motor car. He drove along the road. The motor car ran over, and was on the top of, Kevin Parchman, causing him serious injury. The vehicle had to be lifted off. Mr Parchman was taken by ambulance to the hospital. The Applicant did not remain at the scene.

6. The case at trial was that the actions of both the Applicant and Mr Watson were by way of revenge following the initial fight.

7. The injuries suffered by Mr Parchman were summarised by the learned judge in the following terms (Paragraph 49 of the sentencing remarks).

"*In the instant case in the Court's view, it is of significance that the injuries received by the victim required his admission to the Critical Care Unit and multiple surgeries. His liver was punctured and his clavicle broken. The surgical intervention required in respect of his left clavicle included implanting screws into it. His lungs, abdomen and pelvis were injured. The impact of the totality of the injuries was such that he was hospitalised for two months and unable to walk unaided for some six months thereafter. The victim was clearly incapacitated as a result of the injuries sustained*."

8. At the trial, the applicant did not give evidence.

9. The grounds of appeal broadly cover two areas; those advanced by Mr Myers, ostensibly as amicus, and those advanced by Mr Ramoon personally in documents and in submissions he has made to us.

10. The first ground advanced by Mr Myers is that the judge failed to give an adequate direction on intent. In so submitting in his written grounds, Mr Myers failed to refer to the agreed written directions which the jury had. They are unarguably both comprehensive and correct. We need only refer to parts of them. The document is headed "*Route to Verdict*". It states:

"*The questions for you to answer are these:*

Question 1.

Are we sure that the defendant Ramoon was the driver of the car that struck and injured the complainant?

If your answer is yes, go on to question 2.

Question 2.

Are we sure that the defendant Ramoon drove the car and struck the complainant deliberately?

If your answer is yes, go on to question 3.

Question 3.

Are we sure that the defendant Ramoon intended to cause the complainant really serious injury?

If your answer is yes, your verdict will be one of 'Guilty' on Count 1 and you will not consider questions 4 and 5."

11. We need not refer to either question 4 or question 5. We need say no more in respect of the first ground of appeal.

12. The second ground advanced by Mr Myers, which in effect reflects some of the submissions made by the Applicant himself, is that the verdict was, in general terms, unsafe. In advancing that ground, Mr Myers has sought to re-argue the facts, which of course were for the jury. If Mr Myers were right, one might have expected a submission at the close of the prosecution case. There was not one. Such a submission would plainly have been hopeless.

13. In short, there is nothing in either of the grounds advanced by Mr Myers.

14. As to the submissions of the applicant himself, he is highly critical of his then legal representative, Ms Bodden, from whom the court has an affidavit. He is critical of her not having the case adjourned for Dr Douglas, the physician who examined an injury to the applicant's left eye, to attend. Privilege having been waived, counsel has indicated that the Applicant wished the case to continue in spite of the doctor's absence. In any event, the absence of the doctor to deal with what in reality is a peripheral issue could not conceivably have affected the safety of the conviction. Indeed, it might be said that the injury to the eye itself gave further motive to seek revenge, the basis of the Crown's case. There is no

basis, therefore, to have the evidence adduced at this appeal as the Applicant has urged us to do.

15. There is also no basis to criticise counsel in the various ways that the Applicant has sought to do. Neither is there any basis to suggest there was a miscarriage of justice, as the Applicant has submitted.

16. We have, of course, read carefully the statement which he prepared and which he has read out, in which he said what happened was an accident. The jury was plainly entitled to be sure that was not so.

17. We, therefore, refuse leave to appeal against conviction.

18. We can take the question of sentence very shortly.

19. It simply cannot be argued that for using a motor vehicle as a weapon, intending to, and causing, really serious injury, as revenge for a previous assault, that a sentence of eight years' imprisonment after a trial is manifestly excessive. The judge, in our view, was entitled to regard the injuries as serious in the context of the offence, set out in the United Kingdom Sentencing Guidelines and therefore regard this as an offence falling into category 1 of harm. She was entitled to regard it at the lower end of category 1 of culpability, given the use of the vehicle as a weapon. She was entitled to take a starting point of 12 years and increase it somewhat to reflect the aggravating factors she found. However, the judge substantially reduced sentence, both to reflect various features that were advanced in mitigation and, above all, the fact that the incident had happened a long time before, namely, in 2018.

20. In the result, we do not, therefore, agree with Mr Myers in his submissions that the judge in anyway erred so far as sentence was concerned. Neither do we agree with the submissions that Mr Ramoon has made in that regard. The application for leave against sentence is, therefore, refused.