Practice Profile

Aamina commenced pupillage under the supervision of William Davis in October 2023. In her second six she was under the supervision of James Brown and her third six under the supervision of Charlotte Hole.

Aamina became a tenant in March 2025 following the successful completion on her pupillage. Aamina is a committed and dedicated trial advocate already with a wealth of experience of appearing in the Crown and Magistrates Courts.

Aamina's Privacy Policy can be downloaded here.

Areas of Practice

News

5KBW Welcomes New Tenants Aamina Khalid, Claire Mainwaring & Harriet Palfreman

31 March 2025

We are delighted to announce that Aamina Khalid, Claire Mainwaring & Harriet Palfreman have all accepted an invitation to join chambers, following the successful completion of their pupillages.

PTSD and Being Triggered: A Matter of Opinion (Evidence)?

1 August 2024

Defence practitioners may have found themselves in a position where a non-expert prosecution witness gives evidence about the complainant having Post Traumatic Stress Disorder (PTSD) or being 'triggered'. The question is whether such evidence is admissible?

Aamina Khalid, a second six pupil at 5KBW has written a commentary and the article can be read here: https://www.5kbw.co.uk/resources/view-article/ptsd-and-being-triggered-a-matter-of-opinion-evidence

Sentencing: Overcrowding in Women's Prisons

9 April 2024

Should the court take into account the existence of overcrowding in women's prisons when sentencing female offenders? In R v Foster, the Court of Appeal confirmed that the answer is yes. Aamina Khalid, a first six pupil at 5KBW has written a commentary on the Court of Appeal judgment.

The article can be read here: https://www.5kbw.co.uk/resources/view-article/sentencing-overcrowding-in-womens-prisons

Recent Cases

Articles

Sentencing: Overcrowding in Women's Prisons

Author: Aamina Khalid, first six pupil at 5KBW

Sentencing: Overcrowding in Women's Prisons

Introduction

Should the court take into account the existence of overcrowding in women's prisons when sentencing female offenders? In R v Foster, the Court of Appeal confirmed that the answer is yes.

Facts

On 6 March 2023, Ms Carla Foster (CF) pleaded guilty to administering poison with intent to procure her own miscarriage, contrary to the Offences against the Person Act 1861 s.58.

During a period of separation from her partner, CF became pregnant by another man. When she reunited with her partner she wanted to conceal and then terminate the pregnancy. She repeatedly searched online for abortion-inducing drugs and how to terminate a pregnancy over 24 weeks.

CF lied to the British Pregnancy Advisory Service (BPAS) about the length of gestation and obtained abortion-inducing drugs which she used. Soon after, she suffered a miscarriage and when her daughter was born she was not breathing. A subsequent post mortem examination determined that the cause of her death was a combination of stillbirth and maternal use of abortion-inducing drugs.

CF was initially sentenced to 28 months in custody.

The Court of Appeal's Decision

The sentence was appealed for being manifestly excessive.

The factors pointing to a longer sentence included:

1. That the infant had been stillborn.
2. The length of gestation.
3. The fact that CF knew the pregnancy was beyond the legal limit for abortions of 24 weeks.
4. The fact that CF had lied to bring herself within the telemedical services for early medical abortions.

The mitigating factors included:

1. That CF was 44 and had no previous convictions.
2. The overall delay in the proceedings was unreasonable.
3. The offence was committed against the backdrop of the first, and most intense, phase of lockdown at the start of the Covid-19 pandemic and CF was in emotional turmoil as she sought to hide the pregnancy.
4. There was evidence of emotionally unstable personality traits.
5. CF was deeply remorseful, wracked by guilt and suffered from depression.
6. CF was the primary carer and a good mother to three children (one of whom had special needs) who would suffer from her imprisonment.

In deciding the appeal, the court paid particular attention to the sections of the Equal Treatment Bench Book headed "Women as offenders Who is in prison?". The court noted the disproportionate impact of custodial sentences on women and their dependants, and that the long-term effect of prison sentences differs between men and women. It was noted that:

"The impact of imprisonment on women, more than half of whom have themselves been victims of serious crime, is especially damaging and their outcomes are often worse than men's…[and] research suggests that women released from prison are twice as likely to reoffend as a comparable cohort of women given community orders".

"Women are much more likely to be primary carers, with children far more directly affected by a prison sentence as a result…. and only 5% [of children] remain in their own home while [their mother] is imprisoned" [1].

Further, the court stated that "in accordance with long established principles, the conditions in which prisoners are confined can properly be taken into account in sentencing, including in deciding whether to suspend a sentence. Judges can and in our judgment should therefore keep in mind that the impact of a custodial sentence is likely to be heavier during the present circumstances of overcrowding in the female estate than it would otherwise be".

The appeal was allowed and it was held that the sentence would be one of 14 months which should be suspended.

Commentary

In October 2023, there were a record 88,225 people in prison in England and Wales leading to increased prison overcrowding. The Chief Inspector of Prisons, Charlie Taylor, has warned that the prison population crisis "will mean more deprivation, squalor and the risk of further violence". [2].

In R v Ali [2023] EWCA Crim 232, the court referred to a letter from the Deputy Prime Minister to the Lord Chief Justice which stated that "operating very close to prison capacity will have consequences for the conditions in which prisoners are held. More of them will be in crowded conditions while in custody, have reduced access to rehabilitative programmes, as well as being further away from home (affecting the ability for family visits)" [3].

The issues of overcrowding exacerbate the already existing problems that female prisoners face. With limited resources, there is a risk that prison officers may prioritise security over welfare, resulting in many female prisoners not having their physical and mental health needs met [4]. Furthermore, there are only 12 women's prisons (out of 117 in total) in England and Wales and consequently a large proportion of female prisoners are imprisoned far away from their children [5]. This issue is worsened as a result of overcrowding.

In that context, R v Foster is a significant case as it confirms that Judges can and should take into account the particular issues that are faced by women who are sentenced to a term of imprisonment. The court rightly emphasised the fact that the present circumstances of overcrowding in women's prisons mean that the impact of a custodial sentence was greater than it otherwise would have been. The court also referred to the fact that Ms Foster had primary caring responsibilities, and that the children in her care would be detrimentally affected by a custodial sentence.

This is therefore an important judgment which is likely to be of assistance to practitioners acting for defendants, particularly female defendants, in circumstances where the court is considering imposing a custodial sentence.

[1] Equal Treatment Bench Book (February 2021) at [115]-[130] ("Women as offenders Who is in prison?")

[2] https://commonslibrary.parliament.uk/what-is-the-government-doing-to-reduce-pressure-on-prison-capacity/

[3] R v Ali [2023] EWCA Crim 232 at [20]

[4] Claudia Vince and Emily Evison, 'Invisible Women: Understanding women's experiences of long-term imprisonment' (2024) 270 Prison Service Journal 30

[5] https://mojdigital.blog.gov.uk/2022/03/04/creating-content-for-women-in-prison/

PTSD and Being Triggered: A Matter of Opinion (Evidence)?

Author: Aamina Khalid, Second Six Pupil at 5KBW

Introduction

Defence practitioners may have found themselves in a position where a non-expert prosecution witness gives evidence about the complainant having Post Traumatic Stress Disorder (PTSD) or being 'triggered'. For example, the friend of a complainant (C) in a hypothetical rape case might state that the C now suffers from PTSD and is triggered anytime she smells a particular perfume that reminds her of the defendant (D).

The question is whether such evidence is admissible? The answer should generally be no.

The General Rule

The general rule is that a witness is only permitted to give evidence about "facts they personally perceived and not evidence of their opinion, i.e. evidence of inferences drawn from such facts" [1].

If, in the example set out above, the evidence is deemed to be not merely facts that the friend observed but instead inferences that he or she drew from the facts it would constitute opinion evidence and would not be admissible.

Is the statement that C suffers from PTSD admissible?

PTSD is a medical term. It is an anxiety disorder caused by very stressful, frightening or distressing events [2].

PTSD is diagnosed by a medical professional on the basis of various symptoms including symptoms such as nightmares, flashbacks and insomnia [3].

As such, the friend would be able to state that he saw that C had trouble sleeping (if this was a fact that he personally perceived) but would not be able to say that he therefore thinks that C has PTSD as this would be an inference he had drawn from those facts and would be an opinion.

In the case of R v H [2014] EWCA Crim 1555 [4], Sir Brian Leveson held that the witness crossed the boundary of fact into opinion when they diagnosed the witnesses with PTSD. The case shows that not only is the diagnosis of PTSD opinion evidence as to a medical condition but it is also inadmissible because implicit in a diagnosis of PTSD is opinion evidence as to the veracity of the allegation against D. This is because in order to form the opinion that an individual has PTSD, it is necessary to first form the opinion that the individual had in fact suffered from a traumatic event.

Consequently, the friend's evidence about C having PTSD is inadmissible because it is opinion evidence of:

1. A medical condition and
2. The veracity/truth of the sexual offence against C.

Is the statement that C is triggered by reminders of D admissible?

A trigger is a sensory reminder that causes painful memories or certain symptoms to resurface. Although, the term is arguably less of a clear medical term than PTSD it is a term that is traditionally used as a medical term in the context of mental health [5].

C's friend could state that he saw that C looked distressed and that she told him she remembered the sexual offence after she smelled some perfume as these would be facts that he personally perceived. However, the friend could not say that he thinks she was triggered, into remembering the sexual offence, by the perfume. This is because the latter would be an inference he had drawn from those facts and would be an opinion.

Drawing an analogy to the case of R v H [2014] [6]: Diagnosing perceived distress as being triggered would be opinion evidence. Further, similarly to a diagnosis of PTSD, a diagnosis of C being triggered would be opinion evidence as to the veracity of the allegation against D. This is because in order to form an opinion that an individual is triggered by certain sensory reminders of a particular event, one must first form the opinion that the individual did indeed experience that event.

Consequently, as with PTSD, the friend's evidence about C being triggered is inadmissible because it is opinion evidence of:

1. A medical condition and
2. The veracity/truth of the sexual offence against C.

Who can provide admissible evidence in relation to C having PTSD or being triggered?

Only an expert witness can provide evidence in relation to the above. Even then, the bar for who qualifies as an expert is very high.

Indeed, In R v SJ [2019] EWCA Crim 1570 [7] the Court held that a counsellor was not an expert witness and so may not express any views as to the truth of the allegation. It was held that the counsellor's opinions that the complainant was "damaged and suffering the effects of abuse" and that she "had a deep belief in the truth of all that [the complainant] ever shared with [her]" were inadmissible.

A counsellor, who is a professional and would likely have an educational background relating to psychological issues and has experience of assisting clients who have experienced psychological problems was not deemed to have enough expertise to give expert opinion evidence by the Court of Appeal. It is therefore clear that the standard required to qualify as an expert witness in this context is high and appears to be reserved to doctors specialising in psychiatry.

Conclusion

Sometimes witnesses may stray into making comments that are properly to be regarded as opinion evidence such as that a complainant was "triggered" by particular sensory reminders, or that they suffered from "PTSD". Defence practitioners should be alert to the possibility that such evidence could prejudice the interests of their clients, and if so should ask for that aspect of the evidence to be redacted or apply for it to be excluded as inadmissible opinion evidence.

[1] Blackstones Criminal Practice (2024) at para F.11.1

[2] https://www.nhs.uk/mental-health/conditions/post-traumatic-stress-disorder-ptsd/overview/

[3] https://www.nimh.nih.gov/health/topics/post-traumatic-stress-disorder-ptsd#:~:text=A%20mental%20health%20professional%20who,meet%20the%20criteria%20for%20PTSD.

[4] R v H [2014] EWCA Crim 1555 at para 45-46

[5] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9744044/

[6] R v H (n 4)

[7] R v SJ [2019] EWCA Crim 1570 at para 68