

Neutral Citation Number: [2019] EWCA Crim 1836

Case No: 2019/0547, 0583 and 0591

IN THE COURT OF APPEAL (CRIMINAL DIVISION)
ON APPEAL FROM THE CROWN COURT (WOOD GREEN)
(HH Judge Perrins)
T 2018 7150

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 1.11.2019

Before:

LORD JUSTICE SIMON
MRS JUSTICE COCKERILL

and

HH JUDGE BATE

(sitting as a Judge of the Court of Appeal, Criminal Division)

Between:

Onur Ardic
Mehmet Tekagac
Hussain Onel

Appellants

and

Regina

Respondent

Mr Jeremy Dein QC for Ardic
Mr Peter Rowlands for Tekagac
Mr James Scobie QC for Onel

Approved Judgment

Lord Justice Simon:

Introduction

1. We grant leave in relation to renewed applications to appeal against sentences passed on the three appellants in the Crown Court at Wood Green.
2. On 14 August 2018, Ardic and Tekagac pleaded guilty to count 1 on an indictment, which charged Violent Disorder, contrary to s.2(1) of the Public Order Act 1986.
3. On 21 November, following a trial before HHJ Perrins and a jury, Ardic was convicted on count 2 (Applying a Corrosive Fluid with Intent to Cause Grievous Bodily Harm, contrary to s.29 of the Offences Against the Person Act 1861); Tekagac was convicted on count 2 of the same offence, and count 4 (robbery, contrary to s.8(1) of the Theft Act 1968); and Onel was convicted on count 1 (violent disorder), count 2 (the s.29 offence) and counts 5, 6, 7, 8, 9 and 10 (six further counts of Applying a Corrosive Fluid with Intent).
4. On 17 January 2019, they were each sentenced by Judge Perrins to extended sentences under the provisions of s.226A of the CJA 2003 for the count 2 offences:
 - i) Ardic, to an extended sentence of 17 years (consisting of a custodial term of 14 years and a 3-year period of extended licence);
 - ii) Tekagac, to an extended sentence of 17½ years (consisting of a custodial term of 14½ years and a 3-year period of extended licence); and
 - iii) Onel, to an extended sentence of 20 years (consisting of a custodial term of 17 years and a 3-year period of extended licence).
5. The appellants were also sentenced to concurrent terms of imprisonment:
 - i) Ardic, to a term of 3 years on count 1 (violent disorder);
 - ii) Tekagac, to a term 3 years on count 1 (violent disorder) and 8 years on count 4 (robbery), and
 - iii) Onel, to a term of 3 years on count 1, and 9 years concurrent on counts 5, 6, 7, 8, 9 and 10.
6. Six other defendants pleaded guilty to charges of violent disorder and were sentenced to shorter periods of imprisonment.

The facts

7. The charges arose out of an incident of serious violence that occurred in the early morning of 6 May 2018, during which a number of people were violently assaulted and attacked with corrosive fluid. The event was captured on CCTV.

8. At approximately 5:15 am (when it was already light) the applicants were together in Alvington Crescent, a street located off Dalston High Street in East London. An unidentified man approached the car in which Onel and Ardic were sitting, and said something to them. Within seconds he was surrounded, pushed back against a nearby car and punched in the face. When he tried to escape, he was pursued, forced to the ground and beaten. The CCTV footage shows him being kicked and punched repeatedly by a group of men. The victim of the assault was never traced, and the extent of his injuries remains unknown.
9. Andre Lamont, along with a number of friends, had been in a club on Dalston High Street when they became aware of the attack on this man. When Andre Lamont used his mobile telephone to film the attack, he was confronted by Ardic who pushed him. When he retaliated, he was attacked by Ardic and a number of the co-defendants, late charged with violent disorder.
10. At this point, Onel went to a nearby car and took from it a bottle containing a corrosive liquid. He repeatedly sprayed Lamont in the face; and he was punched and kicked to the face by Ardic and Tekagac as he lay on the ground. Some of Andre Lamont's friends tried to intervene and were themselves attacked. Bystanders were also attacked in what was a sudden outbreak of random violence. Some were sprayed with the corrosive liquid by Onel and others were kicked and punched. Towards the end of the violence, Tekagac took the opportunity to steal Andre Lamont's bag and its contents as he lay prostrate and incapacitated on the ground.
11. It will be necessary to consider the individual appellants' involvement in what occurred in slightly more detail later in this judgment.
12. Those who had committed the violent disorder offences eventually left, shouting homophobic abuse at Andre Lamont and his friends as they did so. The police were soon at the scene and Andre Lamont was taken to the Royal London Hospital.
13. He had bruising and lacerations to his head, face, arms and legs. There were also chemical burns to his arms and face. The most serious injury was noted to be the severe chemical burns to 80% of his left eye. He had also sustained a fracture to his left eye socket which required the surgical insertion of a metal plate to repair the floor of the socket. He spent 5 days in hospital and returned on a number of further occasions to receive treatment.
14. Another man, Luey Arasan, suffered burns to his tongue; and four other victims of the corrosive fluid attack suffered either less serious or unknown injuries.
15. Tekagac was arrested 4 days later in the vicinity of Shacklewell Lane. The car he was found in contained a machete, a combat knife, and ammunition. Ardic was found hiding under a car nearby and was also arrested. They were interviewed on 11 May and gave no comment answers to all questions. Onel was not arrested until 20 June. He too gave no comment answers to all questions in interview. In the course of the oral argument we were told that Tekagac and Ardic were subsequently prosecuted for offences arising out of their arrest on this occasion and received short concurrent sentences after the sentences passed for the 6 May 2018 offending.

Victim Personal Statements

16. Andre Lamont provided an initial Victim Personal Statement dated 5 October 2018 (5 months after the attack). He described being in excruciating pain for a long time afterwards: the pain being such that he was prescribed morphine for 3 weeks. In a further statement on 7 December he said that he has been told that the chemical had caused permanent damage to his eye.
17. The Judge noted that the attack had a profound effect on him; and it is clear that he suffered from anxiety, avoiding social events and tended to mix principally with his family with whom he felt safe. The gravity of his physical injuries is one of the issues raised on this appeal.

Antecedent Histories

18. Onel was aged 24. He had 15 convictions for 22 offences between June 2009 and April 2017. His relevant convictions included offences of violent disorder (2011, 2012) and assault with intent to rob (2012).
19. Tekagac was aged 30. He had 14 convictions for 28 offences between August 2004 to May 2015. These included motoring and drug offences and offences of dishonesty. In November 2010 he had been sentenced to 5 years imprisonment for possession of a firearm and ammunition.
20. Ardic was aged 27 at the date of sentence. He had 8 convictions for 12 offences between June 2011 and March 2018. The most relevant convictions included offences of violent disorder (2011), assault occasioning actual bodily harm (2012), possession of a bladed article in a public place (2015), and possession of an offensive weapon in a public place (2018).

Pre-sentence Reports (PSRs)

21. PSRs were prepared by different writers for each of the appellants. Although criticisms have been made of parts of these reports, in general they are thorough, clear and helpful. We can summarise their contents.

Onel

22. The PSR for Onel noted that he claimed that he had used a bottle of ammonia, which happened to be in his car because he intended to use it for cleaning his bicycle. The report recorded one witness as describing hearing ‘frantic and intense screams’; and seeing a man ‘moving confidently and making wide arching movements as the liquid flew out, arbitrarily splashing people, who were screaming and running away.’ In the view of the writer of the report, Onel’s intention had been to harm as many people as possible. There was reference to police concerns in Onel that he was a member of a Turkish Organised Crime Group (OCG) based in Hackney, something he adamantly denied in interview.
23. He was considered to pose a high risk of re-offending, and a high risk of harm to members of the public. The probation officer concluded that Onel posed a significant risk of committing further serious specified offences.

Tekagac

24. Tekagac told the writer of his PSR that he had become heavily intoxicated that night, having taken approximately two grams of cocaine during the evening. He admitted kicking Andre Lamont while he was on the ground; but he denied aiming for his face. He gave the unlikely explanation that he had taken his bag in order to disarm him. He said that he was unaware that Onel had returned to his car to get the corrosive liquid. While the writer of the report accepted that Tekagac was not involved in the initial disorder, he had been easily drawn into committing indiscriminate and reckless violence against a number of people.
25. He was assessed as constituting a high risk of re-offending. Since the age of 16 he had persistently offended and had convictions which evidenced a propensity for violence. The index offences showed a marked escalation in the seriousness of his offending; and he posed a high risk of violent offending and of causing serious harm to members of the public. The writer of his PSR also referred to information from the police concerning involvement with an OCG. The conclusion was that he met the criteria for dangerousness.

Ardic

26. According to his PSR, Ardic denied having any knowledge that Onel was in possession of a bottle containing corrosive fluid. The writer of the report had been informed by police and probation service that Ardic was affiliated with serious group offending and was associated with an OCG in Hackney, something which he denied. He was reported as describing himself as ‘getting caught up in the moment’, and repeatedly attempting to justify his behaviour, claiming that Andre Lamont was the initial aggressor. The probation officer was of the view that Ardic was a manipulative and clever individual whose use of fear and violence showed that he ‘fully endorsed a criminal lifestyle’. Taking into account the circumstances of the offending, her assessment of his background and antecedent history, as well as information provided by the police, she considered that he posed a high risk of re-offending. He had a poor history of compliance while on licence; and had developed a pattern of offending. The PSR also noted the circumstances surrounding his arrest on 10 May as set out above.
27. The conclusion was that Ardic posed a high risk of serious harm to members of the public, police officers and rival gang members. In the probation officer’s opinion, there was substantial evidence that he met the dangerousness criteria.

Sentence

28. Although points have been made about some of the details and one or two matters of substance, we should acknowledge the clarity and comprehensiveness of the sentencing remarks which addressed the offending of six co-defendants in addition to the appellants.
29. The Judge began by summarising the seriousness of the s.29 offending:

[Mr Lamont] was repeatedly sprayed with a corrosive fluid whilst he was simultaneously punched and kicked on the ground. A number of his friends and associates were nearby. Some intervened to help him and were attacked. Others were simply standing by and had nothing to do with what was taking

place in the street, but they too were attacked. Some were sprayed with the corrosive fluid: others were punched and kicked.

As the defendants left the scene in a number of cars, a series of homophobic insults were directed at those who were injured.

30. The Judge then turned to the involvement of the individual applicants.

Onel

31. Onel had been convicted of violent disorder and 7 counts of applying a corrosive liquid with intent. He had gone to his car to collect a Lucozade Sport bottle soon after the initial attack on Andre Lamont. It was not known exactly what it contained, but it was 'a fluid capable of causing serious and life-changing injury.' The Judge did not necessarily accept, as had been asserted by Onel, that it contained ammonia. He noted that, while the specific attack may not itself have been planned, Onel had gone out that evening prepared to hurt someone, there was no other sensible explanation for his having the corrosive liquid. He had been waiting for the right opportunity to present itself.
32. The CCTV footage showed him spraying people indiscriminately, deliberately targeting their faces, where he knew maximum damage would be caused. Seven people were sprayed, attacked without justification or provocation, and Andre Lamont had 'suffered life changing injuries.' The Judge had no doubt Onel intended seriously to maim and injure everyone he sprayed.

Tekagac

33. Tekagac had pleaded guilty to violent disorder, and had been convicted of applying a corrosive fluid with intent against Andre Lamont. He was not involved in the initial assault against the unidentified male; but he knew that Onel was in possession of the corrosive fluid, he stood by him as he went to retrieve it and was with him when he began to spray it. Tekagac pursued Lamont, and punched and kicked him as he lay on the ground. He too was responsible for the fractures to Andre Lamont's face; and robbed him of his bag as he lay on the ground.

Ardic

34. The Judge noted that he had pleaded guilty to violent disorder and had been convicted of applying a corrosive fluid with intent, encouraging and assisting Onel in the attack on Andre Lamont. The Judge did not accept that he was unaware that Onel was carrying the corrosive fluid: he had been in the car from where the bottle containing the fluid was retrieved. He had been concerned that Andre Lamont might have recorded incriminating evidence of his group's attack on the unidentified man during the early stages of the disorder. He had kicked Andre Lamont in the head as he lay on the ground and as Onel poured corrosive liquid onto his head. We note that this observation of the Judge is challenged on his behalf and gives rise to one of the points in the grounds of appeal. The kicks, at least in part, must have caused the fractures to Lamont's face.

The Judge's sentencing approach

35. The Judge referred to a statement of Detective Superintendent West, who had a leading role in the response of the Metropolitan Police to acid attacks in London. His evidence was that since 2014 there had been year-on-year increases in corrosive liquid attacks. The officer also referred to a general fear among the public about offences of this type.
36. So far as the public order offences were concerned, the Judge bore in mind the overall nature of the violence, the scale of the public disorder and the number of those involved. It was an extremely violent, albeit short, incident involving a large group directed against a significant number of innocent members of the public, in the early hours of the morning, just off a high street with busy bars and clubs. There was no direct evidence of the injuries of the unknown man; but the ferocity of the attack was such that he must have suffered serious distress, if not serious injury.
37. There were no sentencing guidelines for applying a corrosive fluid with intent; but the assault guidelines for s.18 offences were relevant. The offence against Andre Lamont would have fallen into category 1 as the severity of the injuries and sustained nature of the assault constituted greater harm.
38. The use of a weapon (the corrosive fluid) constituted higher culpability. Onel had the liquid with him, meaning to use it as a weapon, and had intended to cause more serious injury than was caused to the other six victims. If he had been sentenced for a single offence, the starting point would have been for a category 1 offence in the s.18 Guidelines: 12 years with a range of 9 to 16 years.
39. In the case of each appellant, a sentence towards the higher end of category 1 was justified given the circumstances of the incident and their previous convictions. The Judge recorded that he had been referred to a number of cases: *Isaac* [2016] EWCA Crim 1907, *Riley* [2017] EWCA Crim 243, *Midmore* [2017] EWCA Crim 533, and *Collins* [2018] EWCA Crim 2515.
40. In respect of the robbery committed by Tekagac (count 4), the offence fell within category 1A of the sentencing guidelines for robbery. There had been the use of a weapon and significant force. The starting point was 8 years with a range of 7 to 12 years. The Judge said he would pass a concurrent sentence on count 4, but would treat the offence as an aggravating feature when it came to the sentence on count 2.
41. The Judge added that he was in no doubt that homophobic insults were shouted towards some of those who had been injured and considered it very likely that, for some of the defendants, homophobia underlay the offences, at least in part. However, it was not possible to determine who made those comments, or whether the attack on Andre Lamont and his friends was motivated by homophobia. Consequently, the Judge did not increase the custodial term under s.146 of the Criminal Justice Act 2003.

The individual sentences

42. Onel was 24 and had a poor criminal record. He now accepted being the person spraying the corrosive fluid and hitting the victim over the head with a bottle but said

it had been in self-defence. The Judge entirely rejected this account. Onel took no responsibility for his actions, had little insight and had shown no remorse. The Judge had no hesitation in finding him dangerous within the meaning of the Criminal Justice Act 2003. His behaviour involved ‘a sustained, indiscriminate, extremely violent burst of behaviour towards multiple victims, one of whom sustained life-changing injuries’. He had previous convictions for Schedule 15 offences, and the Judge bore in mind the information within the pre-sentence report, including references to other incidents of violence. The background material was not accepted by Onel; and the Judge said it would not determine the finding of dangerousness. Notwithstanding the favourable references provided in his case and the submissions made on his behalf, the Judge agreed with the probation officer’s assessment that the risk posed by him could only be met by the imposition of an extended sentence.

43. Tekagac was 30 and had a number of serious previous convictions. He had been with Ardic when they were stopped by the police in a stolen car a few days after the offending. Knives and ammunition had been found inside, and that matter was going through the Courts. The Judge placed limited weight to the unproven matters of his association, although they did contribute to the conclusion of the probation officer that Tekagac was ‘embroiled’ in a criminal lifestyle and had a propensity to commit serious violence.
44. The Judge had read his letter to the court, but it was difficult to accept his remorse was genuine. He had also read the references provided. The Judge concluded that he too met the dangerousness criteria. This was principally due to his behaviour during the incident which went far beyond violent disorder. The CCTV footage showed him kicking the victim in the face while Onel sprayed him. While this was Tekagac’s first specified offence he had previous convictions for possession of weapons. The Judge attached significant weight to the conclusion of the pre-sentence report that he satisfied the risk of serious harm criteria for dangerousness.
45. Ardic was 27. He too had a bad criminal record. His PSR recorded that he maintained the account given at trial, accepted no responsibility and sought to blame others. He had shown no remorse and had been described as someone who endorsed a criminal lifestyle, which was consistent with his criminal antecedents. In the light of his history of violent offending, the nature of this incident, and the additional information set out extensively in the pre-sentence report, suggesting a pattern of extremely violent behaviour, the Judge found that he was dangerous. He noted that there were disputed allegations as to his association with an OCG and, as with Tekagac, made it clear that these would not be determinative of a finding of dangerousness. The Judge said that he had read Ardic’s letter in which he claimed not have known Onel was going to attack Andre Lamont with a noxious substance. That did not sit easily with the submission made on his behalf that he accepted full responsibility. His risk could only be met by the imposition of an extended sentence. In his case it would be a lower sentence than that passed on Onel as he was not involved in the spraying of other individuals.
46. The Judge then passed the sentences as set out above.

The grounds of appeal

47. It is convenient to deal with the grounds advanced on behalf of the appellants under three headings: (1) the facts found by the Judge; (2) the argument that the determinate sentences were manifestly excessive; and (3) the contention that the Judge was wrong to find the appellants dangerous and impose extended sentences.

The facts found by the Judge

48. Although the written grounds of appeal ranged broadly over what were said to be mistakes, at the oral hearing the argument focussed on two points. The first was a point made by Mr Dein QC, that the Judge was wrong to say that Ardic kicked Andre Lamont as Onel poured the corrosive liquid on him. The respondent's notice acknowledges that this was a misdescription; but points out that the error was immaterial since Ardic's culpability consisted in using his foot to prevent Andre Lamont escaping and kicking him in the head (with Tekegac) after he knew about, and was party to, a corrosive substance being poured over him. We agree.
49. The second point was in relation to the Judge's finding and his references to the fact that Andre Lamont had suffered 'life changing injuries' (see [31], [32] and [42] above). His most serious injury was a 'severe chemical burn to the surface of the left eye', and a fracture to the eye socket, which required the fixing of a metal plate in his left eye-socket. However, by the date of sentence, it had been clear that he would not lose the vision in his left eye.
50. Since this matter was specifically raised in the grounds of appeal, the prosecution obtained a further witness statement from Andre Lamont to clarify matters. In a statement dated 14 October 2019, he makes clear that he still suffers from the effects of the corrosive fluid thrown at him in May 2018 some seventeen months later. At least twice a month he feels a powerful, burning sensation in his left eye, which lasts for 15-20 minutes. He also suffers from a loss of feeling and sensation both in his left eye and the immediately surrounding area:

It is very difficult to fully articulate this lack of feeling but I frequently am noticeably aware of this ... Even when I touch my own face, I am fully aware of this lack of sensation.

This is consistent with the evidence before the Judge of nerve damage that would never heal.

51. We would add that, contrary to the Judge's understanding, it is clear that Andre Lamont spent 5 days in hospital, and not 3 weeks.

The determinate sentence

52. The appellants accepted that the Judge was right to apply, by analogy, the Sentencing Council's Definitive Guidelines on Causing Grievous Bodily Harm with Intent. However, they submitted that the Judge was in error in treating the injuries of Andre Lamont as 'life-changing' or sufficiently serious in the context of a s.18 offence, to justify taking a starting point of 12 years.
53. We start with what was rightly accepted to be common ground. There are no sentencing guidelines for an offence contrary to s.29 of the Offences Against Person

Act 1861. Although not strictly applicable, the s.18 Guidelines allow a court to consider factors which bear on the seriousness of s.29 offending, as it may when considering a count of wounding with intent to resist arrest under s.18 (to which the s.18 Guidelines also do not apply): the maximum sentence being the same under each section, life imprisonment.

54. The necessary intent in a charge under s.29 is the intent ‘to burn, maim, disfigure, or disable any person or to do some grievous bodily harm ... whether any bodily injury be effected or not.’ This highlights the risks and potential consequences of targeted or indiscriminate throwing of corrosive fluid: burning, maiming and disfigurement. It is these potential consequences that are rightly regarded with abhorrence. The cases which were cited to the Judge and which we too have considered provide examples of the different ways in which this type of offence can be committed, what its consequences may be and what level of sentences may be appropriate in a particular case. However, they are not guidelines and a sentencing judge will approach sentencing in each case by reference to the seriousness of the offending.
55. We accept that the extent of recovery should be weighed in the balance when considering the harm caused and whether the injury is ‘serious in the context of the offence’. Without minimising the pain and injury endured by Andre Lamont, he did not suffer some of the injuries that can occur with an attack using a corrosive fluid: injuries that may require prolonged facial surgery or severe physical damage with long term effect. Despite an initial period of excruciating pain, anxiety about a permanent loss of vision in his left eye and the continuing difficulties described in his 14 October 2019 statement (including nerve damage), Andre Lamont has the full use of both eyes.
56. In the light of this focus on the extent of his injuries, there is less need to form a view about the chemical composition of the corrosive fluid. Ammonia may have been used but, as in the case of knives, the fact that is freely available does not make its use as a weapon less serious.
57. Turning from harm to culpability, this was clearly an offence of higher culpability in terms of the s.18 Guidelines. There was the use of a corrosive fluid. The fact that it was stored in the car showed at least some pre-meditation, as the Judge recognised; and by spraying the liquid at the face of the victim there was an intent to cause more serious harm than resulted.
58. In addition, there were a number of aggravating features. The attack was unprovoked. It was in a public place; and was committed in the presence of bystanders. It was a group offence committed in the course of an episode of violent disorder, which began as an attempt to prevent Andre Lamont taking photographs of a crime; and there was a failure to respond to the concerns of others (members of the public) while the offending was taking place.
59. The Judge was also entitled to take into account in the Community Impact Statement, see Crim PD VII §H6 and *Brzezinski* [2012] EWCA Crim 198, which demonstrated the increasing prevalence of corrosive fluids being used as weapons designed to disfigure and maim, and the public’s concern about such attacks. The use of a corrosive fluid (whether acid or alkali) as a weapon, where the intent is to cause injury, is an increasingly common crime, and severe deterrent sentences are justified.

In our view the Judge was fully entitled to place the offending within category 1 of the s.18 Guidelines.

60. In the case of Onel we are satisfied that a sentence considerably above the starting point of 12 years was called for. He was being sentenced both for the vicious attack on Andre Lamont and for the attack on six other people, in the course of serious public disorder. He had a bad record for violent offences and, although of short duration, the offending was sustained and repeated. He had the corrosive fluid available to be used as a weapon; and deliberately targeted his victims' faces. In these circumstances we would not have regarded an overall sentence of 17 years as being disproportionate even with the availability of some mitigation. However, Mr Scobie QC has persuaded us that there should be some reduction as a matter of principle to reflect the changed understanding of the level of Andre Lamont's injuries. The injuries he suffered were life-changing in some respects; but they were not as serious as the Judge was led to believe nor so serious in the context of the offence as to justify placing the offending high within category 1 for that reason. We would give effect to this approach by reducing the custodial element of the sentence on count 2 in his case by one year to a term of 16 years.
61. We adopt a similar approach to Tekagac's custodial sentence; and make an adjustment in his case. It is a slight adjustment because although we recognise his culpability was less and he was convicted of a single charge under s.29, he had been convicted of the robbery of Andre Lamont as he lay on the ground, in acute pain from the corrosive liquid that had been thrown in his face, for which he had been sentenced to a concurrent term of 8 years. Taking these matters into consideration we have concluded that there should be an adjustment of the custodial, but only to reduce the sentence from a term of 14½ years on count 2 to a term of 14 years imprisonment.
62. In the case of Ardic, similar considerations apply. The Judge made clear that he knew about the corrosive liquid before the attack and was involved throughout the incident of violent disorder. He too had a poor record. In the circumstances we have outlined above we consider that the appropriate determinate sentence in his case is the starting point for a category 1 section 18 offence: a term of 12 years imprisonment.

Dangerousness and the imposition of extended sentences

63. An initial point was made on behalf of all the appellants that the Judge had taken into account information in the PSRs that they were associated with OCGs. This information had come from the police, was not evidenced and was denied by the appellants.
64. In assessing dangerousness, the court must take into account all such information as is available about the nature and circumstances of the offence, s.229(2)(a) of the Criminal Justice Act 2003. It may take into account the factors set out in s.229(2)(aa)-(c). Section 229(2)(c) is, 'any such information about the offender which is before it.'
65. This will involve a judge assessing the weight to be given to information, including the extent to which it is reliable and the extent to which it is plausibly denied. In the present case it is clear that the Judge did not give any real weight to this information when considering dangerousness and the imposition of an extended sentence.

66. In our view, and as was effectively conceded on behalf of the appellants, each was dangerous within the meaning of s.229 of the 2003 Act.
67. In *Attorney-General's Reference No.27 of 2013 (Burinskas)* [2014] EWCA Crim 334, [2014] 1 WLR 4209, this Court made clear that a sentencing judge should consider whether a lengthy determinate sentence would provide sufficient protection to the public before deciding to impose an extended sentence in the case of a dangerous offender.
68. There is, of course, an implicit tension between submissions in favour of a reduced determinate sentence and submissions that rely on the length of the determinate term as a sufficient protection. Nevertheless, we are persuaded in the present case that the length of the determinate sentences for Ardic and Tekagac provide a sufficient degree of protection despite the serious nature of their offending.
69. We take a different view in the case of Onel. He had armed himself on the day in question with corrosive fluid. He used it widely and indiscriminately, including spraying bystanders, targeting their faces, their eyes and mouths, knowing that maximum damage would be caused. His PSR demonstrated a lack of insight into his criminally antisocial conduct; and his previous convictions for other schedule 15 offences indicated a pattern of offending.

Conclusion

70. We give effect to the above as follows:
 - i) in the case of Onel, we quash the extended sentence of 20 years on count 2, and substitute an extended sentence of 19 years imprisonment, comprising a custodial term of 16 years and an extended licence period of 3 years;
 - ii) in the case of Tekagac, we quash the extended sentence of 17½ years on count 2 and substitute a determinate sentence of 14 years imprisonment.
 - iii) in the case of Ardic, we quash the extended sentence of 17½ years on count 2 and substitute a determinate sentence of 12 years imprisonment.

To that extent the appeals are allowed.