

WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2023] EWCA Crim 1543

CASE NO 20223708/B4



Royal Courts of Justice
Strand
London
WC2A 2LL

Friday, 1 December 2023

Before:

LORD JUSTICE WILLIAM DAVIS
LADY JUSTICE WHIPPLE DBE
HIS HONOUR JUDGE WATSON
(Sitting as a Judge of the CACD)

REX
V
ROMAIN LAPIERRE

Computer Aided Transcript of Epiq Europe Ltd,
Lower Ground, 18-22 Furnival Street, London EC4A 1JS
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

MISS M NELSON KC appeared on behalf of the Applicant

J U D G M E N T

1. LADY JUSTICE WHIPPLE: This is a renewed application for leave to appeal against sentence. On 2 December 2022, following a trial at the Central Criminal Court before his Honour Judge Kay KC, the applicant was sentenced by the same judge to custody for life with 28 years as a minimum term for murder, with a sentence of nine years' detention in a young offender institution to be served concurrently for robbery.
2. The facts are set out in the Criminal Appeal Office summary. It is sufficient to record the following brief details. The robbery occurred in the late evening of 30 June 2021. The applicant was part of a group. A taxi was called. The applicant got into the back of the taxi, put his arm across the front of the driver's neck and pressed a Rambo-style knife to the driver's throat demanding the car key. Another member of the group reached through the driver's window and took the driver's mobile phone. The taxi was blocked in by others. The driver got out of his vehicle and handed over the key.
3. The murder occurred in the early hours of the following morning. The group, including the applicant, travelled in the stolen taxi via other addresses to a house where the 16-year-old victim, Cameron Smith lived with his mother. Cameron Smith was at that address. The group wore face coverings and were armed with machetes or Rambo knives. The group knocked on the front door before the door was kicked in. The moment they got into the house the knife attack started. The victim ran upstairs to his mother's bedroom where he and his mother tried to keep the group out but some of the group forced their way in and the attack continued. The applicant was one of two individuals attacking Cameron Smith. The applicant inflicted the fatal wound. That wound cut through a loop of bowel and two major blood vessels. The wound was 11 centimetres in length and was said to have required at least moderate force.

4. At the time of these offences the applicant was two weeks short of his 19th birthday (his date of birth is 16 July 2002). The murder was in revenge for the killing of a member of the applicant's own gang which had taken place on 30 June 2021.
5. The judge's starting point in setting the minimum term for sentence was 25 years. As aggravating factors the judge held that the applicant had intended to kill his victim, that there was a significant degree of planning and premeditation, including the robbery. He noted that the group wore balaclavas and masks and had turned their phones off. The applicant was, he said, the ringleader of the group. The murder itself was vicious and heartless. The judge noted the applicant's extensive antecedents, namely 14 convictions for 26 offences including offences for robbery and knife possession as well as drugs.
6. The judge thought there were no mitigating factors other than age. If anything the applicant was "mature beyond his years". The judge took account of the applicant's ADHD and unstable upbringing but held that those factors could provide little mitigation.
7. The court had a pre-sentence report before it relating to a previous offence (report dated 22 June 2020). It set out details of the applicant's background and life difficulties.
8. The judge imposed custody for life with a minimum term of 28 years, less time spent on remand, with the sentence of nine years' detention for the robbery to be served concurrently.
9. Miss Nelson KC represented the applicant at trial, sentence and on this renewed application. In her written grounds of appeal, she submitted that the sentence imposed was manifestly excessive for the following reasons. First, the judge erred in finding there was an intention to kill. Secondly, the judge failed to take proper account of the applicant's age and other mitigation. Thirdly, the judge failed to take proper account of totality.

10. We thank Miss Nelson for her oral submissions this morning which have been clearly expressed and helpful. She presses on us that when considering whether there was an intention to kill the pathologist said that there was at least moderate force used by contrast with the judge's reference to considerable force. She argues that the confession by the applicant to his father should not have been taken into account because it was quite possibly a confession made in anger. She says that the mixed verdicts returned on the other co-defendants should have been taken into account as tending to show that there was no intention to kill. Her over-arching submission is that there was an intention only to cause grievous bodily harm.
11. So far as the factors going to mitigation are concerned, she stresses this applicant's difficult life history with ADHD and ODD. She notes his early years spent without paternal support and in care. She argues that his previous antecedents are a reflection of the circumstances of his childhood and past exploitation.
12. All of these points were considered and rejected by the single judge. We too reject them. Dealing with the first ground, it was plainly open to the judge to conclude that there was an intention to kill. The nature and extent of the injuries and the circumstances of this attack provide plentiful evidence of that. That conclusion is entirely consistent with the pathologist's view going to the force used (described by the pathologist as moderate). The judge was entitled to use a different word, "considerable" to describe the force of the fatal stab wound. More broadly we look at the overall circumstances of this attack, as the judge did. The fact that the conviction was by a majority verdict does not diminish the weight of the evidence that was before the judge, nor do the verdicts in relation to other defendants impact on the verdict as it was returned as against this applicant. We cannot accept Miss Nelson's submission that the intention was short of an intent to kill.

13. We deal with the second and third grounds together, namely mitigating factors and totality. The facts of this offending are striking in their brutality. On any view an increase above the 25-year start point was necessary. The murder was pre-planned and co-ordinated. The attack took place in the deceased's own home and in front of the deceased's own mother, indeed in her bedroom. The attack itself was sustained and brutal. Further, the previous robbery at knifepoint was a very serious aggravating factor and it was the applicant who used the knife to threaten on that occasion. The robbery forms part of a sequence of events that culminate in this terrible murder. The applicant had many previous convictions, some of which very relevant; that stood as significant aggravation. But for the mitigation in this case, we conclude that the minimum term could reasonably have exceeded 30 years for a mature adult offender.
14. There was mitigation for the applicant in his young age but the judge did not consider that he lacked maturity. That was very much an assessment for the trial judge to make. The judge thought if anything the opposite was true and this was an individual who was mature for his years. It is of course right to note that this applicant had a very troubled upbringing and he had been looked after from the age of 12 and at the time of offending he was a care leaver. All this was before the judge. We conclude that the judge was entitled to consider that those factors carried relatively little weight in the exercise overall. We are not persuaded that there was a failure by the judge to take account of totality or of mitigating factors.
15. We agree with the single judge that the minimum term imposed was not manifestly excessive, even arguably, and we refuse leave to appeal against sentence.
16. MISS NELSON: My Lords, may I apply, I think I have to, for a representation order.
17. LORD JUSTICE WILLIAM DAVIS: You can apply. We will rise very briefly to

consider that.

(Short adjournment)

18. LORD JUSTICE WILLIAM DAVIS: Miss Nelson, thank you very much for your attendance but I am afraid we cannot give you a representation order.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Lower Ground, 18-22 Furnival Street, London EC4A 1JS

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk