



Neutral Citation Number: [2020] EWHC 1935 (Admin)

Case No: 2020/5/YOR

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 20<sup>th</sup> July 2020

**The decision of Mr Justice Hilliard  
on review of the tariff in the case of Hollie Robinson**

**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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**MR JUSTICE HILLIARD**

**Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be 20th July 2020 at 09:45am.**

**MR JUSTICE HILLIARD:**

1. On the 8<sup>th</sup> February 2011, in the Crown Court at Mold, the Applicant was ordered to be detained during Her Majesty’s Pleasure, with a minimum term of 18 years, less 209 days spent on remand, for the murder of her father Antoni Robinson on the 7<sup>th</sup> July 2010. She now applies for a review and reduction in her tariff pursuant to the decision of the House of Lords in R (Smith) v Secretary of State for the Home Department [2005] UKHL 51.
2. The reason for such reviews was expressed by Lord Phillips of Worth Maltravers CJ in the same case in the Court of Appeal [\[2004\] EWCA Civ 99](#) at [74] as follows:

"The requirements of the welfare of the offender must be taken into account when deciding for how long a young person sentenced to detention during Her Majesty's pleasure should remain in custody. Those requirements will change, depending upon the development of that young person while in custody. Accordingly, even if a provisional tariff is set to reflect the elements of punishment and deterrence, the position of the offender must be kept under a review in case the requirements of his welfare justify release before the provisional tariff period has expired."
3. There are three possible grounds on which a tariff may be reduced:
  1. The prisoner has made exceptional progress during the sentence, resulting in a significant alteration in maturity and attitude since the commission of the offence;
  2. There is a risk to the prisoner’s continued development that cannot be significantly mitigated or reduced in the custodial environment;
  3. There is a new matter which calls into question the basis of the original decision to set the tariff at a particular level.
4. So far as exceptional progress is concerned, the “Criteria for Reduction of Tariff in respect of HMP Detainees”, produced by the National Offender Management Service on behalf of the Secretary of State, say that it may be indicative of exceptional progress if a prisoner demonstrates:
  1. “An exemplary work and disciplinary record in prison;
  2. Genuine remorse and accepted an appropriate level of responsibility for the part played in the offence;
  3. The ability to build and maintain successful relationships with fellow prisoners and prison staff;
  4. Successful engagement in work (including offending behaviour/offence-related courses).”

5. The document says that, ideally, there should be evidence of these factors being sustained over a lengthy period and in more than one prison, and that it is not to be assumed that the presence of one or all of these factors will be conclusive of exceptional progress having been made in any individual case. Whether the necessary progress has been made will be a matter to be determined taking into account the specific factors in each case. In addition, “To reach the threshold of exceptional progress there would also need to be some extra element to show that the detainee had assumed responsibility and shown himself to be trustworthy when given such responsibility. Such characteristics may well be demonstrated by the detainee having done good works for the benefit of others.” Examples given are acting as a Listener, helping disabled people, raising money for charity and helping to deter young people from crime. Ideally, it is said, there would need to be evidence of sustained involvement in more than one prison over a lengthy period. In the final analysis, of course, I have to make my own assessment based on all the material I have been provided with and decide whether progress can properly be described as “exceptional”.
6. The Applicant and a number of co-accused were convicted of murdering Mr Robinson in the course of an attempt to steal the contents of a safe in his house at night. He died as a result of stab wounds he sustained. It was not suggested that the Applicant had been armed with a knife but the Judge was satisfied that she intended or foresaw that Mr Robinson would be killed if he should wake up in the course of the burglary. The Applicant was 16 years old at the time of the offence, having been born on 22<sup>nd</sup> February 1994.
7. I have been provided with statements from family members as to the impact of Mr Robinson’s death.
8. So far as I am aware, there was no pre-sentence report. The Applicant had not come before the Courts on any previous occasion.
9. Her appeal against sentence was dismissed on the 12<sup>th</sup> May 2011. Her renewed application for permission to appeal against conviction was refused on the 22<sup>nd</sup> October 2014.
10. The Applicant arrived at HMP Styal on the 24<sup>th</sup> February 2012. I have seen notes of a Sentence Planning and Review Meeting from HMP Styal on the 11<sup>th</sup> June 2013. Since coming to Styal, she had been employed mainly in the stores which was a trusted position. It was said that on the whole, she displayed a positive standard of behaviour and was an enhanced prisoner. Entries on her prison record in early 2014 complimented her on her standard of work.
11. She completed a Thinking Skills programme at HMP Styal in June 2014. She was described as engaged, motivated and a supportive member of the group. She had made progress in managing her emotions, developing positive relationships and understanding risk factors in offending.
12. In a Tariff Assessment Report, dated 10<sup>th</sup> February 2020, it is indicated that the Applicant’s level of maturity has increased significantly over the previous 12 months. It is suggested that she is progressing well in custody and is involved in many pro-social activities which contribute positively to her sentence plan. She had completed

the Personal Employability Achievement and Reflection for Learning course. She was attending a Flourish programme on a weekly basis in which she undertook offence-related work. However, whilst she had demonstrated positive and steady progress in custody, her progress was not assessed as being exceptional. Some progress is of course to be expected from any young person who matures in years whilst in custody.

13. A further Tariff Assessment Report, dated 13<sup>th</sup> February 2020, records the Applicant's account of the original offence. She says that she observed a co-defendant with a knife but did not think that it would be used to cause harm. She accepted that there was the potential for conflict to occur and that her actions contributed to the death, although she did not think that she should have been convicted of murder. She demonstrated remorse and empathy. She had completed a Sycamore Tree Victim Awareness programme in July 2019. Feedback from the programme indicated that she had been helped by it. She was currently completing a programme about behaviour change and wellbeing skills. It was noted that she had incurred three adjudications whilst in custody, one in 2012, one in 2013 and one in 2019 for being verbally abusive to an officer. She had taken opportunities for development via employment, and through vocational and educational courses. She expressed willingness to continue engaging with her sentence plan. She was working in the Bistro and had been offered a keyworker role. She had not yet had the opportunity to engage with a more intensive intervention to reduce her risk of re-offending. Although she continued to make positive progress, it was not assessed as being exceptional or beyond expectations.
14. In an OASyS assessment, dated 4<sup>th</sup> March 2020, it is said that the Applicant has completed qualifications and training in English, Mathematics, Peer Mentoring and Hairdressing Level 1 and 2. She had obtained the Duke of Edinburgh Bronze Award. She had recently applied to complete an Open University course in Psychology and is awaiting the outcome. Enquiries were being made about her suitability to take part in a CARE programme – this involves work in respect of choices, actions, relationships and emotions for prisoners with a history of violence.
15. Solicitors acting on the Applicant's behalf have put in written representations. They submit that there have been significant changes in her maturity since the offence; that she has made exceptional progress; and that the present tariff period would delay her transfer to open conditions and could have a detrimental effect on her welfare. They point to the responsibility which she now accepts for the crime and to the fact that she has worked hard to address risk factors and underlying issues. She has attended a number of courses and programmes and they say that her attitude to the offence appears to have matured considerably. She is an enhanced prisoner who has held trusted positions. In 2017, she was asked to visit a young offender who was struggling and the Applicant provided support to her. She has been awarded nine Certificates of Appreciation in recognition of her help and support for other prisoners. She has worked hard to gain qualifications to improve her prospects of employment on release. It is submitted that the period of time that she will need to serve before moving to open conditions could result in her being further institutionalised, given that she entered custody at a young age.
16. The Applicant has submitted a well-written and helpful letter of her own. She explains that she was immature at the time of the offence. She has done numerous courses in custody to mature as best she can. She accepts responsibility for the part she played

and expresses regret for what happened. She had completed educational and offending behaviour programmes which she had found helpful. She had had numerous jobs within custody which had given her a sense of responsibility and trust. She was a regular helper on family days. She had helped with a Macmillan charity coffee morning and had completed a health representative course. She also mentions the young prisoner who she had supported.

17. The Applicant has been in custody since the age of 16. She is now 26. For the vast majority of that time she has been well-behaved. She has three adjudications. Two of them are a long time ago. She is an enhanced prisoner with a good employment record who has worked in trusted positions. She has attended courses and programmes to address her risk of offending. She has expressed remorse for her crime and acknowledges her involvement. She appears to engage well with staff and fellow prisoners. On any view, there have been improvements in her attitude and maturity and she is to be commended for this. It will be of value to her in her progress through the prison system. I do not think that there are risks to her development in custody which cannot be reduced or mitigated. Ventures such as the CARE programme and the Open University degree represent examples of possible opportunities for future development. As regards her progress, in my judgment it is best described at this stage as steady and positive but I do not think it can yet be described as exceptional. That is a high standard and the Applicant needs to go further before she could be said to have met the test. She has done well to establish a firm platform on which to build in the future. She needs to maintain this but also to demonstrate behaviour on a sustained basis which goes beyond the usual progress to be expected of someone in her position in order to meet the test of exceptional progress. If she can do that, she will be able to request a further review but at present, I cannot recommend a reduction.