IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2020/02127/A2
[2021] EWCA Crim 1074

Royal Courts of Justice
The Strand
London
WC2A 2LL

Wednesday 23rd June 2021

LADY JUSTICE MACUR DBE

MRS JUSTICE CHEEMA-GRUBB DBE

HIS HONOUR JUDGE PICTON
(Sitting as a Judge of the Court of Appeal Criminal Division)

R E G I N A

- v –

GAVIN ERROL COLLINS

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Miss N Bahra QC appeared on behalf of the Applicant

Mr J House QC appeared on behalf of the Crown

J U D G M E N T

Wednesday 23rd June 2021

MRS JUSTICE CHEEMA-GRUBB:

1. This application for an extension of time (18 days) in which to apply for leave to appeal against sentence has been referred to the full court by the Registrar, who has granted a representation order for Miss Bahra QC.

2. On 10th January 2020, following a trial in the Crown Court at Nottingham before His Honour Judge Rafferty QC and a jury, the applicant was convicted of six offences: two burglaries of dwellings (counts 1 and 5); two aggravated vehicle takings (counts 2 and 6); one attempted robbery (count 3); and manslaughter (as an alternative to murder), count 7.

2. On 1st July 2020, he was sentenced to life imprisonment, pursuant to section 225 of the Criminal Justice Act 2003. In addition, he was sentenced to three years' imprisonment on each of counts 1 and 5; one year each on counts 2 and 6; and two years on count 3. All of the sentences were ordered to run concurrently with each other. Pursuant to section 82A of the Powers of Criminal Courts (Sentencing) Act 2000, the judge specified a minimum term of 14 years (less one day spent in custody on remand). He imposed the victim surcharge in the sum of £170 and disqualified the applicant from driving for 12 months on each of the two charges of aggravated vehicle taking consecutively, making a total of 24 months' disqualification. We have relayed here the way that the sentence has been recorded.

3. Although the applicant lodged proposed grounds of appeal of his own creation, which addressed conviction as well as the length of sentence, these proposed grounds have fallen away following the Registrar's referral. We grant the extension of time sought and leave to appeal on the grounds as presented by leading counsel. These concern the judge's determination of the minimum term to be served for the discretionary life sentence, and his approach to the ancillary orders required pursuant to the Road Traffic Offenders Act 1988.

4. The appellant is 40 years of age, having been born on 13th November 1980. By January 2020 he had acquired 24 convictions for a total of 63 offences, ranging from shoplifting, possession of heroin, aggravated vehicle taking and dangerous driving, to wounding, burglary and participation in a prison mutiny, as well as offences against the courts, including failure to surrender to custody. He had offended whilst on bail. The appellant had also developed an entrenched addiction to drugs, including the powerful synthetic cannabinoid known as "spice".

5. On 11th July 2018, in the Crown Court at Nottingham, he was sentenced to a total of three years' imprisonment for an offence of dwelling house burglary, theft from a motor vehicle, and two offences of making false representations, contrary to section 1 of the Fraud Act.

6. The appellant was released from that sentence on 18th April 2019, subject to home detention curfew, monitored by an electronic tag. This required him to remain at his home address each night between the hours of 7pm and 7am.

7. At the time of his release and in the weeks leading up to it, prison staff, including medical staff, had noted no significant concerns about his mental health. However, it appears that within an hour or so of release, the appellant began to present in an alarming manner. His pupils were noticeably constricted and his speech was incoherent.

8. He attended a post-release interview with probation, police and drugs workers that afternoon. Methadone was offered: initially, he refused it. Eventually, he was persuaded to take a prescription. He was given the methadone at a pharmacy, which also supplied him for

the next day, a bank holiday. None of these officials was unduly troubled by the appellant's presentation. The electronic tag was not fitted until 11pm that evening. In the meantime, he was seen out and about in his local area.

9. During the early hours of the morning the appellant sent a bizarre Facebook message to his son with whom he had had no contact for many years.

10. On the morning of 19th April, which was Good Friday, the appellant left his address in Tibshelf, Derbyshire. His conduct thereafter suggests that he had acquired and consumed spice, or a similar potent drug, and was under its influence.

11. At the trial there was very little dispute about the appellant's subsequent behaviour, which was largely captured on CCTV cameras, on car dashcams, mobile phones, and police body-worn cameras, as well as being witnessed by members of the public.

12. First, he walked into a neighbour's house. He threw a bag of his own mother's prescription medication to the floor and declared that someone was trying to kill her. He began to rant about Jesus. He unplugged electrical items, saying that they were the work of the devil.

13. He left there and entered another neighbours' house. He stole their car keys and took the car, despite efforts to prevent him. The police were called. The stolen vehicle was driven at very high speeds. It overtook many other vehicles dangerously, before the appellant lost control of it and crashed it into a house in Skegby. The appellant sustained only an injury to his left hand, but he immediately attempted to rob the owner of the house that he had hit. He demanded the keys to their vehicle. When he was refused, he threatened to kill the owner.

14. A woman driver passing-by, intending to be a good Samaritan towards someone she believed had been involved in a car crash, wound down her car window to speak to the appellant. He used the opportunity to reach inside and open the door, whereupon he got in and demanded that she drive him to Rainworth. On the journey he asked for a knife in order to remove his tag. She did not have one. He forced her out of the car in the middle of the road. He then drove off in it alone. That vehicle was also driven at speed and dangerously. Ultimately, he tried to ram his way through metal railings at the end of an alleyway by a sports centre. The vehicle stuck fast.

15. The appellant got out and walked to the house adjacent to the alleyway. This was 52 Worcester Avenue in Mansfield Woodhouse. Inside was a young mother, Nicola Cox, who was feeding her five month old son. Her four year old boy was also with her. The appellant smashed his way into her house, using a paving slab to break her patio door. Before he entered he made the sign of the cross on the glass, in his own blood. Once inside Mrs Cox's house, he demanded her car keys. Terrified, she told him where they were. But he went elsewhere and then complained he didn't find them. He threatened to kill her children. She repeated where the keys were, whereupon he took them from a lock and drew a cross in his own blood on her head and on the baby. He also put blood on the other child's head. The appellant was raving about Jesus and God. He demanded a saw in order to remove his tag, but there was not one. Mrs Cox told him to try the neighbour. When he left, she ran to other neighbours for protection.

16. Stephen Beers, her immediate neighbour, was in his garage behind the house when the appellant walked in, raving as before. He wanted his drugs. He tried to put a cross in blood on Mr Beers, who grabbed the appellant's arms. The appellant demanded that his tag should be cut off with a hacksaw. This was done because of the fear he engendered in that

neighbour. To pacify the appellant, Mr Beers pretended that he had drugs and thereby led him to the front of the house. He then took the opportunity to escape into the house, where he locked the door and called the police.

17. The appellant got into Mrs Cox's car which was parked on her driveway. He had, of course, her car keys with him.

18. So far, we have described the factual background to all the offences of which the appellant was convicted, except the homicide. The deceased, Mr Terence Radford (aged 87) was an active, local man. He lived not far from Mrs Cox and had decided to go for a walk. He had just passed a bus stop sited on the opposite side of the alleyway to Mrs Cox's home, and he had paused in the mouth of the alleyway to look at the car that the appellant had wedged on the metal railings. Mr Radford was shaking his head at the wanton destruction when the appellant, who had managed to drive Mrs Cox's car a short distance forwards, then put the car into reverse and drove directly, and at speed, straight into Mr Radford, forcing him into the bus shelter and pinning him between the shelter and the car. He was gravely injured. Despite the attempts of passers-by, and then paramedics and a doctor from an air ambulance to save his life, he died at the scene.

19. The appellant tried to escape from the police. He collided with the front of the police car and then reversed at speed through a low brick wall, before driving forwards again and deliberately ramming the police car a second time. He drove around the police car and, having left the vehicle for a short time to remonstrate with a female police officer, he drove off again at high speed. Mercifully, he was caught soon afterwards, having turned into a dead end and crashed into the front garden of an unoccupied bungalow. A taser had to be used to subdue him so that he could be detained and handcuffed.

20. The trial proceeded on the basis that either the appellant had obtained and consumed a psychoactive substance following his release from prison, and was under the influence of it solely; or (or in addition) he had suffered a sudden acute mental health episode which substantially impaired his ability to understand his conduct, form a rational judgment, and exercise self-control. That episode, in its totality, provided an explanation for his actions, thereby reducing the allegation to one of manslaughter on the basis of diminished responsibility.

21. Following the conviction for manslaughter, the judge was required to assess the degree of responsibility retained by the appellant in order to apply the Sentencing Council guideline for manslaughter by reason of diminished responsibility. The prosecution submitted that the retained responsibility was high because:

> (1) The appellant had a long-term addiction, which he had persistently failed to address, and he had admitted to using spice on over a dozen occasions between August 2018 and March 2019;
>
> (2) This was despite his own awareness of his diminishing mental health, which included visual hallucinations and other symptoms that he knew were exacerbated by drug use;
>
> (3) The appellant had failed to address his addiction whilst serving his sentence; indeed, he admitted having continued to use illicit drugs in custody and whilst remanded after these offences;
>
> (4) The jury's determination that he was guilty of other offences requiring

> specific intent, namely, burglary, aggravated vehicle taking and attempted robbery, established that he was not so affected by his mental illness as to be incapable of rational thought and thus responsible for his conduct.

22. The Crown also highlighted statutory and other aggravating factors, namely: the appellant's antecedent history; the particular vulnerability of the deceased due to his age; the premeditation implicit in deliberately reversing towards Mr Radford, albeit that it was properly conceded that this could not be described as a significant degree of premeditation; the use of a car as a weapon; the harm posed to others by the appellant's actions; his attempt to escape after the event; and that he was on licence, within 24 hours of his release from prison.

23. There was evidence from the police officers responsible for the appellant after his arrest that he had admitted deciding to kill Mr Radford, which the prosecution said went to intent.

24. The judge had regard to the number of impact statements which spoke powerfully of the loss sustained by Mr Radford's loved ones, as well as those of all the other victims of the appellant's lawless and dangerous behaviour, especially Mrs Cox and her young children.

25. The judge summarised the appellant's history of drug addiction and mental illness, drug-induced personality disorder, schizophrenia or schizoaffective disorder, and his behaviour towards those treating him, particular during his last custodial sentence, when for a period he had stopped taking antipsychotic drug prescribed for him. The judge concluded that, given the importance to the appellant of leaving prison, he had deliberately masked symptoms of the illness of which he was aware at that time. We agree with the judge's summary of what followed:

> "Within a day of being released from custody on home detention curfew, [the appellant] embarked upon a course of conduct that can fairly be described as a trail of havoc in which people were abused, threatened – in the case of Mrs Cox, terrified in their own home – and, ultimately, a perfectly decent man, who had a long time still to live and much to live for, lost his life."

26. Turning to the guideline, the judge concluded that the appellant retained responsibility to a degree that placed him within the middle category. This carries a starting point of 15 years' imprisonment, within a range of ten to 25 years. In reaching an appropriate term for a determinate sentence, the conviction for manslaughter was treated by the judge as the lead offence. All the other sentences were ordered to run concurrently with the sentence for manslaughter. He also allowed for the significant aggravating features, which in the judge's assessment included refusal to accept appropriate medication, and he found limited mitigation present in the absence of an intention to kill, given the speed of the final movements of the car.

27. The judge concluded, it appears, that a total notional determinate sentence of 21 years was required. The judge explained that this was made up of a theoretical 18 years' imprisonment for the manslaughter; a statutory minimum of three years' imprisonment for each of the burglaries which qualified under section 111(1) of the Powers of Criminal Courts (Sentencing) Act 2000; 12 months' imprisonment for each offence of aggravated vehicle; and two years' imprisonment for the attempted robbery. Each of these sentences being heavily

discounted for totality.

28. However, the judge also had to consider whether a life sentence was necessary. He took into account the medical evidence heard during the trial and the reports before him in determining whether the appellant continued to pose a significant risk of causing serious harm to members of the public through the commission of further specified offences. He concluded that the appellant was dangerous, bearing in mind his long antecedent history, his awareness that drug use had brought on and exacerbated longstanding mental health difficulties, and the fact that the appellant suffers from an enduring and chronic illness which may go into remission when he properly takes prescribed medication, but risks serious relapse and further psychotic episodes during his periodic failures to comply with medication.

29. Miss Bahra does not challenge the judge's assessment of culpability, nor the imposition of a life sentence.

30. By section 82A of the Powers of Criminal Courts (Sentencing) Act 2000, and taking into account section 244 of the Criminal Justice Act 2003, the judge was required to specify a minimum term for which the appellant would be required to remain in prison before becoming eligible for consideration by the Parole Board with a view to release on the life sentence. Release on licence is then generated by section 28(5) of the Crime (Sentences) Act 1997, which requires release of a life prisoner in respect of whom a minimum term order has been made, this being the relevant part of the sentence for this purpose, as long as the Parole Board so directs.

31. The operation of this part of the sentencing landscape was not a matter upon which counsel addressed the judge, who stated that 14 years was to be served by the appellant in this respect. By section 82A(3)(b)(i) and section 240ZA of the Criminal Justice Act 2003, in setting the minimum term the court must also take account of, and allow for, any period spend on remand. Because the appellant had been recalled to prison immediately on charge, there was only one day to count towards the minimum term.

32. In her written Grounds of Appeal, Miss Bahra advances two challenges. First, she argues that the judge erred in directing that the appellant should serve 14 years, minus one day, which is two-thirds of the notional determinate sentence of 21 years, before being eligible for parole, rather than half, namely, ten and a half years. These submissions were based on a line of authority from this court, including *R v Burinskas* [2014] EWCA Crim 334, which states that the period of a discretionary life sentence to be served would "normally" be half, absent any finding of exceptional circumstances by the judge justifying a higher proportion being served, before eligibility for parole arose. No such finding was expressed by the judge.

33. Secondly, Miss Bahra argues that the judge failed to impose the correct period of disqualification.

34. On the first ground, Miss Bahra's written argument has been rendered otiose by this court's subsequent judgments in *R v Safiyyah Shaikh* and *R v Fatah Abdullah* [2021] EWCA Crim 45 and *R v Aaron Mark McWilliams* [2021] EWCA Crim 745, both of which cases were before the court on the application of the Attorney General, and within which the court considered the interrelationship between the requirements under section 82A of the Powers of Criminal (Courts) Sentencing Act 2000 to fix the minimum term to be served under a discretionary life sentence, and the custodial period after which prisoners serving determinate sentences are eligible for release.

35. The law relating to the latter developed during 2020 and prior to sentence being imposed

upon the appellant. Most relevantly, the Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 No 158, which came into force on 1st April 2020, increases by article 3 the proportion of a determinate sentence which those convicted of relevant violent and sexual offences have to serve, before being eligible for early release, from one-half to two-thirds.

36. In *Shaikh* at [22] to [28] the court surveyed the legislative history of section 82A, which is now section 323 of the Sentencing Act 2020, and the early release provisions in the Criminal Justice Act 2003.

37. In giving the judgment of the court in *McWilliams*, the President of the Queen's Bench Division observed at [52] that the intention of Parliament to increase the minimum period to be served as part of the life sentence had to be expressed with clarity and that in the 2020 order it had been.

38. There is no question but that the order applies to discretionary life sentences. Parliament has amended section 244(1) in respect of offences of a violent or sexual nature, for which life imprisonment is available and for which the court concludes that a term of at least seven years' imprisonment is appropriate. Two-thirds of the notional determinate sentence will be the new "normal" proportion for judges to fix when imposing a discretionary life sentence in respect of relevant violent or sexual offences.

39. It is thus common ground between Miss Bahra and Mr House QC, for the Crown, that the operation of article 3 is such that the judge had to calculate the minimum term at two-thirds of his total notional determinate sentence for the offence of manslaughter. However, it is necessary to examine the sentencing remarks expressed by the judge in a little more detail to understand whether the sentence the judge intended to impose was a life sentence in which 21 years represented all the offending, consistent with section 82A(3)(a), or a life sentence for the manslaughter, with an identified notional determinant of 18 years, and a consecutive term of three years, necessarily reduced for totality, to mark all the other offences, making a total term of 21 years.

40. If the latter, then it is common ground that the overall effect of the legislative regime in place at the time of the sentence would mean that the appellant would be eligible for consideration by the Parole Board after serving two-thirds of 18 years, plus half of the consecutive three year sentence (i.e. 13 years and six months, minus one day). This is because the 2020 order applies only to the manslaughter sentence, by article 6. Section 244(1) of the Criminal Justice Act 2003 will apply conventionally to the consecutive sentence. If the former, however, then the appellant would have to serve 14 years (minus one day), before consideration by the Parole Board. As the Registrar recognised in referring the case to the full court, the position is not clear because of the various and inconsistent ways in which the judge expressed himself.

41. During the course of the sentencing hearing, the judge made the following observations:

> "JUDGE RAFFERTY: … clearly the lead offence is self-evident. Is it the general consensus that I can properly reflect all of the other matters in the sentence for manslaughter?"

Counsel replied that it was. The judge went on to observe that the alternative would be to pass a sentence for manslaughter, then consider whether or not to pass some form of

consecutive period. Counsel for the Crown agreed this was an option, although he observed that the separate offences had all arisen out of the same continuing episode, rather than a series of offences separated by time.

42. Miss Grahame QC, who had represented the appellant at trial, requested that if the option of a consecutive sentence was chosen, the judge should make clear which sentence had to be served first. The judge agreed that problems can arise when such a course is taken. Miss Grahame then said:

> "It is problematic. So, the tidier course, if I can put it in that way, in the longer term administratively is certainly to subsume all matters together. But I leave it in your Honour's hands."

Later on during the sentencing hearing, while working through the Sentencing Council guideline for manslaughter by reason of diminished responsibility, the judge reached step 8, which invokes the totality principle:

> "If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the totality guideline."

The judge said:

> "With regard to step 8, totality, I am bound, it seems to me, to take that very much into account, given the nature of the sentence that I propose to pass upon you. The way in which I will calculate the sentence is by reference to the manslaughter count. That will be called the lead offence. All the offences will be, therefore, sentenced concurrently and I will indicate the term of each sentence so that it is understood.
>
> So that, Miss Grahame, is clear, and everyone is clear, I agree with the submission that because this was an ongoing psychotic episode, I have to take account of that fact when sentencing you for all of the matters. Otherwise, this sentence on every single count would be very much longer. Had you been in the high category of culpability, for instance, you would have been eligible for a starting point sentence of 24 years.
>
> So far as time in custody is concerned, it is true to say that you have been recalled in difficult circumstances. I deal with that in this way: the sentence that I impose will run from today. Anything else can be dealt with administratively. I will say for the moment that one day counts of the time that you have currently been serving.
>
> Stand up, please. The order of the court, therefore, is as

follows. Pursuant to section 225 of the Criminal Justice Act 2003, you must serve a term of imprisonment for life. The minimum term that you must serve is one half of the term that I would have imposed had these matters been dealt with by way of a determinate sentence. I say now that term would have been one of 21 years. So, you will have to serve two-thirds of that minimum term in custody before your case can be referred to the Parole Board who will decide whether you should be released and you will only be released if and when the Parole Board decide that it is safe to do so."

The contradiction in the last paragraph is inescapable. The judge continued:

"Whenever you are released, you will remain on licence for the remainder of your life. Your licence will be subject to a number of conditions and you will be liable to recall to prison at any time.

I pass that sentence, as I have said, for the reasons that I have outlined. It seems to me that in terms of risk, as I judge it at present, that risk is of indeterminate duration.

The sentence of 21 years would have been made up, and is made up, in this way. For count 7, the term I find is one of 18 years. For the two burglaries, counts 1 and 3, you would have been eligible for a minimum term and are, indeed, still eligible for a minimum term. I would have passed, as I said, a much longer sentence in respect of count 5, but in the circumstances here the sentences on counts 1 and 5 will be of three years' imprisonment, each. Clearly, I will come back to that in a moment.

For the two aggravated takings, sentences of 12 months' imprisonment on each of those, concurrent. On each your licence is endorsed and you will be disqualified for a total period of two years: 12 months in each case.

For the attempted robbery – an odd offence, may one say – there will be a term of two years' imprisonment. The sentences on count 1, 2, 3, 5 and 6 are all concurrent with one another but, as ordered, consecutive to the 18 years, making the total term of 21 years.

You are at present taking medication and doing well. I hope that remains the case. Clearly, now you have to live in a better frame of mind than you were that day, with the awful things that you did. If that is not sufficient to frighten anyone into complying with medication until time stops, I do not know what is."

43. Having scrutinised these passages against the current law we recognise that although the difference may appear slight in this appellant's case, the confluent rules applicable may well cause greater controversy in other circumstances. The attention of a sentencing judge will be drawn in greater frequency, we anticipate, to the impact of the rules on release contrary to the established approach of disregarding them. We do not seek to describe all permutations of circumstances where this may happen, but by way of example only, where an offender is sentenced to a term caught by the 2020 order, and consecutively to a term not so caught, the position on release will be clear, albeit different proportions will have to be served before eligibility for release arises.. By contrast, where a determinate sentence of more than the minimum required for the order to apply is passed but it is expressed as being aggregated on a lead violent or sexual offence, with concurrent sentences on other offences, whether or not violent or sexual offences, it may well be that a different construction of the sentence would have resulted in a shorter proportion to be served before eligibility for release. Arguments analogous to those considered in R v Thompson [2018] EWCA Crim 639 may be employed. There can be no objection in principle to the aggregation of sentences, simply because of a legal change which affects release provisions. But courts and advocates must be alert to the impact of the sentences imposed, and care is required so that sentencing remarks state clearly what the sentence imposed is and how it is made up.

44. We return to the appellant's case. Clarity was absent. The penultimate paragraph quoted within para. 42 above suggested that the judge may have intended to impose a consecutive sentence of three years. After the appellant had been sent down, the following exchange took place:

> "MISS GRAHAME: In relation to the way the sentence is expressed, if we are dealing with an overall sentence of life imprisonment with a 21 year minimum term, then I need not trouble you further. I know you have explained it in the way you have.
>
> JUDGE RAFFERTY: Yes.
>
> MISS GRAHAME: I do not want there to be any error and anybody thinking that those individual sentences might, for example, have to come to be served after another period of time.
>
> JUDGE RAFFERTY: No, no. Life imprisonment, minimum term 21 years; 14 to serve before eligibility for parole."

Again, the judge plainly misspoke in the middle of his response. He again left the matter opaque.

45. In resolving these issues, we have been assisted by the unequivocal submissions of Mr House, who represented the prosecution at the trial, at the sentencing hearing and before this court. He told us that his understanding was the same as that which led Miss Grahame to make her enquiry, namely, that the judge intended to impose a consecutive sentence of three years' imprisonment for all of the other offences apart from manslaughter.

46. Accordingly, we are satisfied that if the judge had not been imposing a life sentence for

the offence of manslaughter he would have passed a term of 18 years and reflected punishment for all the other offences by way of concurrent sentences of differing lengths but resulting in 3 years consecutive. The appellant would then have had to serve two thirds of the 18 years and one half of the 3 years (minus 1 day) before being eligible to apply to the Parole Board for release. The sentence imposed was imprisonment for life, incorporating a notional determinate sentence of 18 years for manslaughter, for which the minimum term to be served is 12 years (minus one day). However, before the appellant can make an application to the Parole Board, he must serve one half of the consecutive three year term imposed for the offences of burglary. The minimum total period he must serve will thereby be 13 years and six months (minus one day).

47. The judge was required to impose disqualification from driving for at least two years on the offence of manslaughter, pursuant to Part 2, Schedule 2 to the Road Traffic Offenders Act 1988. This he failed to do. Disqualification is discretionary for taking a motor vehicle without consent: with no maximum or minimum period required s.43(2) Road Traffic Offenders Act 1988. The law does not allow the imposition of consecutive periods of disqualification, as the judge purported to do, for the two offences of aggravated vehicle taking. Furthermore, as both counsel now agree, the periods of disqualification imposed did not comply with the requirements of sections 35A and 35B of the 1988 Act. The purpose of sections 35A and 35B, which were inserted by section 137 and Schedule 16 to the Coroners and Justice Act 2009, is to avoid offenders who have been disqualified from driving and sentenced to custody at the same time serving all or part of their disqualification while in custody. The clear intention of Parliament, as this court said in *R v Needham and Others* [2016] EWCA Crim 455, was that periods of disqualification from driving should be served by an offender whilst he is at liberty in the community.

48. As we have concluded that the sentence imposed will result in a shorter minimum period to be served – and we stress it is the minimum only with which we are concerned – we are able to turn our attention to the disqualification and the appropriate restructuring of the disqualification because it will not offend against section 11(3) of the Criminal Appeal Act 1968, as this court will not be imposing greater punishment overall on this appeal.

49. The systematic application of the law, as required, would be as follows. The shortest possible disqualification from driving would be two years on the conviction for manslaughter using a vehicle. It is generally desirable to impose a single disqualification that reflects the overall criminality of the offending behaviour. In order to ensure that disqualification is effective, an extension period of 13 years and six months (less one day) is required pursuant to s. 35A. It leads to a total disqualification of 15 years and six months (less one day). That disqualification should, as we have said, have been imposed concurrently on each of the relevant offences: manslaughter and the aggravated vehicle taking.

50. We turn to the extended test. Such a requirement has already been imposed on the appellant on an earlier occasion when he appeared before the courts for other driving matters on 22nd January 2002. Mr House informed us that the appellant has not taken the extended re-test which was imposed on that date for offences of aggravated vehicle taking and dangerous driving, committed whilst on bail. The order persists and the requirement should not be re-imposed.

51. Accordingly, we allow the appeal to the extent that the minimum term to serve as part of the life sentence for manslaughter is reduced (as recorded) from 14 years to 13 years and six months (minus one day), and we adjust the disqualification from driving in the terms that we have set out.

52. To that extent this appeal is allowed.

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

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