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IN THE COURT OF APPEAL

CRIMINAL DIVISION



CASE NO: 2021 03714 A3

[2022] EWCA Crim 800

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 28 April 2022

Before:

THE VICE PRESIDENT OF THE COURT OF APPEAL (CRIMINAL DIVISION)
LORD JUSTICE FULFORD

MRS JUSTICE CHEEMA-GRUBB

MRS JUSTICE THORNTON

REGINA

v

JAVANIE MORRIS

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MR PETER ROUCH QC appeared on behalf of the Appellant
MR TOM LITTLE QC appeared on behalf of the Crown

J U D G M E N T

MRS JUSTICE CHEEMA-GRUBB:

1. This is an appeal against sentence with leave of the single judge.
2. On 25 August 2021, at the Central Criminal Court, the appellant (who is now aged 18) was convicted of the murder of Anas Mezenner and the wounding with intent of Hikmet Budak.
3. On 30 September 2021 Her Honour Judge Munro QC sentenced him for murder, to be detained at Her Majesty's Pleasure for a minimum term of 18 years less 251 days spent on remand under section 322 of the Sentencing Act 2020, and 3 years' detention in a young offenders' institution for wounding with intent concurrent, which should have been recorded as pursuant to section 250 of the Sentencing Act, and we direct that in that respect the record be amended accordingly. The statutory victim surcharge was imposed.
4. Co-defendants were also convicted and sentenced.
 - Tiani Gaynes (also now 18) was convicted of manslaughter and unlawful wounding. He was sentenced to 11 years' detention in a young offenders' institution.
 - Shimar Williams (similarly aged 18) was convicted of manslaughter and sentenced to 10 years' detention in a young offenders' institution.
 - A fourth defendant was acquitted at trial.
5. On the evening of 19 January 2021, 17-year-old Anas Mezenner was fatally stabbed by the appellant, who was himself three weeks short of his 17th birthday at the time. There had been some history between the appellant's group of friends and Mezenner's group, which seems to have amounted to no more than this: Tiani Gaynes (a close friend of the appellant's) had been accused of stealing a mobile telephone 2 years earlier. On such small and historic grounds, fatal violence was inflicted that night.
6. The appellant and his friends had a long-standing fascination with knives of the type used to kill Anas Mezenner. Described as hunting knives, they are known popularly as "Rambo" or "Zombie" knives, and they are designed not just to wound but to do maximum damage to flesh. Images and video footage of the appellant's group playing with large knives designed to maim and kill were recovered, especially from his handset. These demonstrated how comfortable and proud each young man was to be in possession of such dangerous weapons as part of their usual persona. The appellant indeed kept a knife on his bedside table. Another knife, described in the evidence as a "Zombie" knife, was found in the attic of his home. He and his group of friends also consumed cannabis regularly, which the judge found to have been a relevant disinhibiting factor.
7. Mezenner had spent the earlier part of the evening with his friends in Wood Green. At some point they heard that Gaynes was in the Willow Walk area of Haringey and went to look for him. The appellant and Shimar Williams met with Gaynes at Gaynes's home address. They spent some time there and left armed with large hunting knives and went looking for Mezenner's group. While the friends were at Gaynes's home shortly before the incident, Shimar Williams recorded a video in which all three were in Gaynes's bedroom. In the footage (recovered subsequently from the appellant's phone) the appellant was captured waving around two of the knives present at the attack - one of them the murder weapon. He wore a single black glove. This video was sent to the appellant's phone half an hour after the attack in which Mezenner was killed.
8. That evening, Anas Mezenner had a hammer concealed in his trouser waistband, but he did not produce it at any point. None of his friends were armed and the trial judge found that he and his friends could not have anticipated that the appellant's group would be armed with the sort of weapons they in fact had.
9. CCTV footage recorded the confrontation between the two groups, although not the fatal blow. There was a brief exchange of words before the appellant produced a knife. Encouraged by Gaynes, he stabbed Mezenner's friend, Hikmet Budak, in the buttock as he tried to run away. Mercifully, he was not fatally injured. Mezenner was then pursued, and the appellant stabbed him with force in the left buttock, before running away. Mezenner's wallet was also moved away from his body.

10. Mezenner telephoned the emergency services for assistance and collapsed whilst speaking to them. Police found him slumped against railings on Willow Walk. Paramedics and the helicopter medical service stabilised him at the scene before conveying him to Royal London Hospital. Their efforts were not enough to save his life and Anas Mezenner was pronounced dead at 4.25 am on 20 January 2021.
11. On that day the appellant sent a WhatsApp message which read:

"There were three knives here ... 15, 12-inch and another 15. Two of them are parked in Milton and my thing's parked somewhere else out of the area."

The reference to "*Milton*" was to a car which was used to smoke cannabis in.

12. A post-mortem examination found the cause of death to have been a 15-cm deep stab wound to Anas Mezenner's left buttock.
13. The appellant disposed of his murder weapon in a location to which he later directed police during the trial and it was recovered from there. The other two knives were found in the motor vehicle he had mentioned.
14. The killers made light of what they had done. No sign of remorse was apparent in the aftermath of Anas Mezenner's death. The appellant carried on life as normal.
15. He was arrested on 20 January. He gave a prepared statement denying any involvement in the offences and then answered no comment to all questions in interview.
16. While remanded in custody, the appellant spoke of pleading guilty and of not intending to kill but of wanting to get the "first blood" on to his blade. He composed a Drill lyric glorifying the killing. He initially served a Defence Statement in which he denied being the person who stabbed Mezenner or even being present at the time. Therein he admitted wounding Hikmet but denied intent to inflict really serious harm. He admitted carrying a knife, which he said was for self-defence.
17. Shortly before the trial, he served a further Defence Statement in which he admitted stabbing Anas Mezenner too, but doing so on the spur of the moment, believing himself to be in immediate physical danger.
18. At trial he gave evidence admitting both stabbings but claiming to have been acting in self-defence at all times. He alleged for the first time that Anas Mezenner had punched him, before the appellant withdrew his knife and stabbed him once. This recently-invented assault by the deceased was plainly rejected by the jury.
19. By the time of his trial this young appellant had acquired eight convictions for 15 offences, spanning from June 2017 to November 2020. Of those the relevant convictions included offences of attempted robbery, assaulting a police constable, possession of a bladed article in a public place, battery, aggravated vehicle taking and robbery. The facts of these are informative.
 - *Attempted robbery.* On 25 October 2016 the appellant (then aged just 12) and two others attempted to rob another young person of his mobile phone outside Alexandra Palace train station. During the offence, the appellant and the others, with their faces covered by hoods and other items of clothing, asked the victim where he was from, repeatedly asked to see his phone. The two others each said, "Do I have to get my knife out?" The appellant then said, "Let me see your fucking phone?" He searched the victim's pocket and swung a punch at his face. One of the others said, "Block him in". The group surrounded the victim. No weapon was produced. The appellant pleaded guilty in June 2017.
 - *Assaulting a police constable.* When he was aged 13, he assaulted a police officer by spitting at him during a lawful stop and search in which the appellant was found to be in possession of a screwdriver on West Green Road on 11 December 2017. He admitted assaulting a police constable in March 2018.
 - *Battery and criminal damage.* On 14 October that year (aged 14) he was at Asda in

Tottenham Hale with two others. When challenged by a security guard, he shouted threats to knock out the guard, that the guard was going to die that night, and repeatedly punched him to his head and face, causing swelling. The guard's glasses were broken when the appellant struck him. He pleaded guilty in November 2018.

- *Robbery.* The following year, on 4 February 2019 (aged 14 years and 11 months) the appellant robbed another young person of his iPhone on a bus travelling between Wood Green and Tottenham. During the course of the robbery the appellant threatened to "stab up" his victim and held his hand in his left pocket, moving it around as if he was armed with a knife. He admitted that offence of robbery in June 2019.
20. Returning to this case, in a Victim Personal Statement, Zoulika Mezenner (Anas's mother) described the immeasurable loss of her son's death as taking the light of their home away, leaving an empty space in the family's life. She spoke of her sadness that to some young people Rambo knives, Zombie knives and Choppers were seen as toys rather than weapons designed to take lives and cause pain to families.
 21. In her reasoned and careful sentencing remarks the judge recognised the appellant's age at the time of the murder - 16 - and his age at sentence - 17. In imposing the sentence fixed by law (section 259 of the Sentencing Act 2020: Detention for Life at Her Majesty's Pleasure) she had to assess the minimum term to be served before the appellant would be eligible to apply for parole. No guarantee of release on parole is provided by the length of the minimum term. The appellant was told that he would not be released until he has convinced the Parole Board that he no longer presents a risk of serious harm to the public. The judge took account of the seriousness of the offence and any offences associated with it. For this purpose, of course, the conviction for wounding Hikmet Budak with intent was the offence associated with the murder, and she increased the minimum term to reflect that second offence whilst imposing a concurrent sentence for it.
 22. Assessing seriousness, the judge started at 12 years because of the appellant's age, as required by paragraph 6 of Schedule 21 to the Act. She recognised, as Mr Rouch QC does before this court, that this starting point had to be increased because this was a more serious offence. For any adult convicted of murder by a knife which had been taken to the scene intending for it to be used, the requisite starting point for the minimum term is 25 years. This reflects the particular aggravation of knife-carrying culture. The judge recognised the taking of the knife to the scene with the intention that it be used as one aggravating feature leading to an elevation in the minimum term. Others were: the degree of planning, the group attack - with each member armed in a similar way, the fact of the two victims, the hiding of the murder weapon, interference with the deceased's wallet, which she attributed to the appellant, and to a limited extent his previous convictions, involving the possession of knives and threats to use a knife, all of which, together with images on his telephone and the bragging in telephone calls from prison, demonstrated a gradual escalation in his desire to commit harm to others. Although mitigation had been placed before the court to the effect that the appellant was sorry for what he had done, the judge observed that his Drill lyrics and behaviour up to conviction did not manifest remorse in any way.
 23. Before determining how these features should be reflected in the minimum term the very experienced judge expressed her assessment of the appellant's stage of development, noting:

"I heard you give evidence and I am satisfied that you are a mature 17-year-old who is totally embroiled in the world of knives and cannabis-fuelled violence."

24. By way of mitigation, she recognised that an intention to kill had not been proven despite the Drill lyric which claimed as much. Youth was accounted for in the lower starting point and should not be double counted. The appellant's family background of involvement in crime and an indication that he has some learning and behavioural needs was noted, and there was some indication that the appellant was settling into custody and beginning to

- appreciate the gravity of his actions.
25. In respect of the wounding, the Sentencing Council guideline applied and for an adult category 2 would be relevant, leading to a starting point of 6 years within a range of 5 to 9 years' custody. Because of his youth, the appellant, in the judge's reasoning, would have received 3 years' detention for that offence had it stood alone. It did not. Allowing for totality, the minimum term for murder would be increased by 1 year.
26. This minimum term for murder is challenged in this appeal on two grounds.
- Firstly, that although there were aggravating features as identified by the judge and the judge properly allowed 1 year for the wounding of Hikmet Budak, the total increase from the starting point of 12 years to 18 years is manifestly excessive.
 - Secondly, the increase must have failed to take sufficient account of credible mitigation in the absence of an intention to kill, demonstrated by a single stab wound.
27. We are not able to accept these submissions. Every sentence imposed on a young person requires the most careful attention. Neuroscience has established firmly how young men, aged less than their early 20s in particular, still have developing brains. The different respective starting points for knife deaths by adults and those under 18 reflect such reasoning. Experience shows that any adult's minimum term for an attack of this kind would have been years beyond the 25-adult starting point. However, each such case involving a youth has to be assessed singularly to reflect its true nature and the culpability involved. This is precisely what the trial judge did. She made a rational assessment of relevant features both aggravating and mitigating. This appellant did not carry out an impulsive assault in an unguarded moment. He took a particularly dangerous knife to the scene for use in an attack on another young person with the requisite intent. This was within the context of looking for the deceased's group and indulging in a chase leading to violence on that night in which another youth was also stabbed with the intention to cause grave harm. The appellant had a habit of revelling in the possession of highly dangerous knives. He chose to associate with others of a similar age with identical proclivities. We do not detect any great weight attached to the appellant's youthful convictions, and little was justified, but they are part of the background and demonstrate again that his behaviour was not isolated criminality. The attack on Anas Mezenner was violent and obviously carried a high risk of death or serious harm, which must have been obvious to all those involved in it. It was accomplished with a hunting knife carried precisely for the purpose of use. Fatal violence was inflicted as part of a planned attack, which followed a deliberate pursuit. The knife penetrated to the full extent of the blade. In those circumstances the distance between an intention to kill and one to cause really serious harm is insufficient to justify a significant reduction in the otherwise appropriate minimum term.
28. Despite the concise and clear submissions presented by Mr Rouch QC, we find no proper criticism of the sentencing exercise in this sadly not atypical case. Accordingly, this appeal is dismissed.

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

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