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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202202211/A2
[2023] EWCA Crim 384

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 21 March 2023

Before:

THE VICE-PRESIDENT OF THE COURT OF APPEAL, CRIMINAL DIVISION
(LORD JUSTICE HOLROYDE)

MR JUSTICE KERR

HIS HONOUR JUDGE TIMOTHY SPENCER KC
(Sitting as a Judge of the CACD)

REX
v
COLIN REEVES

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MS J MARTIN KC appeared on behalf of the Appellant.
MS K LUMSDON KC appeared on behalf of the Crown.

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J U D G M E N T
(Approved)

1. THE VICE-PRESIDENT: On 17 June 2022, after a trial in the Crown Court at Bristol before Garnham J and a jury, this appellant was convicted of the murders of Jennifer Chapple and Stephen Chapple. He was subsequently sentenced for each of those offences to life imprisonment with a minimum term of 38 years less the days he had spent remanded in custody. He now appeals against his sentence by leave of the full court.
2. The victims of the murders were husband and wife. They and their two young children lived next door to the appellant. For some months they and the appellant had been in dispute about parking outside their properties, which appears to have become a cause of stress for all concerned. There had been an incident on 11 November 2021, when the appellant had been abusive to Mrs Chapple in a manner which caused her significant concern.
3. The appellant, now aged 35 and of previous good character, is himself the father of two young children. He is a former soldier, whose 10 years of service included a tour of duty in Afghanistan. When he left the Army he was presented with a dagger, which he kept in a display case.
4. It appears that he and his wife were experiencing difficulties in their marriage. On the evening of 21 November 2021 his wife told him that she wanted a trial separation. A short time after she had done so the appellant armed himself with the dagger. He climbed over the fence into the Chapples' back garden, crept to their back door and entered their house. They were together in the living room. Their children were asleep upstairs.
5. The appellant immediately attacked Mr and Mrs Chapple, striking with such speed and force that neither had any chance of resisting or escaping. Mrs Chapple was not even able to rise from the sofa. He stabbed each of them repeatedly, inflicting severe injuries from which both his victims quickly died. His own wife, next door, heard screaming.

Audio recordings available at trial and to this court captured the appellant shouting: "Die you bastards, die" as he stabbed Mr and Mrs Chapple.

6. The appellant left his victims where they lay and climbed back over the fence to his own home. A short time later he telephoned the police and reported that he had stabbed his neighbours.

7. When interviewed under caution the appellant made no reply. He entered guilty pleas to offences of manslaughter on the basis of diminished responsibility. Those pleas were not accepted by the prosecution and the trial proceeded. Expert medical evidence was adduced about the appellant's mental condition. The jury convicted the appellant of both offences of murder.

8. The judge did not think it necessary to obtain a pre-sentence report and none is necessary now. The victim personal statements provided by members of the Chapples' family were available to the judge. They made clear the "insurmountable grief" which has been caused to the bereaved by these murders. Members of the family not only had to identify the bodies of the deceased but also, some days later, to explain what had happened to the Chapples' children. Each member of this court has read those statements. We offer the bereaved our condolences.

9. The judge accepted the evidence that the appellant was suffering from depression but was satisfied that the appellant bore full responsibility for his actions. Having considered the provisions of schedule 21 to the Sentencing Code, he took a starting point for the minimum term of 30 years. He found three aggravating factors: the fact that the appellant had brought the dagger from his own home to the scene; the commission of the offence at night and in the victims' own home where they were entitled to feel safe; and the fact that the Chapples' children were asleep upstairs at the time of the murders. He

also noted that although the murders were not long planned or premeditated, they were not entirely spontaneous either.

10. As to the first of those features, the judge observed that Parliament has decided that the fact that a weapon was brought to the scene will usually justify an increase of 10 years in the starting point for a single murder. He continued:

> "There is no equivalent provision where a knife is brought to the scene to carry out two murders but, plainly, that fact constitutes a grave aggravating factor which I must bear in mind when fixing on the minimum term here."

11. The judge then listed six mitigating factors. First, the appellant's remorse, which he accepted as genuine. Secondly, some allowance was to be made for the fact that the appellant was suffering from moderate depression at the time, though that did not satisfy the test for diminished responsibility and did not explain the appellant's decision to attack his neighbours. Thirdly, the appellant's action in calling the police immediately after the killings and waiting at the scene for them to arrive. Fourthly, his admission of the killings in his initial phonecall to the police. Fifthly, his military service. Lastly, the fact that the appellant would, on any view, be an old man before he will be eligible to apply for release on licence. The judge concluded that the aggravating factors far outweighed the mitigating features and that the appropriate minimum term was 38 years before deducting the period spent remanded in custody.

12. In her written and oral submissions Ms Martin KC, who represents the appellant in this court as she did at trial, argues that the judge took a wrong approach in sentencing, and that the minimum term was manifestly excessive in length. She submits that the judge appears to have treated the 25-year starting point, in a case where a weapon is taken to the scene and used to commit a single murder, as indicating a "standard uplift" of 10

years in the starting point for two murders. Having done so, she submits, the judge then fell into the error of double counting by treating the location of the offence to which the dagger had been taken as a further aggravating factor. She also submits that the judge gave insufficient weight to the mitigating factors. She suggests that, before considering those mitigating factors, the judge must have reached a provisional minimum term in excess of 40 years. In support of her submissions Ms Martin points to case law supporting the well-established need for judges to avoid applying Schedule 21 inflexibly or mechanistically.

13. For the respondent, Ms Lumsdon KC submits that the judge did not fall into the suggested errors and that a provisional starting point of 40 years before consideration of mitigating factors was justified in the circumstances of this case. She further submits that the judge gave due weight to the mitigating factors, and that the minimum term of 38 years, before deducting the period spent remanded in custody, was neither wrong in principle nor manifestly excessive.

14. We are grateful to both counsel for their very clear submissions.

15. The imposition of life sentences for these murders was, of course, required by law. In determining the appropriate minimum term to be served, before the appellant could even be considered for release on licence, the judge was required by section 322 of the Sentencing Code to consider the seriousness of the offending. In doing so, he was required by subsection (3)(a) to "have regard to the general principles set out in Schedule 21". As is well-known, that schedule sets out different starting points for the minimum term in different categories of murder. Paragraph 2 of the Schedule indicates that a whole life order is the appropriate starting point where the seriousness of the case is exceptionally high. The judge rightly decided that these murders did not fall into that

category. Paragraph 3 indicates a starting point of 30 years where the seriousness of the case is particularly high; and by subparagraph (2)(f), the murder of two or more persons would normally fall within that paragraph. By paragraph 4, if a case does not fall within paragraphs 2 or 3, a starting point of 25 years will normally be appropriate where an offender took a knife or other weapon to the scene intending to commit any offence or to have it available to use as a weapon, and used it in committing the murder. In other cases the starting point will normally be 15 years.

16. The judge found, correctly, that this case fell within paragraph 3. It follows that paragraph 4 did not apply. However, the judge did not purport to apply it. He would have been in error if he had treated paragraph 4 as establishing or requiring a "standard uplift" in every case of murder using a knife or other weapon taken to the scene with the requisite intent, even if falling outside paragraph 4. We do not, however, accept the suggestion that that is what the judge did. In our view, the judge, in the words that we have quoted, made plain that he was not falling into that error, but rather was treating the use of a knife taken to the scene as an aggravating factor. The use of a weapon will usually be an aggravating feature of any murder, whether it is taken to the scene or not. In a case which falls within paragraphs 2 or 3 of the Schedule, the fact that the weapon was taken to the scene will generally be a further aggravating factor. However, the weight to be given to those aggravating factors will vary according to the circumstances of a specific case, and will be a matter for the judgement of the sentencer, with whose evaluation this Court will be slow to interfere.

17. The real issue in this case, as we see it, is whether the judge erred in his overall balancing of the aggravating and mitigating factors. He was faced with a difficult task in determining the appropriate minimum term for these dreadful murders, and we recognise

that he had the advantage, which we do not, of having presided over the trial and heard all the evidence. He correctly identified the aggravating factors. The appellant plainly armed himself with the dagger, a highly dangerous weapon, because he had decided to kill his victims. In order to carry out that intention, he went armed into their home, the place in which the judge rightly said they were entitled to feel safe. He had the advantage of taking the Chapples by surprise, and they were effectively defenceless against his ruthless attack. He must have known that the children would be asleep upstairs and that his actions would render them orphans at a young age. We agree with Ms Martin that there is some degree of overlap between some of those factors; but even being careful to avoid any risk of double counting, those features of the case plainly necessitated a substantial upwards adjustment of the starting point. We cannot however accept Ms Lumsdon's submission that they justified an uplift of the starting point to 40 years or more.

18. In addition, we see force in Ms Martin's submission that more weight should have been given to the mitigating factors. Even in a case as serious as this, and even though outweighed by the aggravating factors, the mitigating factors correctly identified by the judge collectively carried significant weight.

19. We have hesitated to differ from the overall evaluation of these factors made by the judge. We are, however, persuaded that the balance which he struck went outside the range properly open to him, with the result that the minimum term was manifestly excessive.

20. For those reasons we allow this appeal. We quash the minimum term of 38 years less the days remanded in custody. We substitute for it a minimum term of 35 years, less the 209 days which we are told is the correct figure for the time spent remanded in custody. That

reduced minimum term takes effect from the day when the judge pronounced sentence.

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

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