



Neutral Citation Number: [2020] EWHC 1936 (Admin)

Case No: 2020/6/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 Lamah Prince**

**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 20<sup>th</sup> July 2020 at 09:45am.**

**MR JUSTICE HILLIARD:**

1. On the 17<sup>th</sup> June 2011, in the Crown Court at Birmingham, the Applicant was ordered to be detained during Her Majesty’s Pleasure, with a minimum term of 14 years, less 333 days spent on remand, for the murder of Yajay Sudra on the 9<sup>th</sup> July 2010. He now applies for a review and reduction in his 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 left his home in Erdington on the night of 9<sup>th</sup> July 2010, armed with a kitchen knife. He was 15 years old at the time, having been born on 31<sup>st</sup> August 1994. He followed Yajay Sudra who was walking home from work. Yajay was 21 years old. When he caught up with him, the Applicant tried to rob him of his bag. In the process, he inflicted one fatal stab wound to Yajay’s chest.
7. I have read an updated Victim Impact Statement from Yajay’s mother, Varsha. She explains that his murder had changed her and her family’s lives forever. It is plain that the consequences of what happened are still felt very deeply and will continue to be so.
8. In a pre-sentence report, dated 13<sup>th</sup> June 2011, it is said that before being remanded in custody, the Applicant had had a college placement to complete his A-levels. His intention had been to go to University with a view to becoming an architect. The Applicant had not been in any trouble before.
9. When he passed sentence, the Judge said that the Applicant came from a respectable family. He had shown no real remorse about the death, perhaps because he continued to deny he was responsible for it. The Judge accepted that the Applicant had not intended to kill Yajay but said that the jury’s verdict meant that he must have intended to cause him really serious harm.
10. The Applicant completed a Victim Awareness Programme whilst in custody and I have seen a report about it. The date is not clear, but I think it must be 7<sup>th</sup> July 2014. It is recorded that the Applicant expressed remorse for what he had done.
11. The Applicant came to HMP Gartree from HMP Lincoln on the 10<sup>th</sup> September 2018. On the 8<sup>th</sup> February 2019, he took part in a Sentence Planning and Review meeting. He said that he felt he did not have any risk factors at that time. Asked how he had changed since the offence, he said that he was now more mature, showed compassion towards others, followed the Muslim faith and did not show bias to anybody. He did not feel he had learned anything new on the Victim Awareness course. He felt it was mainly common sense and he already knew what they were teaching. However, he could “reach out to family and say sorry.”

12. The Applicant completed the Resolve programme between the 22<sup>nd</sup> May 2019 and the 8<sup>th</sup> August 2019. Resolve is a moderate intensity cognitive-behavioural intervention which aims to reduce violence in medium to high risk adult male offenders. It is said that during group meetings, the Applicant had initially tended to be drawn into side conversations but when the matter was raised with him, he stopped doing this. His written work sometimes lacked personal application although this improved as time went on. There were some topics that he did not appear comfortable to discuss. He said that for him, the course was a platform to evidence skills that he had already acquired. He felt that none of the areas of treatment need were relevant to him as he had all of them in hand already. However, he said that he found the course useful “to label the things he was already aware of and doing on a regular basis.” He recognised that his original offence had largely been driven by “a lack of money.” He appeared to learn from the course that he needed to be mindful of his associates as some of these had had a negative impact on his behaviour in the past. He said on numerous occasions during the course that he did not feel he had any further treatment need or areas of risk. He was encouraged to be mindful of becoming complacent, of not being aware of his triggers, and of the dangers this could present in the future. He did begin to evidence increased insight into factors that had led to his use of violence and aggression. He said that the stabbing was an accident and he had not meant to harm his victim. He said that he had matured a lot whilst in custody and felt that he now had himself “under control.” He discussed how he was able to manage impulsive thoughts by considering the risks involved. It was said that he had begun on the course to identify and explore some of his less helpful personal rules which had led him to use violence in the past. He said that his main coping strategy was his faith and that since becoming a practising Muslim, he found it far easier to manage his emotions. His faith is certainly a positive factor.
13. The Applicant’s prison categorisation was reviewed in early 2020. It was decided that there had been a significant reduction in risk, sufficient to make re-categorisation to Category C status at Gartree appropriate. Reference is made in the categorisation review to positive progress on the Resolve programme. It is said that he has a record of positive behaviours dating back to March 2019 where he volunteered to help with some cleaning work which he did to a good standard. He had completed the Reading Ahead Six Book Challenge. He had positive reports from education and from his faith classes. He was an Enhanced prisoner whose last adjudication was in 2016 for possessing a USB stick and charger. [This conflicts with other material to the effect that there was an adverse adjudication in 2017.] Between 2011 and 2013, he had adverse adjudications for assault, using threatening behaviour, fighting, possessing a weapon and obstructing an officer. He was prosecuted for assaulting a prison officer and received a concurrent sentence of 8 months’ custody in 2013. By the time of the categorisation review, he was a Wing representative and had signed up for a diploma in medicinal herbs. He had obtained a number of qualifications, ranging from adult literacy to cooking and IT user skills.
14. In a Tariff Assessment Report, dated 24<sup>th</sup> January 2020, it is said that there has been a significant change in the Applicant’s maturity and outlook since the offence, and that he is now much more aware of his potential triggers and risk factors. This report draws very heavily on the report that was prepared following the Resolve programme. It is suggested that continued detention in custody to the expiry of his tariff could damage and put at risk the Applicant’s continued development. The author had

recently approved his re-categorisation to Category C status. It is the author's opinion that since his arrival at HMP Gartree on the 10<sup>th</sup> September 2018, the Applicant had demonstrated exceptional progress, having attained and maintained Enhanced status. He had applied for Listener and Equalities Representative roles although he had not been successful. However, he had been the library orderly and had followed religious studies in the multi-faith centre. His last adjudication is said to have been on the 7<sup>th</sup> June 2017 for unauthorised possession of a mobile telephone and charger – hence my query in paragraph 13. As there is inconsistency about this adjudication, I shall leave it out of account. Since being at HMP Gartree, the Applicant explained that he had helped another Muslim prisoner who had been self-harming. He also said that he had recently started with the peer-mentoring group.

15. In an OASys assessment, also dated 24<sup>th</sup> January 2020, it is recorded that in June 2016, he was found to be displaying bizarre and unpredictable behaviour. He spent a period of time in a psychiatric hospital and returned to the prison estate in August 2017. The Applicant said that he had been diagnosed with Catatonic Schizophrenia. However, he believed he was suffering from a drug-induced psychosis brought on by Spice he had been taking. He had had no further episodes since he had stopped using the drug. [It is surprising that this was not highlighted when risk factors were discussed in the Resolve report.] Since being at Gartree, he had formed a good working relationship with fellow prisoners and those in authority. It is said that he does not seem to recognise all the factors that contributed to his offending or to understand fully the reasons for his behaviour. He said that it had been an accident and that he had never intended to use the knife, although he accepted that his actions had caused the victim's death.
16. In the OASys assessment, reference is made to an earlier Tariff Assessment Report dated 30<sup>th</sup> May 2018. I do not have the report, but the following passage is quoted: "In contrast there have been issues in relation to Mr Prince's compliance with the prison regime during this sentence, including adjudications in August 2013 for falsifying an officer's signature. Further, in 2016 and 2017 Mr Prince attracted negative NOMIS comments, adjudication and security intel for possession of a mobile phone charger, failing to attend employment, covering his observation panel, being disruptive to staff and showing a poor work ethic. He also attempted to escape a hospital escort in June 2016, attempted an assault on staff and displayed a deterioration in his behaviour, displaying bizarre and unpredictable behaviour. He was therefore transferred to psychiatric hospital following this behaviour, before returning to prison estates in August 2017. Security information in the past has also raised concerns relating to involvement in being involved in a gang culture, intimidating staff and other prisoners. His transfer from HMP Birmingham to HMP Lincoln was linked to potential involvement in a disturbance there and threats to staff, although this information did not lead to any proven adjudications." Finally, the OASys report records that on the 30<sup>th</sup> July 2019, an emergency pin phone credit had been authorised for the Applicant for legal reasons. However, the Applicant had telephoned his mother.
17. Solicitors acting for the Applicant have put in written representations and have attached some entries from his prison record. Examples include the 11<sup>th</sup> December 2017 when it is said that his work effort appears to have improved and that his attitude seems to have changed. On the 27<sup>th</sup> March 2018, he assisted someone who struggled

with English. On the 29<sup>th</sup> March 2018, he had been helping with other prisoners, particularly one who is disabled. On the 25<sup>th</sup> April 2018, it is said that he was again late for morning labour movement. On the 4<sup>th</sup> May 2018, he was very helpful to staff. On the 11<sup>th</sup> May 2018, he became the Ramadan representative for C wing. On the 6<sup>th</sup> June 2018, he was successful in becoming an Equalities representative. On the 20<sup>th</sup> July 2018, it is said that he continues to work to a high standard and is always polite. On the 21<sup>st</sup> July 2018 and the 9<sup>th</sup> August 2018, he is described as a model prisoner. On the 13<sup>th</sup> August 2018, it is recorded that he did not attend labour that morning. On the 18<sup>th</sup> March 2019, now at HMP Gartree, he volunteered to help with some cleaning – I have already referred to this. On the 3<sup>rd</sup> December 2019, it is recorded that he feels ready for the new challenges of a Category C prison. On the 9<sup>th</sup> January 2020, he said that he had forged a friendship with another prisoner who was involved in self-harming and had helped him not to do this. On the 15<sup>th</sup> January 2020, he is said to be polite and interacting well with staff and other prisoners. On the 11<sup>th</sup> February 2020, reference is made to his potential progression into a mentoring role.

18. The solicitors have attached a letter from a prison officer, dated 12<sup>th</sup> September 2019. The officer has known the Applicant for just over a year and says that he is always polite and respectful. He refers to educational courses, religious studies, productive work and responsibility as Ramadan representative.
19. The solicitors submit that the Applicant has accepted full responsibility for the offence of murder. It is said that he has no adverse adjudications since 2016. Reference is made to courses attended and qualifications obtained. Amongst other things, he has played football for a charity event, attended a charity event for disabled prisoners, been an Equality and Wing representative and qualified as a Listener and Peer Mentor. He has helped other prisoners and prison officers on occasions. He is engaged in offence-focused work and reduced the risk that he poses. It is argued on his behalf that he has made exceptional progress.
20. There is no doubt at all that there has been a significant improvement in the Applicant's behaviour. He is an Enhanced prisoner at Gartree and now in Category C. I do not think that there are any risks to his future development which cannot be significantly mitigated whilst he is in custody. His re-categorisation, for example, is a measure which will make a significant change in regime for him and he will have the chance to respond to it. He has said he feels ready to face the new challenge. He has now expressed remorse for what he did and accepts that he was responsible for causing his victim's death. However, he does not accept that he intended to cause him really serious harm. The jury must have been satisfied about this in order to convict him of murder. He engages well with staff and fellow prisoners and has taken on responsible positions. He has undertaken the offending/offence-related work that I have referred to. The report from the Resolve programme forms the basis for a lot of positive things that are said about him. There are aspects, however, which cause me significant concern.
21. It seems to me that the Applicant has further to go in accepting responsibility for deliberately stabbing his victim and further to go in understanding his offending and possible risk factors, and in addressing a risk of complacency that has been mentioned. To my mind, on the material I have seen, these emerge as critical areas in this case when it comes to attitude and maturity and in evaluating overall progress. The Applicant seems to be very confident about the extent to which he has addressed

his areas of future risk but without, for example, making reference to his consumption of Spice whilst in custody which he believes led to a period as a psychiatric patient. He has made the progress I have outlined and is to be commended for it. It will be of benefit to him as he progresses through the prison system. Nonetheless, I do not think that his progress can yet properly be described as “exceptional” when there are the outstanding areas that I have highlighted. I have taken account of the overall picture but in my judgment these are very significant areas in this particular case so far as attitude and maturity are concerned and they cannot be overlooked in making my assessment. Looking at the Applicant’s case in the round, I am unable at the present time to recommend a reduction in his tariff on the basis of “exceptional” progress or on any other ground. Of course, if the Applicant does build on what he has achieved and addresses these key areas, it is open to him to request a further review in the future when the matter could be considered again.