



Neutral Citation Number: [2021] EWHC 265 (QB)

Case No: YOR/2020/7

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 16/02/2021

**Before :**

**MR JUSTICE NICOL**

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**The decision of THE HONOURABLE MR JUSTICE NICOL**  
**on the review of the tariff in the case of SHAMARI HANCHARD-KERR**

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**Approved Judgment**

**Mr Justice Nicol:**

1. Shamari Hanchard-Kerr was born on 3<sup>rd</sup> December 1992.
2. On 17<sup>th</sup> August 2010 Mr Hanchard-Kerr murdered Razi-Ul Hassan. He was thus 17 at the time of the murder. He was tried in Birmingham Crown Court before Simon J. and a jury. He was convicted of the murder. He was also convicted of offences contrary to Offences Against the Person Act 1861 s.18 in relation to two other victims: Amir Imam and Qasin Medhi. Mr Hanchard-Kerr's identical twin brother, Jamahl Kamahl, ('Kamahl') was also accused of all three offences. Kamahl was acquitted of all those offences. He did, however, plead guilty to a count of affray which was brought against Kamahl alone.
3. On 7<sup>th</sup> April 2011 Mr Hanchard-Kerr was sentenced to detention during Her Majesty's pleasure for murder. The minimum term specified was 15 years less 233 days which he had spent on remand. For the two counts of s.18 wounding, the Judge imposed concurrent terms of 12 years.
4. For the offence of affray, Kamahl received a sentence of 18 months detention in a Young Offenders Institution less the 233 days which Kamahl had spent on remand.
5. I have been asked to review the minimum term. In accordance with the procedure established in the light of the decision of the House of Lords in *R v Secretary of State for the Home Department ex parte Smith* [2005] UKHL 51. The decision is formally taken by the Lord Chancellor and Secretary of State for Justice, but he has undertaken to follow any recommendation by the High Court Judge to whom the review is referred.

**The offence and sentence**

6. The offences took place in the Whitmore Reans area of Wolverhampton.
7. The victims were known to Mr Hanchard-Kerr who had been at school with their younger brothers. Indeed, the Judge said that the victims' families had treated the Hanchard-Kerr brothers as part of their extended families. There was an argument about a debt said to be owed by Kamahl. There was an altercation in the course of which Mr Hanchard-Kerr was assaulted. However, he then used grossly disproportionate force in response. He had with him a Rambo-style knife which was approximately 12 cm long. Mr Hanchard-Kerr used this knife to stab Mr Razi-Ul Hassan

three times. He also used the knife to stab each of Mr Imam and Mr Medhi 3 times. Mr Hassan died. Mr Imam and Mr Medhi suffered life-threatening injuries.

8. The sentence of detention during Her Majesty's pleasure is fixed by law for a person who was under 18 at the time of the murder, but the Judge was required to fix the minimum term before Mr Hanchard-Kerr could be considered for parole.
9. In the Criminal Justice Act 2003, Parliament has fixed starting points which apply before the aggravating and mitigating circumstances are considered. Because of his age, the starting point in Mr Hanchard-Kerr's case was 12 years – see 2003 Act Schedule 21 paragraph 7. That is the case even though (as the Judge clearly believed was the case) that the murder weapon was a knife which was brought to the scene. While that fact could not elevate the starting point (as would have been the case if the murderer had been over 18), the judge said that it was an aggravating circumstance which he was entitled to take into account.
10. Mr Hanchard-Kerr had 9 previous convictions. They included several for offences of violence (including two of robbery, one of assaulting a constable and one of affray). They also included one offence of possession of heroin.
11. The Judge also had a pre-sentence report from Ms Rachel Cornwall. The Judge commented that there was little to Mr Hanchard-Kerr's credit in the PSR: it showed him behaving in a truculent and aggressive manner which had continued while he had been on remand. In the view of Ms Cornwall, Mr Hanchard-Kerr showed no real remorse or comprehension of how his actions had destroyed the lives of others. She considered that he posed a high risk of harm to others, particularly given the escalation in his criminal offending and his behaviour in prison.
12. His parents were separated, and he lived with his mother and five brothers. Mr Hanchard-Kerr reported that he had had a partner for 4 ½ years, but whom he would not identify. He and his brother had bullied, threatened and intimidated other detainees which had led to his brother being moved to a different establishment. While on remand at HMYOI Brinsford there had been several adverse adjudications for refusing to move, refusing to attend education. and for fighting.

### **The criteria for reduction of the minimum term**

13. There are three possible grounds on which to reduce the minimum term:
  - a. The offender has made exceptional and unforeseen progress during his sentence.
  - b. The offender's welfare may be seriously prejudiced by his or her continued imprisonment, and the public interest in the applicant's welfare outweighs the public interest in a further period of imprisonment lasting until the expiry of the current minimum term.
  - c. There is a new matter which calls into question the basis of the original decision to set the minimum term at a particular level.
14. In this case, there is nothing to call into question the basis of the original minimum term as set by the trial judge. The third alternative is therefore not relevant.
15. Nor does any of the material put before me suggest that Mr Hanchard-Kerr's welfare would be seriously prejudiced by his continued detention or imprisonment. The second alternative is therefore also irrelevant.
16. The real issue is whether he has made exceptional and unforeseen progress during his sentence so that his minimum term should be reduced in consequence.

### **Whether Mr Hanchard-Kerr has made exceptional and unforeseen progress**

17. When Hanchard-Kerr was first detained, as Ms Cornwall explained, he received several adverse adjudications.
18. It is to Mr Hanchard-Kerr's credit that the last of these was in January 2017. He has not been referred to the substance misuse service.
19. Mr Hanchard-Kerr has also undertaken the Thinking Skills Programme and the SCP (or Self-Confidence Programme). The former was undertaken in 2014. I have seen a report dated 5<sup>th</sup> December 2014.
20. An OASYs report was completed on 9<sup>th</sup> December 2016 That concluded that Mr Hanchard-Kerr posed a high risk to members of the public in the community and a medium risk to staff and prisoners in custody.
21. He is currently a category C prisoner. I am told that he has IEP status which he has enjoyed for some time, although there has been one or two periods when has reverted to basic status. He has taken advantage of

some of the educational opportunities in detention and obtained the qualifications which Hines, his solicitors have attached to their submissions in support of their case for a reduction in his minimum term.

22. Those submissions also include references from Officer Carsen (undated) who comments that Mr Hanchard-Kerr is polite and courteous to staff and he mixes well with other prisoners. Mr Carsen says that Mr Hanchard-Kerr is a positive role model and has a fantastic 'can-do' attitude. He worked well as a wing cleaner, is a family mediation representative for his wing and is eager to help others.
23. Hines also attached a report from Officer R. Smith who has been Mr Hanchard-Kerr's key worker since May 2019. In his reference of August 2019, Officer Smith says that Mr Hanchard-Kerr is to be commended for his improvement from where had had been.
24. I have taken these reports into account as well as the Tariff Assessment Reports from David Richardson, Mr Hanchard-Kerr's Offender Supervisor (dated 8<sup>th</sup> March 2019) and from Jo Evans, a probation officer who has known Mr Hanchard-Kerr since 2016. Her report is dated 16<sup>th</sup> July 2019.

## **Conclusion**

25. As I have shown there have been some positive developments since Mr Hanchard-Kerr first experienced custody. His detention record has improved markedly. His security classification is now C. He is an IEP prisoner. He has participated in some educational programmes and undertaken the TSP and SCP courses. All of this is an advance on what, it has to be said, was a very low base. All of that said, the criterion for a reduction in tariff is *exceptional* [my emphasis] progress. Although there has been an improvement in his disciplinary record, it is a movement upwards to what the authorities are entitled to expect. He has undertaken educational work and programmes to address his risk, but that, too, is what should be expected of those detained during Her Majesty's pleasure. In short, despite the positive signs, I cannot say that Mr Hanchard-Kerr's progress has been exceptional.
26. It follows that I do not recommend a reduction in his minimum term.