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IN THE COURT OF APPEAL
CRIMINAL DIVISION



Neutral Citation No. [2020] EWCA Crim 1191
Case No: 2019/04558/A3

Royal Courts of Justice
The Strand
London
WC2A 2LL

Friday 28th August 2020

B e f o r e:

LORD JUSTICE HADDON-CAVE

MR JUSTICE JEREMY BAKER

MRS JUSTICE MOULDER DBE

R E G I N A

- v -

DANIEL KAMARA

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Mr H Bernstein appeared on behalf of the Applicant

J U D G M E N T

Friday 28th August 2020

LORD JUSTICE HADDON-CAVE: I shall ask Mr Justice Jeremy Baker to give the judgment of the court.

MR JUSTICE JEREMY BAKER:

1. On 18th November 2019, following a trial in the Crown Court at Liverpool before the Recorder of Liverpool and a jury, Daniel Kamara was convicted of manslaughter (count 4) and unlawful wounding, contrary to section 20 of the Offences against the Person Act 1861 (count 2). He was acquitted of the alternative offences of murder (count 3), wounding with intent, contrary to section 18 of the 1861 Act (count 1), and having an article with a blade or point (count 7). On 19th November 2019, he was sentenced to eleven years' imprisonment for the offence of manslaughter and to a concurrent term of two years' imprisonment for the offence of unlawful wounding.

2. At the same hearing, a co-accused, Momodou Jallow, having been convicted of the offences of murder (count 3) and having an article with a blade or point (count 7), was sentenced to life imprisonment, with a minimum term of 22 years.

3. Daniel Kamara now renews his application for leave to appeal against sentence following refusal by the single judge.

4. The circumstances giving rise to these offences are that late at night on 21st April 2019, Momodou Jallow approached Luke Daly and his friends near to the taxi office in the Failsworth area of Manchester. At the time, Luke Daly was not doing anything obviously hostile, yet Jallow was rude and arrogant towards those who were present. The applicant, who was with Jallow, confronted Callum Green and suggested some sort of fight with him.

However, Callum Green did not wish to fight and ran off, chased by the applicant. Regrettably, others followed and a general fight began. The disorder initially involved a series of fist fights, but there came a time when knives were produced. Jallow had a knife, as did others in his group. The police recovered three knives that night. Witnesses spoke of a number of people being armed, albeit the jury were not sure that the applicant had a knife.

5. It was at this point that Joe O'Brien and his friends arrived on the scene and started to chase Jallow's group away. However, Jallow stabbed O'Brien in the neck, severing a major blood vessel, which led to his death. Blake Walker was also stabbed twice.

6. Although the applicant has previously been cautioned for theft, he had no previous convictions.

7. In characteristically clear sentencing remarks, the Recorder of Liverpool stated:

"The tragic events on the night of 21st April this year were the result of pointless, senseless violence and public disorder on the streets of Failsworth which has no obvious explanation other than a desire by you and your friends to cause trouble. I am sure that none of you set out that night to stab or to kill but you Mr Jallow and some of your other friends were undoubtedly armed with knives and the purpose of that can only have been to have them ready to use if the opportunity to do so presented itself or the need to do so arose and the fatal consequences were sadly all too predictable."

In relation to the applicant, the Recorder went on to observe:

"You, Daniel Kamara, must also bear a good deal of the blame for what happened, given your role in starting the disorder as I have already described. Witnesses speak of you fighting with people including Blake Walker both on Pole Lane and Oldham Road and the forensic evidence is consistent with you being close to him at a time when he was bleeding. You may not

have stabbed him yourself, you may not have been armed with a knife and as the jury have found may not have intended him or anyone else to suffer serious harm, but by your own actions you clearly encouraged others to do so. You did not have a knife but I find as a fact that you were aware that some of your friends had knives. That is the only consistent conclusion, consistent, as I say, with the way in which the route to verdict has been drafted and the questions answered by the jury in arriving at that verdict. What that means is that although you did not intend anyone to suffer serious harm, by taking part with others in fighting where some of the people you are encouraging or assisting have to your knowledge a knife, your actions run the obvious risk that someone will in fact suffer serious harm or worse, as in fact happened."

8. In dealing with the definitive guideline for offences of manslaughter, the Recorder determined that:

"I am satisfied that this is a category B case. The factor indicating high culpability is the fact that knowing that another had a knife, the unlawful act encouraged by you clearly and obviously carried a high risk of death or serious injury. That produces a starting point of 12 years' custody.

The position, as with your co-accused, is aggravated by similar features. The fact [is] that here there [was] in your case though the additional feature that in relation to you there are two victims, Joe O'Brien and Blake Walker; also. it happened in the context of serious public disorder started by you and others, and you were all acting as a group to intimidate and attack."

9. Mr Bernstein, who together with Mr Meadowcroft QC represented the applicant at trial and appears before us today, in helpful and succinct submissions, contends that this was an unusual case of manslaughter in that the jury's verdict meant that the applicant had not directly caused either the fatal injury to the deceased or the stab wounds to Blake Walker, as the applicant was not in possession of a knife. Mr Bernstein points out that the incident itself was fast-moving and not premeditated; and, moreover, that the applicant is 23 years of age and has no previous convictions.

10. Undoubtedly, the verdict, as was correctly explained by the Recorder, meant that the jury could not be sure that the applicant was in possession of a knife that night. Equally, however, the jury were sure that others in the applicant's group of friends were armed with knives and that the applicant knew that they were armed with knives. This, as the Recorder stated, resulted in all too predictable fatal consequences and therefore entailed high culpability by the applicant under the relevant sentencing guidelines.

11. True it is that this may have been a fast-moving and unpremeditated incident but, as the Recorder stated, the applicant must bear a good deal of the blame for what happened, given his role in starting the disorder that night. Moreover, the incident was aggravated by taking place in the context of serious public disorder in which there were two victims, one of whom died and the other of whom was wounded.

12. In these circumstances, despite such mitigation as was available to the applicant, including his relatively young age and lack of previous convictions, we are quite satisfied that the overall sentence of eleven years' imprisonment was entirely justified. We respectfully agree with the single judge that there are no arguable grounds of appeal.

13. Accordingly, other than acknowledging our gratitude to Mr Bernstein for his assistance this morning, this renewed application for leave to appeal is refused.

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

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