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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202101828/A1

NEUTRAL CITATION NO: [2021] EWCA Crim 1177



Royal Courts of Justice

Strand

London

WC2A 2LL

Wednesday 21 July 2021

LORD JUSTICE HOLROYDE

MRS JUSTICE CHEEMA-GRUBB

MR JUSTICE MURRAY

**REFERENCE BY THE ATTORNEY GENERAL UNDER S.36 CRIMINAL JUSTICE ACT 1988**

REGINA

V

MARK ROBERT WILLIAMS

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Computer Aided Transcript of Epiq Europe Ltd,  
Lower Ground, 18-22 Furnival Street, London EC4A 1JS  
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)  
MR D ATKINSON QC appeared on behalf of the Attorney General.

MR W EMLYN JONES QC appeared on behalf of the Offender.

**J U D G M E N T**

1. LORD JUSTICE HOLROYDE: Mark Williams pleaded guilty to offences of attempted murder, false imprisonment, wounding with intent and assault by penetration. On 21 May 2021, in the Crown Court at Bournemouth, he was sentenced by Garnham J to life imprisonment with a minimum term of 14 years. Her Majesty's Solicitor General believes that minimum term to be unduly lenient. Application is accordingly made, pursuant to section 36 of the Criminal Justice Act 1988, for leave to refer the case to this Court so that the sentencing may be reviewed.
2. The victim of the sexual offence (a 14-year-old girl) is entitled to the protection of the provisions of the Sexual Offences (Amendment) Act 1992. Accordingly, during her lifetime, no matter may be included in any publication if it is likely to lead members of the public to identify her as the victim of the offence. We shall refer to her as "A" and to her mother as "R".
3. Mr Williams is now aged 37. In 2009 he was sentenced to imprisonment for public protection, with a minimum term of 3 years, for offences of attempted rape and rape. In October 2018 he was released from that sentence on licence, subject to a number of restrictive conditions. On 18 February 2021 he was arrested for an unconnected matter, which did not result in any charge, and was found to be in possession of an unauthorised mobile phone in breach of one of his licence conditions. He was released from police custody, but clearly expected that breach of his licence would result in his return to prison. Within a short time of being released from the police station he committed the grave offences which we will now summarise.
4. Mr Williams went from the police station to his home, where he equipped himself with a bag containing gaffer tape, ties and a large kitchen knife. He withdrew his savings from a building society. He then arranged to visit R, whom he knew provided sexual services.
5. Mr Williams paid R to have sexual intercourse with him. He was unable to maintain an erection. He took the knife from his bag and held it to R's throat. He bound and gagged her with the tape and ties which he had brought with him and took her to a different room. There, unexpectedly, he encountered A. R called to her daughter to ring the police. In response Mr Williams stabbed R repeatedly, inflicting a significant cut to her abdomen and other injuries. A was unable to contact the police. Mr Williams accused her of lying about whether her call had been connected and went to stab her. R, very bravely, tried to intervene to protect her daughter. A sustained a slash wound to her cheek and R was stabbed in the neck.
6. Mr Williams then bound and gagged A and both she and her mother were detained in the flat for a period of over 2 hours. A held her hand against her mother's neck in an attempt to stem the profuse bleeding. Mr Williams told his victims that he was angry with the mother of his child for cheating on him, and showed them a picture of her. He told them that he had been to prison before and that he considered himself to be a dangerous man who should never have been released. He paced up and down, looking out of the window for signs of the police, and congratulated himself that he had stopped A calling them.
7. During this period Mr Williams took A into the kitchen, put his hands down her pants and digitally penetrated her vagina. He admitted doing this twice.
8. Eventually he departed, leaving mother and daughter bound. He took their phones and turned up the volume of the television so that no one would hear their cries for help. R and A managed to free themselves and the emergency services were summoned. Film

recorded on the body worn cameras of officers who attended showed vividly the extent of the visible injuries to the two victims and their distress. One can imagine the torments A must have suffered whilst endeavouring to stem the flow of bleeding from her mother's throat over a protracted period.

9. R was taken to hospital. She had suffered four serious wounds: one to her neck, about 2 to 3 centimetres in length and narrowly missing the lungs and larger vessels; two to her abdomen, one just missing the large bowel; and one to her lower leg. So far as A is concerned, we are told that her facial wound did not require surgery, but we understand it has, unsurprisingly, resulted in a scar. We think it unfortunate that the judge was not provided with any photograph of the scar or any evidence about whether it is likely to be permanent, and that this court is in the same position.
10. Mr Williams meanwhile had bought himself some beer and made his way to an area frequented by sex workers, taking a route which he hoped would reduce the risk of his being seen by the police. He discarded his bag but kept the knife in his pocket.
11. He met Hannah Doyle and arranged a price for sexual activity with her but was again unable to maintain an erection. He then attacked her, putting her on the ground in the secluded area to which they had gone. She screamed loudly and fended him off when he lay on top of her with his hand over her mouth. In order to silence her Mr Williams used his knife to cut her throat three times and then left. Local residents found Hannah Doyle, who was clearly seriously injured. Again, footage from body worn cameras shows the distressing scene. The wounds to Ms Doyle's neck had severed jugular veins on both sides and had severed the thyroid cartilage, the left superior thyroid artery and facial vessels. She had also sustained defensive wounds to her hands including a cut to the tendons of her right middle finger. We understand why it may well have been that Ms Doyle herself did not wish to provide a victim personal statement, but again, we think it unfortunate that there was no evidence before the court as to the full extent and consequences of these injuries.
12. Police officers subsequently spotted Mr Williams in the town centre. He held out his arms to be handcuffed and told the officers he was the man they wanted. He said he had discarded his knife because he did not want anyone else hurt, and said he was making his way to the police station to give himself up.
13. When interviewed under caution, he admitted the offences. Examination of his phone showed relevant recent internet searches, including for "violent rape porn" and "what creeps women out the most".
14. At the sentencing hearing the judge had the assistance of a pre-sentence report and a report by a consultant psychiatrist. The authors of both these reports regarded Mr Williams as posing a high risk of serious sexual offending. It appears that he was the victim of emotional, physical and sexual abuse in childhood. He is said to display an established pattern of deviant sexual and rape fantasies. Mr Williams himself described his actions in committing these offences as "unforgivable".
15. The judge also had a victim personal statement made by R about 6 weeks after the offences. She said that the attack in her own home had left her feeling powerless. In addition to significant continuing physical restrictions caused by her injuries, she was experiencing repeated flashbacks, could not bear to be alone in her home where she had previously felt safe and could not stop blaming herself for what had happened to her daughter, an innocent child. She foresaw a "lifelong struggle" both for her and her

daughter.

16. Each member of this court has read the documents to which we have just referred. In addition, we have been provided with a short report from the prison at which Mr Williams is serving his sentence. That additional report does not affect the issues which this court must decide and we need say no more about it.
17. The judge unhesitatingly concluded that Mr Williams is a dangerous offender. He decided that a sentence of life imprisonment, pursuant to section 285 of the Sentencing Code, was necessary for the offence of attempted murder of A. He decided to treat that as the lead offence and to reflect the overall seriousness of the offending in the length of the minimum term to be served under that life sentence. In setting that minimum term, he considered the relevant sentencing guidelines including the Sentencing Guidelines Council's guideline in relation to offences of attempted murder. It should be noted that the definitive guideline recently published by the Sentencing Council in relation to such offences was not in force at the time of the sentencing hearing.
18. In relation to the offences against R and A, the judge found the following aggravating features: the use of the knife taken to the scene; the duration of the incident; the fact that the victims were in their own home; Mr Williams' attempt to prevent them reporting the offences; his antecedents; and the fact that he was on licence at the time of the offences. The judge treated the false imprisonment of R and A as an aggravating feature of the other offences against them and indicated that he would therefore impose no separate penalty on those counts. He accepted that there was evidence of serious and long-term physical and psychological harm in R's case although not in A's.
19. In relation to the attempted murder of Ms Doyle the principal aggravating feature was the use of the knife.
20. As to mitigation, the judge accepted that Mr Williams had made immediate admissions and had shown some remorse. He took into account the history of the abuse suffered by Mr Williams as a child. He gave full credit for the guilty pleas.
21. The judge concluded that if the offences of attempted murder had resulted in death they would both have fallen within paragraph 3 of the schedule 21 to the Sentencing Code, for which the guideline indicated a starting point of 30 years' custody and a range of 27 to 35 years. He said that he would adopt a starting point of 25 years. He found that the wounding with intent of A (count 4) was a category 1A offence, for which the relevant guideline indicated a starting point of 12 years and a range of 10 to 16 years. He concluded that if that offence had stood alone, the appropriate sentence would have been 10 years.
22. The assault by penetration was a category 2B offence, with a starting point under the guideline of 6 years' custody and a range from 4 to 9 years. The judge concluded that an appropriate sentence for that offence, viewed in isolation, would have been 6 years.
23. Taking account of totality and making allowance for the fact that there was a degree of overlap between some of the offences, the judge concluded that the total determinate sentence "before reduction for plea and mitigation" would be 32 years. He continued: "Allowing a little over one-third for plea and mitigation produces a figure of 21 years". That resulted in a minimum term of 14 years, to reflect the fact that Mr Williams would have been required to serve two-thirds of a determinate sentence of that length.
24. The sentences were accordingly as follows: count 2, attempted murder of R: life imprisonment with a minimum term of 14 years; counts 3 and 6, false imprisonment of R

and A: no separate penalty; count 4, wounding with intent of A: 6 years' imprisonment concurrent; count 5, assault by penetration of A: 4 years' imprisonment concurrent; and count 7, attempted murder of Ms Doyle: 13 years' imprisonment concurrent.

25. For the Solicitor General, Mr Atkinson QC submits that the minimum term failed adequately to reflect the overall offending. He recognises that it was necessary to have regard to totality and he does not suggest that a mechanistic application of the relevant sentencing guidelines would be the correct overall approach. But, he submits, the appropriate sentences under the guidelines would have been 30 years for each of counts 2 and 7, 12 years for count 4 and 8 years for count 5, which he submits was a category 2A offence and not as the judge wrongly held category 2B. In each case he submits the aggravating features would have justified an increase above the starting point. All of those offences had to be reflected in the minimum term. Mr Atkinson submits that the term of 25 years for counts 2 and 7 was insufficient even for count 2 alone. He further submits that the judge, having started at that point which was in any event too low, then failed to make an appropriate increase in respect of the offences against A.
26. Mr Emlyn Jones QC, representing Mr Williams in this court as he did below, submits that the judge took care to balance all the relevant features of the case and that the minimum term was within the range properly open to him. He submits that Mr Williams has been sentenced to life imprisonment with what is, on any view, a very long minimum term, and that the judge did not make any error such that this court should interfere with his decision.
27. Mr Emlyn Jones emphasises that it is unusual for a man guilty of offences as grave as these to admit them from the outset, to acknowledge his wrongdoing and to show some remorse for his actions. He also submits that weight should be given to the very unhappy circumstances of Mr Williams' childhood, the consequences of which, Mr Emlyn Jones suggests, can be seen in the convictions recorded against Mr Williams.
28. Mr Emlyn Jones further submits that in reaching his notional determinate sentence for the two offences of attempted murder, the judge no doubt had in mind that it was the fact that there were two such offences which placed the offending into category 1 of the guideline, but that only one of those two offences resulted in serious and lasting physical and psychological harm.
29. We are very grateful to both counsel for their written submissions and for the admirable oral submissions which each of them has made to this Court today. They have greatly helped the court by focusing upon the key points.
30. Reflecting on those submissions, it seems to us that the judge had to undertake a difficult sentencing process. The transcript of the sentencing hearing shows that that difficult process was further complicated by certain features of the Sentencing Guidelines Council's guideline for offences of attempted murder, giving rise to difficulties which it may be hoped will not arise now that the Sentencing Council's guideline is in force.
31. The judge rightly found a sentence of life imprisonment to be necessary, notwithstanding that Mr Williams was in any event already subject to his sentence of imprisonment for public protection. We bear very much in mind that the need to protect the public from this plainly very dangerous offender is met by the life sentence, the effect of which is that Mr Williams will be detained after his minimum term has expired if the Parole Board is not satisfied that it will be safe to release him. It is nevertheless important to consider the Solicitor General's submission that the minimum terms fails to impose sufficient

punishment for this series of grave offences.

32. We regard the following considerations as important. First, the judge was correct to recognise that there was some element of overlap between some of the offences, and a risk of double counting if care was not taken. It was nonetheless necessary to ensure that serious aspects of the offending were appropriately reflected in the minimum term on count 2.
33. Secondly, viewing the offences in isolation, and applying the guideline, the attempted murders of R and of Ms Doyle would, in our view, have attracted starting points of 30 years and 20 years respectively. Even giving as much weight as possible to the personal mitigation available to Mr Williams and to considerations of totality, we are unable to share the judge's view that the appropriate total term for those two offences was less than the starting point for count 2 alone.
34. Thirdly, whilst concurrent sentences were appropriate, the minimum term had to reflect the fact that the two attempted murders were discrete offences, committed a short time apart against two separate victims in two separate locations. Putting it bluntly, Mr Williams left R not knowing whether she would live or die, but having taken some steps to prevent her either escaping or summoning help. He had at that point already caused lasting harm to two victims and he could have stopped there. Instead, he continued on to his meeting with Ms Doyle, knowing that the police were looking for him. Whenever precisely he formed the intention to kill Ms Doyle, he attempted to do so using the knife which he had already used to injure R and A and which he had deliberately retained when discarding other items.
35. Fourthly, and again bearing in mind totality, it is necessary to reflect in the minimum term the seriousness not only of the offences of attempted murder but also the offences committed against a 14-year-old child, who must have been terrified both by what she suffered and by having to watch what was done to her mother. The offences against her were again discrete incidents. The slashing of her face was a very serious crime against an adolescent girl, and it was followed after an interval by the commission of a serious sexual assault involving penetration.
36. With those considerations in mind, the addition of appropriate individual sentences would lead to a total notional determinate sentence of well over 40 years. Even giving full weight to the personal mitigation, giving full credit for the guilty pleas and making allowance for totality, we are driven to the conclusion that the appropriate total determinate sentence should not have been less than 27 years. That results in a minimum term under the life sentence of 18 years.
37. It follows, with all respect to the judge, that we find his total sentence to have been unduly lenient. We therefore grant leave to refer. We quash the sentence imposed on count 2 and substitute for it a sentence of life imprisonment pursuant to section 285 of the Sentencing Code, with a minimum term of 18 years. We do not think it necessary to adjust the other sentences imposed by the judge, which remain as before.
38. The effect of our decision is that the minimum term which must be served by Mr Williams before he can be considered for release on licence is increased from 14 years to 18 years.

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