Neutral Citation Number: [2024] EWCA Crim 1539

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CENTRAL CRIMINAL COURT
HHJ POULET KC T20227123

CASE NO 202303912/A4

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 21 November 2024

Before:

LORD JUSTICE SINGH

MRS JUSTICE McGOWAN

MR JUSTICE SWIFT

REX
V
AMIDU KOROMA

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MR J FEMI-OLA KC & MS H BRICKEL appeared on behalf of the Appellant.
MS Z JOHNSON KC appeared on behalf of the Crown.

J U D G M E N T
(Approved)

LORD JUSTICE SINGH:

Introduction

1. On 12 October 2023, the applicant was convicted at the Central Criminal Court of two offences. On 16 October 2023 he, then being aged 48, was sentenced by HHJ Poulet KC as follows. On count 1, which was an offence of murder, he was given a sentence of imprisonment for life with a minimum term of 29 years less 537 days spent on remand. On count 2, which was an offence of arson being reckless as to whether life is endangered, contrary to section 1(2) and (3) of the Criminal Damage Act 1971, he was given a determinate sentence of 7 years' imprisonment made concurrent. The appropriate statutory victim surcharge was imposed.

2. Since the date of sentence in this case, this Court has decided the case of *R v Sesay & Ors* [2024] EWCA Crim 483; [2024] 2 Cr App R(S) 30. Therefore, the minimum term needs to be expressed in a precise way in accordance with the decision of the Court in that case. It is agreed between the parties that the judge's sentence results in a minimum term of 27 years, 6 months and 9 days.

3. During a hearing before the Full Court on 30 August 2024, the application for an extension of time of 6 days in which to renew the application for leave to appeal against sentence was adjourned and referred to the Full Court for a hearing of the applications and the appeal, if successful. The case was not reserved to that constitution. A representation order was granted for leading counsel and prosecution counsel was invited to attend. We are grateful to all counsel for the applicant and for the respondent who have appeared before us at this hearing. We will return to their submissions in due

course.

4. For reasons that will become apparent, the view we have taken of the merits of this case leads us to grant the short extension of time required and to grant leave to appeal. We will proceed to consider the appeal on its merits.

The Facts

5. In the early hours of Monday 24 January 2022, the appellant murdered his wife (Mariam Kamara, then aged 46) at their home address in Brixton. The appellant stabbed Mariam Kamara four times to the face, neck and cheek with a large kitchen knife. Two of the wounds cut through vital blood vessels and she died within minutes. It was likely that the attack took place while she was asleep in bed. After the killing, the appellant poured petrol on Mariam Kamara's body and around the bed and ignited it in an attempt to destroy evidence of her murder. This caused a serious fire in the upstairs bedroom and loft of the terraced house.

6. The judge found that the appellant had planned the murder during at least the preceding 48 hours. He had not gone to work over the weekend as expected. There was also evidence that the appellant had taken Mariam Kamara's mobile telephone from her on Saturday 22 January and had attempted to destroy it by placing it under her body when he started the fire. Mariam Kamara had told Rebecca Macauley that the appellant had been spying on her when she used her phone.

7. The motive for the murder was not known. During the 20-year period of their marriage

the appellant frequently left for long periods and had fathered a child with another woman. There was a history of disagreements over money and evidence that the appellant had been violent to Mariam Kamara in the past. Mariam Kamara had recently purchased a ticket to Sierra Leone. The appellant did not want her to go. It was likely that she had started a relationship with someone associated with the charity which she supported there. Mariam Kamara had told a friend that she intended to end her relationship with the appellant. In the weeks leading up to the murder, the appellant began to threaten her. She told others that she feared for her life and wanted to install CCTV cameras in the home. At trial, the appellant blamed their 17-year-old son, who was asleep in another bedroom, for the offences.

The Sentencing Process

8. The Crown Court in passing sentence did not have a pre-sentence report before it. We confirm, in accordance with the provisions of section 33 of the Sentencing Act 2020 (or the Sentencing Code) that, in our view, such a report is not necessary. The appellant had one previous conviction from 2011 for possession of another's identity document but this was not considered to be a relevant conviction. The court had a statement from the son of the deceased (known as "IK").

9. In her sentencing remarks the judge correctly identified the relevant starting point as 15 years' imprisonment by reference to paragraph 5 of Schedule 21 to the Sentencing Code. By virtue of section 322 of the Sentencing Code, when sentencing for an offence for which the sentence is fixed by law, the court has to specify the minimum term and must have regard, amongst other things, to the general principles set out in Schedule 21. The

judge said that there were several aggravating features. Paragraph 8 of Schedule 21 provides that detailed consideration of aggravating and mitigating factors may result in a minimum term of any length, whatever the starting point. In her judgment, taken together these features had to substantially increase the starting point. First, this was a planned killing in the appellant's own home, therefore violating the trust and security that the victim should have been able to enjoy in her house. Secondly, the appellant's 17-year-old son was asleep in the back bedroom. Thirdly, the appellant used a knife to stab the victim four times. Fourthly, this killing was carried out against a background of abuse and terrifying threats. Fifthly, the appellant had wrongly sought to blame his own son for both offences. Sixthly, the appellant attempted to conceal his crime by the destruction and concealment of the body by burning. The victim's body was very severely burnt in the fire.

10. The judge concluded that these aggravating features had to increase the minimum term to one of 26 years before taking account of the additional offence of arson. Turning to that offence, the judge noted that the appellant had used an accelerant (petrol) to create a fierce blaze on and around the body of his wife, on the bed, in the first-floor bedroom. The fire destroyed the front bedroom of his terraced house but also either spread to the loft, through an open hatch or by his setting a separate fire in the loft. The appellant was aware that there was petrol stored in the loft.

11. The judge was aware that he had alerted his son and immediate neighbours to the fire once it was established but he could not have known exactly how it would develop when he ignited the petrol vapour or whether he could rouse his neighbours in time. It was

very fortunate that the Fire Service was present as quickly as it was or that a 92-year-old woman in the bedroom next door to the victim's, the two young men in the basement flat of his house and his own son would have been at grave risk in this deliberate configuration.

12. The judge found that the offence of arson fell in to culpability level B and harm level 1 by reference to the Definitive Guideline for such offences. She considered that there was a high risk of very serious physical and psychological harm. That gave rise to a recommended starting point of 6 years' custody, with a range of 4 to 10 years. In the light of the use of an accelerant, premeditation and the number of lives endangered, the judge therefore imposed a determinate sentence of 7 years' imprisonment. This would be concurrent to the life sentence. The judge said that this offence had to be reflected in the minimum term by reference to the principle of totality. Hence, she arrived at an increased minimum term of 29 years but deducted the time spent on remand, which was 537 days. That resulted in the minimum term which we have mentioned which it is agreed should be expressed in the following terms of 27 years 6 months and 9 days.

Submissions for the appellant

13. Since the last hearing before the Full Court the grounds as originally formulated on behalf of the appellant have narrowed. We have seen a skeleton argument by Mr John Femi-Ola KC and Ms Hayley Brickel. The grounds, as now formulated, are as follows:

1. The minimum term to serve 26 years on count 1 was too long.
2. The judge erred in finding that the nature of the defence at trial was an aggravating factor.

3. The judge failed to take fully into account the principle of totality, which is that sentences should be just and proportionate. Accordingly, it is submitted that in all the circumstances the minimum term of 29 years, before taking account of time spent on remand, was manifestly excessive.

14. In more detail, Mr Femi-Ola submits that the leap of 11 years from the selected starting point of 15 years to 26 years was too long, even bearing in mind the aggravating factors. He submits that there was no significant degree of planning, by reference to paragraph 9(a) of Schedule 21. Importantly, neither the knife nor the petrol used in the commission of the offence was brought to the scene by the appellant specifically for the purpose of carrying out the murder, and the judge did not make any such finding. The clear evidence was that the deceased stored the petrol in the loft, and had done so over the years. The judge found that the appellant had planned to kill the deceased within 48 hours of death, largely on the basis that the appellant did not go to work on the Sunday, even though there was no evidence of any disagreement between the parties during that specific period. The deceased was not home at all on the Sunday and the murder did not take place until the early hours on the Monday between 00.52 and 04.08. It is not known at what stage the deceased retired to bed after she returned home and, importantly, whether there had been any disagreement leading to a spur-of-the-moment killing.

15. As an important feature of his submissions, Mr Femi-Ola places emphasis on a point that was raised by the Full Court on the last occasion. It is submitted that the judge fell into error in finding that the nature of the appellant's defence at trial (blaming his own son) was an aggravating feature. Reliance is placed on *R v Lowndes* [2013] EWCA Crim

1747; [2014] 1 Cr App R(S) 75, for the proposition that it is a fundamental principle of sentencing that an attack on another, however disgraceful and unwarranted, is not an aggravating factor for the purposes of sentencing. *Lowndes* was recently considered and applied by this in *R v Norris* [2024] EWCA Crim 68; [2024] 2 Cr App R(S) 12 at [16] to [18] in a judgment given by Choudhury J.

16. Before this Court, Mr Femi-Ola has emphasised that the manner in which he cross-examined the appellant's son (IK) at trial was not inappropriate. He had asked open-ended questions about whether IK had killed his own mother, to which he had replied "No". The judged did not criticise the manner of the cross-examination at the time. Mr Femi-Ola submits that it was inherent in the nature of the defence that the witness had to be cross-examined in the way that he was. Mr Femi-Ola also emphasises that Schedule 21, which sets out a number of other aggravating factors, does not include this as one, although, of course, he would accept that Schedule 21 is not exhaustive either in relation to aggravating or mitigating features.

17. Finally, Mr Femi-Ola submits that the additional 3 years reflecting count 2 were an unjust and disproportionate extension of the minimum term, particularly as the two offences were so closely related and founded largely on the same facts. Further, he submits that insufficient regard was paid to the appellant's actions in alerting his son, neighbours and the emergency services, thereby avoiding a real risk of serious physical consequences to others and to property. Overall therefore, under this aspect of his submissions, Mr Femi-Ola submits that insufficient regard was had by the judge to the principle of totality.

Submissions for the respondent

18. On behalf of the Crown, we have a Respondent's Notice and since the previous hearing before the Full Court have received a skeleton argument by Ms Zoe Johnson KC. She submits that there was ample evidence from which the judge could conclude that the defendant had planned to kill his wife within 48 hours of her death. There were additional aggravating features which the judge properly identified. Addressing us on the main issue of principle which has arisen, that is the nature of the appellant's defence, Ms Johnson submits that the inviable principle set out in *Lowndes* is that lying about another's involvement is not an aggravating factors. In the instant case, she submits that the prosecution was faithful to that principle. In its note on sentence before the Crown Court it was said that, whilst the defendant was entitled to advance his defence, his son had suffered as a result of being wrongly blamed by the offender. The appellant had gone beyond not accepting responsibility by suggesting (through cross-examination of witnesses, not only IK himself) that IK was a mentally disturbed teenager who had killed his own mother and then set fire to her body. Ms Johnson submits that the appellant's son was an A Level student and by the time he was called as a witness was at university. It was suggested to witnesses and to IK himself in cross-examination that he was mentally ill, had fallen out with his mother over her expectations for him academically and therefore that he had motive to murder her. It is submitted that, as a matter of common sense, his complex feelings in recognising that his father murdered his mother were only made worse in the knowledge that the appellant sought to blame him for such a heinous crime and cover up. It is one thing to seek to blame an accomplice or someone involved in crime but it is quite another to blame a teenager who has effectively lost both

his parents. The appellant's actions clearly compounded his son's suffering. The prosecution were forced to call IK as a witness in order for him to rebut the accusations made. Without that the prosecution had no need to call him.

19. Finally, in this context Ms Johnson reminds us of what is now said by the Sentencing Council in General Guideline Overarching Principles which has been effective since 1 October 2019, which of course postdates the decision in *Lowndes*:

> "Blame wrongly placed on other(s)
> - Where the investigation has been hindered and/or other(s) have suffered as a result of being wrongly blamed by the offender, this will make the offence more serious.
>
> - This factor will **not** be engaged where an offender has simply exercised his or her right not to assist the investigation or accept responsibility for the offending."

20. Finally, in respect of totality, Ms Johnson submits that the judge was well aware of the relevant principles and correctly classified the offence of arson as falling into category 1B. In conclusion, she submits, that, given this was a murder committed by using a knife on a woman with mobility issues in her bedroom, coupled with the appellant's attempt to conceal his crime by setting light to her body, the overall sentence is not manifestly excessive.

Analysis

21. The approach to sentencing in murder cases was considered by this Court in a number of authoritative decisions shortly after the coming into force of the Criminal Justice Act 2003, including *R v Peters* [2005] EWCA Crim 605; [2005] 2 Cr App R(S) 101 and *R v*

*Jones (*Neil) [2005] EWCA Crim 3115; [2006] 2 Cr App R(S) 19. For a summary see *R v Barrow* [2024] EWCA Crim 509; [2024] 2 Cr App R(S) 31 at [49] to [57] and [79]. As this Court said at [79]:

> "... each case depends on its own facts...The guidance available for sentencing judges in Schedule 21 to the Sentencing Code differs from that which is provided by the Sentencing Council in its definitive guidelines, because those guidelines not only set out a recommended starting point for various categories of offending but usually give a sentencing range. Schedule 21 does not set out a recommended sentencing range for different types of offending, although it does set out a starting point."

22. The consequence is, as paragraph 8 of Schedule 21 makes clear, that detailed consideration of aggravating and mitigating factors may result in a minimum term of any length, whatever the starting point. Furthermore, as the authorities made clear, the starting points in Schedule 21 must not be used mechanistically so as to produce in effect three different categories of murder. Full regard must be had to the features of the individual case so that the sentence truly reflects the seriousness of the particular offence. This is especially so because there are huge gaps between the starting points in Schedule 21. The difference between 15 and 30 years is enormous. What the sentencing judge is therefore called upon to do is to have close regard to the particular circumstances of the case before them in order to arrive at a minimum term which is just and proportionate in that particular case.

23. *R v Lowndes* was not a murder case but concerned sentences for drugs offences under the Misuse of Drugs Act 1971. The appellant was convicted. His co-accused had pleaded guilty to drugs offences and had been sentenced. In passing sentence on the appellant,

the judge had considered that an aggravating feature was that his defence had involved an attack on the co-accused, whom he had accused of dishonesty and of being more seriously involved than himself. Fulford LJ said that this was an impermissible approach. He referred to the decisions of this Court in *R v Scott* (1983) 5 Cr App R(S) 90; *R v Hercules* (1987) 9 Cr App R(S) 291 and *R v Fyad* [2011] EWCA Crim 2039. In each of those cases the defendant had told lies and this was regarded by this Court as not being a relevant aggravating factors. For example, in *Fyad* at [20] Hickinbottom J said that:

> "... we do not consider that the fact that the appellant lied to both the police and the jury was an aggravating factor... By lying, the offender removes the substantial mitigation of a plea, but does not specifically aggravate the sentence."

24. In *Lowndes* at [14] Fulford LJ said:

> "Whilst we wholly agree with the learned judge that the appellant behaved disgracefully, and his wholly unwarranted attack on his co-accused during the trial significantly reduced the mitigation available to him (such as it was), for the reasons set out above there was a clear breach of a fundamental tenet of sentencing, and in the result the sentence must be reduced given the prominence attached in the sentencing remarks to the appellant's attack on [the co-accused], which included the decision that it constituted a clear aggravating feature."

25. The principle in *Lowndes* was recently confirmed and applied by this Court in *Norris* at [16] to [18]. However, it is important to note that in giving judgment Choudhury J said that *Lowndes* is authority for the proposition that:

> "... lying about another's involvement should not be treated as an aggravating factor in passing sentence (although it could be relevant when considering the value of a mitigating factor)."

26. He also cited, with approval, what is said in the Sentencing Council's General Guideline

which we have quoted above. In the case before the Court in *Norris* there had been no suggestion that the investigation had been hindered as a result of the attempts to blame another person, or that other person had suffered by reason of, for example, being investigated or charged, although no doubt she was discomforted by the appellant's attempt to make her a suspect.

27. In our view, the line of authority which is reflected in *Lowndes* and *Norris* is distinguishable from the facts of the present case. It is one thing simply to lie. Even to try to cast blame on a co-accused is not to be treated in itself as an aggravating factor. However, as the Sentencing Council Guideline makes clear, where another person has "suffered as a result of being wrongly blamed by the offender, this will make the offence more serious."

28. In the particular, circumstances of the present case, we have reached the conclusion that the judge was not wrong in principle to have regard to this aspect of the case as an aggravating feature. What the appellant did went significantly further than simply trying to cast blame on his son. It compounded the natural grief and loss which his son would have felt at the loss of his mother in horrific circumstances. We consider that the judge was entitled to have regard to this element of the case as one of the aggravating features in it. Everything, as we have said, depends on the facts of each case.

29. That all said, turning to the facts of the present case, we do see force in the appellant's essential submissions. First, the initial minimum term of 26 years was too high, even after taking account of the aggravating features of this case. A substantial increase from

the starting point of 15 years was justified but not by as much as 11 years. We also bear in mind that the sentencing judge had presided over the trial. We accept Ms Johnson's submission that she was therefore entitled to make the findings of fact which she did, in particular that there had been significant planning in the previous 48 hours. Nevertheless, as we have indicated, the increase from 15 years to 26 years notionally was, in our judgment, too great.

30. Secondly, while the offence of arson was serious in its own right, and it was right in principle to take into account in setting the minimum term since the sentences were rightly made concurrent so as to reflect the overall gravity of the offending, the principle of totality then needs to be taken into account. One needs to stand back and ensure the total sentence is just and proportionate.

31. In the circumstances of this case, we have reached the conclusion that there is no need to disturb the determinate sentence of 7 years passed for the offence of arson, and that will remain concurrent. However, we have reached the conclusion that the notional minimum term of 29 years needs to be reduced to 25 years. Given the time spent on remand, that results in a minimum term of 23 years 6 months and 9 days.

Conclusion

32. For the reasons we have given, this appeal is allowed to the extent that the minimum term for the offence of murder will be 23 years 6 months and 9 days.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the

proceedings or part thereof.

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