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IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CENTRAL CRIMINAL COURT

HHJ SARAH MUNRO KC T20217236

CASE NO 202300744/A3-202303413/A3 [2024] EWCA Crim
1723

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 17 October 2024

Before:

LORD JUSTICE JEREMY BAKER

MRS JUSTICE FARBEY

RECORDER OF LEEDS

(HIS HONOUR JUDGE KEARL KC)

(Sitting as a Judge of the CACD)

REX

V

OLIVER SCOTT

STASIOUS SCOTT

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MR J SCOBIE KC appeared on behalf of the Applicant Stasious Scott.
The Applicant Oliver Scott did not appear and was not represented

JUDGMENT

MRS JUSTICE FARBEY :

Introduction

1. The applicants, Oliver and Stasious Scott, are father and son. We shall refer to them by their first names for ease of reference. On 20 December 2022 in the Central Criminal Court before Her Honour Judge Munro KC and a jury, Oliver (then aged 54) was convicted of one count of conspiracy to pervert the course of public justice. On 10 February 2023, the Judge sentenced him to 6 years' imprisonment.
2. There were co-accused convicted and sentenced for the conspiracy at the same time. Cecilia Bruce-Annan was sentenced to 4 years 6 months' imprisonment. Christopher Hatton was sentenced to 6 years. Robert Shorter was tried separately. On 22 May 2024 he was convicted. He is awaiting sentence.
3. The conspiracy to pervert the course of justice arose from the killing of Justin Bello. On 4 July 2023, at a plea and trial preparation hearing before Her Honour Judge Dhir KC, Stasious (then aged 34) pleaded guilty to Mr Bello's manslaughter and to the conspiracy. On 1 August 2023, Judge Munro sentenced him to 13 years' imprisonment for the manslaughter and 4 years 6 months' imprisonment for the conspiracy. The latter sentence was ordered to run concurrently, so that the total sentence was 13 years. A count of murder was ordered to lie on the file.
4. Stasious applies for an extension of time of 19 days in which to renew his application for an extension of time of 33 days in which to apply for leave to appeal against sentence. Both the initial application for leave and the application for renewal were late because of administrative errors by his solicitors. Oliver renews his application for leave to appeal against sentence. Both applications were refused by the single judge.
5. Before us, Stasious is represented by Mr Scobie KC, who did not appear for him below. Oliver is not represented but we have given independent consideration to the written grounds of appeal and the documents that are relevant to his case. We have the benefit of written submissions from the Prosecution who have filed respondent's notices in each case.

The Facts

6. Stasious and Mr Bello were friends. During the evening of 22 November 2019, Mr Bello arranged to visit Stasious at his flat in Stockwell. Mr Bello arrived by taxi shortly before 01:00 am on 23 November. Tragically by 02:26 am Mr Bello was dead. Mr Scobie has drawn our attention to various features of the pathology evidence. It is sufficient for present purposes to say that the cause of death was compression of the neck and that Mr Bello died of asphyxiation. It was the prosecution case that Stasious killed Mr Bello and that another man, Cornell Burrell, participated in the killing. Mr Burrell was acquitted at trial.
7. After Mr Bello's death, Stasious immediately telephoned his father, Oliver. There followed numerous calls between them. Oliver met Stasious at a safe house in Gipsy Hill in London, where Stasious had gone to hide, leaving Mr Bello's body in his flat. Stasious told Oliver

what had happened and he agreed to help his son.

8. Oliver then recruited what became known as the “deposition team” which comprised the co-accused: Bruce-Annan, Hatton and Shorter. All three were unconnected to Stasious. Oliver acted as the communication link between Stasious and the others. He told Stasious what was going on, where he needed to be, and what he needed to do. During the night of 23 November, Oliver changed his telephone number.
9. The deposition team met Stasious at the Gipsy Hill safe house in the early hours of 24 November 2019. Final arrangements were made before the deposition team made their way to Norwich. Bruce-Annan picked up her BMW and drove it back to London with Shorter; Hatton drove from Norwich to London separately in a hired car, arriving at 07:00 pm. During this time Oliver was in regular communication with Stasious and Shorter.
10. Bruce-Annan, Shorter and Hatton met Stasious at his home. The body of Mr Bello was placed inside the boot of the vehicle hired by Hatton. Bruce-Annan’s BMW and Hatton’s hired car drove in convoy to Lovett Way in Wembley where the bag containing Mr Bello’s naked body was left abandoned at some time between 01:15 am and 01:45 am on 25 November. At 03:20 am Bruce-Annan drove Shorter back to Lovett Way to attend to the body in some way. The group had intended that the bag containing Mr Bello’s body would be collected by binmen and taken to landfill. However, it was discovered by refuse collectors the next morning.
11. On 27 November 2019, Stasious fled to Jamaica. Hatton was arrested in Norwich on 28 November. Police attended Stasious’s flat on 29 November and found that it had been thoroughly cleaned. The shower curtain was in the washing machine and rugs had been rolled up. Bruce-Annan was seen at her home on 30 November and lied to police about the location of her car. She was eventually arrested on 1 July 2020. Oliver handed himself in and was arrested on 11 December 2019.
12. Stasious was arrested in Jamaica on 23 January 2023. The Prosecution say that he was extradited to the UK on 23 March 2023. Mr Scobie has sought to clarify the position, telling us that Stasious wanted to return to UK and made his own way until he was arrested upon arrival. While we note what Mr Scobie says, it is unarguably the case that Stasious evaded arrest for such a lengthy period that the trial and sentencing of the other conspirators took place without him.
13. Stasious pleaded guilty to manslaughter on a written basis of plea in which he stated that in the early hours of the morning of 23 November 2019, Mr Bello paid him a social visit. There was no hostility or dispute between them at that stage. In the course of the visit an argument developed in which Mr Bello unlawfully assaulted Stasious. Reacting to the assault, Stasious used force to defend himself, including by restraining Mr Bello by holding him in a ‘headlock’ for what he believed at the time was a short period. He accepted that in doing so he used excessive and therefore unlawful force. He accepted that he caused Mr Bello’s death. He stated that when he discovered that Mr Bello had died, he panicked and did the acts alleged against him in the conspiracy.

14. We turn to the applications before us. We shall deal first with Stasious.

Stasious Scott

Sentencing remarks

15. In her clear and detailed sentencing remarks, the Judge dealt with the facts of Stasious's offending and confirmed that she would sentence him in accordance with his written basis of plea. She applied the sentencing guideline for unlawful act manslaughter. She acknowledged that the application of the guideline was not a straightforward exercise on the facts of the case. She concluded that the offence fell within level B (i.e. high) culpability.
16. In reaching that conclusion, the Judge relied on two different level B factors: (i) death was caused in the course of an unlawful act which involved an intention by the offender to cause harm falling just short of grievous bodily harm; and (ii) death was caused in the course of an unlawful act which carried a high risk of death or grievous bodily harm which was or ought to have been obvious to the offender.
17. In placing reliance on these two different factors, the Judge expressly took into consideration that Stasious's guilty plea had been entered on the basis that Mr Bello had started the violence. As we have mentioned, the basis of plea stated that Stasious had used force to defend himself from assault by Mr Bello including by holding Mr Bello in a headlock. As Mr Scobie emphasises to us, it is a factor indicating level D (i.e. lower) culpability that death was caused in the course of an unlawful act which was in defence of self (where not amounting to self-defence as a matter of law). The Judge plainly had in mind this level D factor. She concluded that Stasious had been defending himself only at the very start of the incident. The pathology evidence showed that there must have been compression of the neck for some time. In the Judge's analysis, it followed that there was a period during which there could have been no question of self-defence and during which Stasious must have intended significant harm. The Judge further found that, by strangling Mr Bello, Stasious had created a high risk of death.
18. For essentially these reasons, the Judge concluded that level B culpability applied. The starting point for a level B offence was 12 years. The category range was 8-16 years. The Judge considered that the seriousness of the offence warranted an upward adjustment from the starting point to 15 years which fell to be reduced to 13 years as the violence had begun as self-defence.
19. The Judge considered aggravating factors which included Stasious's determination to avoid arrest and punishment by fleeing to Jamaica and by staying there for over 3 years. He had shown cruelty to Mr Bello who was his friend. The Judge considered mitigating factors, including Stasious's lack of convictions for violence, his history of mental ill health, his family situation and his character references. She concluded that these factors carried little weight in the context of the seriousness of the offending.
20. The Judge was careful not to treat any elements of the conspiracy as aggravating the seriousness of the manslaughter. She noted that one of the level B factors under the offence guideline is concealment of the body but only where not separately charged. She recognised

that the concealment had in this case been separately charged as a conspiracy. She emphasised the need to avoid double counting elements of the conspiracy in the manslaughter sentence. She observed, however, that the inclusion of concealment of the body as a level B factor was an indicator of the seriousness of what Stasious had done. We see no error in her approach: there is no reason to suppose that those who are responsible for setting sentencing guidelines intended that those who are separately charged should gain any dividend. In any event, contrary to Mr Scobie's submissions, it cannot be realistically contended that the Judge made the error of double counting.

21. The Judge indicated that she would reflect the overall seriousness of both offences by increasing the sentence for manslaughter to take account of the conspiracy offence. That was an orthodox approach.
22. Turning to the conspiracy, the Judge noted that the forthcoming sentencing guideline for perverting the course of justice was still in draft form and correctly stated that it should not be used. In the absence of a sentencing guideline, she applied the case law on sentencing for this offence and observed that there were three factors relevant to culpability: (i) the seriousness of the underlying offence; (ii) the degree of persistence of the conduct and (iii) the effect of the attempts to pervert the course of justice.
23. Applying these factors, she observed that the underlying offence was particularly grave. Stasious knew that he was concerned in the disposal of a dead body for the purpose of frustrating the investigation into a killing for which he was responsible. She applied the principle established by the case law that, as the case involved the removal of a body, the offence was at the top of the appropriate scale (*R v Godward* [1998] 1 Cr App R(S) 385).
24. As regards the persistence of the conduct, the Judge described the conspiracy as planned, carefully organised and carried out in a sophisticated manner by those who were deliberately not connected to Stasious, using a hired car. As regards the effects of the offence, the Judge noted that Stasious had remained at large until recently. Forensic opportunities were lost due to the disposal of Mr Bello's clothing, the cleaning of the flat and the disposal of Mr Bello's phones.
25. Turning from culpability to harm, the Judge emphasised that Mr Bello had been stripped naked and his body was abandoned far from where he was killed. He was deprived of dignity in his death and his family had undergone serious suffering. The offence fell at the top level of severity in terms of both culpability and harm.
26. The Judge took into consideration that she had conducted the trial of the co-accused and had sentenced Oliver and Hatton to 6 years' imprisonment. She concluded that Stasious's offending warranted a more severe sentence as he had been the beneficiary of the offence which had allowed him to escape justice for over 3 years; but she also took into consideration what she called Stasious's relative lack of previous convictions as compared with Oliver and Hatton.
27. Having considered all these factors, the Judge concluded that the total notional sentence before the discount for guilty pleas would be 20 years' imprisonment. She was willing to

give full credit for the pleas and to reduce the notional sentence by one third, which would result in a sentence of just over 13 years' imprisonment. As she was sentencing Stasious for more than one offence, the Judge had in mind the principle of totality and the need to impose an overall sentence that was just and proportionate. She concluded that there was no good reason to reduce the sentence for the manslaughter below 13 years. As we have said, she imposed a concurrent sentence of 4 ½ years for the conspiracy, reduced from 7 years to reflect the guilty plea.

Grounds of Appeal - Stasious

Ground 1 - Judge's approach to manslaughter sentence

28. In his written and oral submissions Mr Scobie contends, first, that the judge misapplied the sentencing guideline for manslaughter. He submits that in concluding that the offence fell within level B, the Judge had relied on various elements of the pathology evidence that were consistent with medium or low culpability. The admitted headlock was not a considered or offensive act but a spontaneous and defensive act, albeit that it had been accompanied by excessive force. The Prosecution pathologist, Dr Chapman, had given evidence in relation to Burrell, who had been tried with Oliver and the other conspirators, that the pressure needed to cause the fatal injuries would have lasted for at least 15-25 seconds. Mr Scobie submits that Dr Chapman's evidence was consistent with Stasious's basis of plea, in which he had stated that he believed that the headlock lasted only a short time. He submits that the only sure conclusion that the Judge could have drawn from the basis of plea and the pathology evidence was that during the headlock the element of self-defence had prevailed and that it had involved no intention to cause harm falling just short of grievous bodily harm. The situation had been dynamic and the Judge could not be sure that the death had been caused intentionally during the restraint.
29. Mr Scobie submits that other aspects of the Judge's findings on the extent of Mr Bello's injuries inflicted in the struggle – such as that he had been subjected to blunt force trauma to his head, face and back – were not founded on sure medical evidence, with the result that the Judge had overstated the effect of the pathology evidence when seeking to apply the sentencing guideline. He relies in particular on the written Joint Agreed Statement made by Dr Chapman and Dr Fegan-Earl (who gave evidence on behalf of Burrell at his trial). He submits that the Statement painted an unclear and doubtful picture of the cause and effect of the various injuries suffered by Mr Bello before his death. He submits that, as a result of misinterpreting the pathology evidence, the Judge had not sentenced Stasious in accordance with his basis of plea, which was consistent with lower culpability as he had acted to defend himself. At most, the offence should have been categorised as one of medium culpability in the sense of falling between lower and higher culpability.
30. We reject these submissions as unarguable. We have considered the Joint Statement and the other parts of the evidence to which our attention has been directed. It is however not the function of this Court to resolve medical or other factual questions that could and should have been resolved before the Judge. The Prosecution case was that the cause of death was compression of the neck. Dr Chapman was of the view that in relation to a fit, strong and healthy man such as Mr Bello, the compression on Mr Bello's neck would have required

significant force. The force required would have been sustained rather than fleeting. The two pathologists disagreed as to the necessary duration of the sustained pressure to the neck. Dr Fegan-Earl had suggested 15-30 seconds, whereas Dr Chapman was of the opinion that it could have lasted up to a minute before death would have been caused.

31. The written basis of plea was carefully drafted. It stated no more than that Stasious believed at the time that he had held Mr Bello in a headlock for only a short period. In these circumstances, it was unarguably open to the judge, even without a *Newton* hearing, which was not suggested by counsel below, to accept the 15-30 second timeframe from the headlock but also to conclude that an attack that started out as self-defence became an action involving an intention to cause harm falling just short of grievous bodily harm.
32. In addition, it was open to the Judge to conclude that compressing someone's neck carried obvious risks. She was unarguably entitled to conclude that a second level B factor applied, namely that death was caused in the course of an unlawful act which carried a high risk of death or grievous bodily harm which was or ought to be obvious to Stasious. It is a red herring – and merely disputatious – to describe 15-30 seconds as being a short time in the context of a headlock to the neck. There is no merit in the point.
33. Mr Scobie further submits that the Judge was wrong to make an upward adjustment from the 12-year starting point under the manslaughter guideline to reach 15 years before applying the various reductions. This is in essence a challenge to the Judge's assessment of the overall seriousness of the manslaughter. It amounts to no more than a disagreement with the Judge's view. No real error of law or approach has been identified. We see no arguable basis for interfering with the Judge's conclusion. The Judge properly took the view that more than one level B factor was engaged and so was entitled to take the view there should be an upward adjustment within the level B range.
34. Mr Scobie submits that the Judge failed to give adequate weight to those factors that should lead to a reduction in the manslaughter sentence. In particular, he submits that the Judge made an inadequate reduction for the fact that the violence began as self-defence. Nor had the Judge properly balanced the mitigating factors, namely that the 34-year-old applicant had virtually no convictions for violence and that the offence was wholly unpremeditated. We regard this submission too as unarguable. On the facts, the Judge was entitled to reduce the sentence by no more than 2 years for the element of self-defence. She plainly took into account the mitigating factors and was entitled to give them little weight. The challenge to the manslaughter sentence is not arguable and accordingly ground 1 fails.

Ground 2 - Perverting the course of justice

35. In relation to perverting the course of justice, Mr Scobie submits that the Judge erred in her approach by concluding that Stasious should be treated as having greater culpability than Oliver and Hatton. He relies on three principal differences between Stasious, and Oliver and Hatton. First, he refers to the basis of plea which, as we have indicated, stated: "When he discovered that the deceased had died, the defendant panicked and did the acts alleged against him in perverting the course of justice". Mr Scobie submits that, by contrast, Oliver and Hatton were acting dispassionately and calculatedly and, in the case of the latter, out of

friendship with Oliver or in return for payment. Secondly, Mr Scobie submits that Stasious did not have the relevant previous convictions that Oliver and Hatton had. He refers us to the Judge's sentencing remarks where she said: "You each had significant and relevant previous convictions and you, Mr Hatton, were on licence at the date of the offence". Thirdly, he submits that the principle of totality did not apply to Oliver and to Hatton as it applied to Stasious.

36. This is essentially a challenge based on alleged disparity and so the question is whether right-thinking members of the public, with knowledge of the relevant facts and circumstances, would consider that something had gone wrong with the administration of justice (*R v Balfour Beatty Rail Infrastructure Services Ltd* [2007] 1 Cr App R(S) 65). That is a high test. It is not arguably met here. The offence was charged as a conspiracy. The objective of the conspiracy was that Stasious evade justice. That is what happened for over 3 years. It cannot possibly be argued that something has gone wrong with the administration of justice in the sentence for the conspiracy.

Ground 3 - Totality

37. Mr Scobie submits that the Judge failed to apply the principle of totality because she simply added a notional sentence of 7 years (before credit for the guilty plea) for the conspiracy to the 13-year sentence (before credit for the guilty plea) for the manslaughter offence. He submits that this mathematical approach made no or insufficient adjustment for totality.
38. The Judge's sentencing remarks demonstrate both that she applied the principle of totality and that she expressly reached the conclusion that there were no good grounds for a further reduction to Stasious's sentence in light of the nature and seriousness of his overall offending. We agree. It is not arguable that the overall sentence was manifestly excessive or that the way in which the Judge reached the overall sentence was wrong in principle.
39. Finally, Mr Scobie submits that the Judge's decision to impose concurrent sentences involved an error of approach. If she had in effect imposed 8½ years for the manslaughter and a consecutive sentence of 4½ years for the conspiracy, the overall sentence would have remained 13 years. There would nevertheless have been a benefit to the applicant who would be the subject of a more favourable release regime. This argument is unmeritorious. The Judge was entitled to structure the sentence in the way that she did. Her duty was to impose a sentence that was just and proportionate reflecting the overall seriousness of the offending without regard to the release regime. That is what she did.

Conclusion

40. For these reasons it is not reasonably arguable that the overall sentence of 13 years after full credit for the guilty pleas was either manifestly excessive or wrong in principle. We refuse the necessary extensions of time which would serve no purpose. We would refuse leave to appeal. The renewed application on behalf of Stasious is refused.

Oliver Scott

41. In her sentencing remarks relating to Oliver the Judge stated that he had acted to protect his son at all costs. He had given Stasious the opportunity to leave the country and to evade justice leaving Mr Bello's family in turmoil for a significant period. The Judge confirmed that she had considered the pre-sentence report and the character references put forward on Oliver's behalf. She had read Oliver's letter in which he had belatedly taken responsibility for the offence. She noted that he was a hard-working family man and that he had been a model prisoner on remand. She referred to the relevant principles for sentencing the offence which we do not repeat.
42. In his grounds of appeal, Oliver submits that the Judge erred in principle by finding that he probably realised that the offence underlying the conspiracy to pervert the course of justice was murder or homicide. He submits that the Judge erred in principle by finding that he had recruited the deposition team to dispose of the body of Mr Bello. He submits that the Judge began her sentencing exercise from too high a starting point, contending that she passed a sentence which was wrong in principle and, in all the circumstances, manifestly excessive.
43. As we have said, we have given independent consideration to those grounds. However, the seriousness of the offence, which we have already described, and the harm it caused, entitled the Judge to impose a severe sentence at the top of the scale for the offence. The Judge had conducted the trial. She was in the best position to reach findings of fact about what happened. She was in the best position to reach findings of fact about what Oliver did and about what he knew.
44. In refusing leave to appeal, the single judge stated:

“Your first two grounds dispute factual findings of the judge who heard your trial. There is no prospect at all, much less a realistic prospect, of the full court finding that the judge was wrong to make these findings.

As to the judge's starting point, given that this was the removal of a body and the obstruction of a murder investigation, the judge was correct on clear authority to consider the sentence should be at the top of the appropriate scale for this offence. The judge found there to be several serious aggravating factors. There was no mitigation of substance...It is not arguable that the judge identified too high a starting point for your sentence, that the sentence was wrong in principle or that the sentence was manifestly excessive.”

45. We agree and conclude that the sentence of 6 years was not arguably manifestly excessive or wrong in principle. Oliver's renewed application is refused.

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