Neutral Citation No. [2025] EWCA Crim 154

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IN THE COURT OF APPEAL
CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT BOLTON
MR JUSTICE GOOSE T20237007

CASE NO: 202300950 B1

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 11 February 2025

Before:
LORD JUSTICE DINGEMANS
MRS JUSTICE CUTTS
HIS HONOUR JUDGE FORSTER KC

REX
v
REECE JOSEPH STEVEN

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MS SIOBHAN GREY KC appeared on behalf of the Applicant

J U D G M E N T
(Approved)

LORD JUSTICE DINGEMANS:

Introduction

1. This is the hearing of a renewed application for leave to appeal against sentence.
2. On 20 February 2023, in the Crown Court at Bolton before Goose J and a jury, the applicant (who was then aged 29) was convicted of one count of conspiracy to commit robbery (count 1) and one count of murder (count 2).
3. On 22 February 2023 (so two days later) he was sentenced to life imprisonment with a specified minimum term of 37 years for the murder and 16 years for conspiracy to commit robbery, which was to run concurrently with that life imprisonment.
4. The grounds of appeal are that, first, the judge did not have sufficient regard to the fact that the applicant played a lesser role than the mastermind of the conspiracy; and secondly, that the judge had not reflected properly on the fact that there had been no intention to kill when setting the minimum period of 37 years.
5. The respondent had submitted in writing that the applicant was sentenced correctly as being at the centre of the conspiracy, a determination that the judge was entitled to make - and that the judge's approach to intention to kill was correct and in line with established principle.

Factual Background

6. So far as the facts are concerned, the applicant, together with another person whose name it is not necessary to give (because although he had not been captured at the time of the trial and sentencing remarks he is now in custody and awaiting trial) had carried out the robbery and killing on 2 and 3 July. It had been a robbery of a drug dealer by other drug dealers. The information about the deceased had been provided by the deceased's ex-wife and the planning for the attack had begun on or around 25 June.
7. On 27 June, the other man, a further man and the applicant had met in a pub. Later that day the applicant and another man had planted a tracker on the deceased's vehicle. The tracker was then monitored over the next few days. Then the mastermind (as he was called in the evidence) and the other man had driven into the relevant areas, and the mastermind and the

applicant had gone and walked towards the relevant property. There was some suggestion that there was further planning and scoping of the area on 29 and 30 June.

8. On 2 July, shortly after 11 pm, Thomas Campbell (the deceased) had been at home. He had gone back to his home in Greater Manchester. He had got as far as his front door when three men, one of which was the applicant, got out of a Vauxhall van and rushed at him. They subjected him to a joint attack, which left him losing a lot of blood outside. He was wrestled inside and the door was shut. He had been subjected to torture and repeated violence for about two hours before he died. The evidence of the two hours comes from the CCTV evidence showing that three men had left at around 1 am having cleaned up, leaving no forensic evidence. The hard drive of the CCTV system and the doorbell camera had been removed.

9. The judge found that the deceased had attempted to make a 999-call but had been close to death and unable to speak. A point that has been raised by Ms Grey KC this morning on behalf of the applicant, and to whom we are very grateful for her helpful submissions, was that the finding of fact was not supportable in circumstances where the evidence shows that two men had left just before the 999-call was made and that one man left afterwards. The inference being that the deceased was unlikely to have been able to make the 999-call with another person still in the property. For reasons that we will come to, it is not necessary to determine that particular point.

10. The following morning the deceased was found lying mostly naked in his hallway. His ankles had been bound by duct tape. There was duct tape around each wrist. The property appeared to be ransacked and, alongside that, there was evidence of the clean-up. There was bloodstaining throughout the house and outside. The conclusion drawn by forensic scientists was that there had been two areas of assault within the property - just into the kitchen and at the door of a first-floor bedroom.

11. The cause of death was recorded as multiple sharp force injuries, blunt force head injuries, pressure to the neck, and the pathophysiological stress of multiple injuries in the context of

heart disease. There had been a significant number of external and internal injuries. There were injuries and bruising indicative of the use of footwear, the use of sharp-edged instruments - blades and knives, blunt force punches, and very hot liquid, friction, compression and asphyxiation. A stab wound to the right arm was potentially fatal. A tourniquet had been applied, and that was relied upon by Ms Grey as evidence of the lack of an intention to kill. The evidence from the pathologist was that the injuries to the brain were only survivable for a short period and would have required considerable force.

The sentence

12. When sentencing, the judge noted that the applicant was aged 29 at conviction and sentence, had 18 convictions for 30 offences spanning from 2008 to 2015. His relevant convictions included three offences of robbery and threats with a bladed article and possession of an imitation firearm. The applicant was on licence in respect of a 12-year custodial sentence at the time, and he was recalled to prison because although he had signed up for drug testing, he failed that drug testing and was recalled.
13. The judge when sentencing acknowledged the victim personal statements and the profound grief in relation to the loss of a loved family man.
14. The judge then outlined the facts and recorded that the murder of the deceased was horrific. The judge noted that each of the accused were to be sentenced for a carefully planned, highly organised robbery and for the killing of the deceased. The judge found as a fact that the applicant had been at the centre of it. Ms Grey does not contest the finding that he had been at the centre of it but notes that he was not the ringleader or mastermind, and he had been recruited into it and was acting in some way as a form of trusted lieutenant.
15. The conceded starting point was 30 years as the murder had been in the course of a robbery for gain. Injuries had been caused as part of torture to obtain information regarding drugs and valuables, but the judge did not find that sadism was a separate feature. The judge found as aggravating factors the degree of planning, the gross suffering caused to the deceased over almost two hours before he died, previous convictions for robbery, being on

licence and the destruction of evidence.

16. So far as mitigation is concerned, the judge found there was little in mitigation, but the judge accepted that the intention had not been to kill; but then went on to find:

> "That must be substantially tempered by the prolonged suffering caused to the deceased before he died."

17. Ms Grey's short point is that it was wrong of the judge to take account of the suffering caused to the deceased as an aggravating factor and then to double count it by knocking out the mitigating factor.

18. The judge found that the conspiracy to rob, which was to be served concurrently, was a category A1 offence: there had been the use of weapons and significant force and it was a robbery in a dwelling.

The proposed grounds of appeal

19. We turn, therefore, to the grounds of appeal. So far as the judge's finding of the role carried out by the applicant, it is important in our judgment to recall that the judge was the trial judge. He made findings of fact, which this court will only interfere with if there was a feature such as internal inconsistency, inconsistency with uncontroverted evidence, or irrationality. There were no such features in relation to the finding that the applicant had a central role. He was not, on the evidence, the mastermind, but in our judgment the judge was perfectly entitled to find and sentence the applicant for having that central role.

20. As to the second point and the issue of double counting, it is important to note that there was a substantial period of time when the deceased was being mistreated and abused for two hours. That was an aggravating factor.

21. The judge did find that there was no intention to kill. Ms Grey identified issues, such as the tourniquet that was applied, as evidence that there was no intention to kill the deceased. So far as no intention to kill being a mitigating factor, in our judgment it is not double counting to note that, as the judge did, that the mitigation must be substantially tempered by the prolonged suffering caused to the deceased before he died, because that is assessing how

much of a mitigating factor it was. The judge did not consider it to be much of a mitigating factor, which on the particular facts of this case was not a surprising conclusion.

22. That then leaves the other issue in relation to there being no intention to kill, which was the 999-call and whether it was made by one of the men or, as the judge found, by the deceased who was unable then to follow the instructions given by the 999 operator so that the call was disconnected. In our judgment the issue is not relevant, first of all because the judge found that there was no intention to kill without having to take this matter into account. Secondly, because even if the 999-call had been made by one of the men, they did not follow it up by pressing numbers as instructed to assist the operator. As it was, it was a completely failed 999-call because the operator disconnected the call in the absence of a response, leaving the deceased to die as he did and to be found the next morning by his neighbours.

Conclusion

23. As the judge had noted, there had been what was in effect the torturing of the victim for two hours, which had included wounding, pouring hot liquid onto his genitals, stripping him and dragging him around the house. In those circumstances, this was a sentence which we are unable to find is arguably manifestly excessive. Notwithstanding the skill with which the points have been argued, we refuse the application.