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Neutral Citation No. [2025] EWCA Crim 156



IN THE COURT OF APPEAL  
CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT STAFFORD  
HIS HONOUR JUDGE R. MAYO 21CL2713523

CASE NO: 202404549 A5

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Tuesday 11 February 2025

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

Reference by the Attorney General under s.36 Criminal Justice Act 1988

REX

v

DALE CROOK

Computer Aided Transcript of Epiq Europe Ltd,  
Lower Ground, 46 Chancery Lane, London WC2A 1JE  
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MR ALISDAIR WILLIAMSON KC & MR COLIN WITCHER appeared on behalf of the Solicitor  
General

MR WILLIAM EMLYN JONES KC appeared on behalf of the Respondent Offender

**J U D G M E N T**  
(Approved)

## **LORD JUSTICE DINGEMANS:**

### **Introduction**

1. This is the hearing of a Reference by His Majesty's Attorney General, who considers the sentence imposed on the Respondent, Dale Crook, on 29 November 2024 to be unduly lenient. We grant leave.
2. Mr Crook, a man of previous good character, was born on 28 August 1990 and is now aged 34 years. On 25 November 2024 Mr Crook stabbed and killed his wife, Milica Zilic. Mr Crook pleaded guilty to the offence of murder at a time when he was entitled to full credit. He was sentenced to life imprisonment, with a minimum term set at 14 years, discounted by a sixth to give 11 years 9 months less 362 for time served, giving a minimum term of 10 years 9 months and 3 days. It is submitted on behalf of the Attorney General that the minimum term was significantly too low. Although the judge was right to take a starting point of a minimum term of 15 years, the judge was wrong to determine that mitigating factors outweighed aggravating factors and therefore wrong to take a minimum term of 14 years before discount for plea and time served. It is submitted on behalf of Mr Crook that the judge's approach was correct. There had been a fair reflection of aggravating and mitigating factors, the balance was a permissible balance, and even if the sentence was lenient, it could not fairly be described as unduly lenient.

### **The factual background**

3. So far as the factual background is concerned, Mr Crook met Ms Zilic online. She was in Serbia and was an online video gamer. Mr Crook had seen her through video calls and Skype calls. They met in person for the first time in 2015 when Mr Crook went to Serbia. He then began to visit her there regularly until the Covid pandemic, which delayed their relationship until 2022.
4. Ms Zilic then came to the United Kingdom in November 2022, and on 9 March 2023, when she had a visa to settle in the United Kingdom, she and Mr Crook were married and they lived in his flat in Stafford.

5. The details of what occurred is based on accounts given by Mr Crook to psychiatrists because after his arrest he gave 'no comment' interviews.
6. It seems that in November 2023 Mr Crook discovered that his wife was in contact with another man called Tobias. By this time they were no longer sharing a bed. Mr Crook had become deeply unhappy in his marriage; and that was confirmed by text messages which the police had managed to recover and see.
7. Mr Crook originally thought that his wife's relationship with Tobias was platonic, although he then began to suspect otherwise when he saw some messages which contained love heart emojis. He later established that his wife and Tobias had been in communication since November 2022, and he became aware that his wife had changed her sleeping pattern so that she would be asleep when he was awake and vice versa. Ms Zilic had said that this was because she preferred to participate in online gaming during the night - an explanation which Mr Crook at that time accepted.
8. On 25 November 2023 Mr Crook logged on to his wife's Instagram account and saw more materials, discovering the extent of her contact with Tobias and that the relationship had become sexual.
9. The police later spoke to the person called Tobias, who confirmed the nature of his relationship with Ms Zilic. He said that on 25 November 2023, Ms Zilic had contacted him to say that her husband had found out about their relationship. She had seemed frightened, worried and upset, but also gave the impression that she thought that her husband was willing to forgive her.
10. Mr Crook said that when he confronted Ms Zilic with what he had discovered, her response was to say that she was sorry and wanted to stay with him. Mr Crook had said he thought that was impossible and felt that his wife merely wished to carry on as they were. He said at that moment he could see no point in life, thinking that he could not keep his wife happy. He said he had been considering suicide for some time but that morning he began seriously to contemplate suicide and wondered whether he should go to jump off a cliff. He left the

house to go to work, as he said, "to keep his mind off things".

11. He left the flat in the morning at about just before 8 am and arrived at work at 8.25. He then messaged Ms Zilic to ask whether she loved him "the most" and whether she was willing to stay with him and whether she loved Tobias. When she did not reply, he then messaged her again. At just before 9 am Mr Crook was seen on CCTV at work in tears.
12. He then left work and sat in his car outside the flat. He proceeded to send Ms Zilic text messages saying that he had come home and that his life was shattered. He had arrived home at about 9.40 am.
13. The messages that were recovered revealed that he had then proposed an open relationship, with Ms Zilic having a sexual relationship with both him and Tobias, and during the course of the afternoon he later cancelled his wife's service to the SIM card, disconnecting it from the network. He sat outside the flat "stewing", as it was put, for several hours. He said he intended to leave but went inside again before he did so to use the lavatory. CCTV showed that he returned to the flat at about 5.46 pm for four minutes. He returned again at 6.12 and departed at 6.23, when he drove away.
14. Mr Crook gave an account of the final interaction inside the flat. He had gone back inside and Ms Zilic had, according to Mr Crook, confronted him in a rage and been "in his face". He said, "It was really short. We snapped." Mr Crook said he had pushed his wife away. He said this was the first time he had reacted seriously and he felt he was not himself. The argument became physical. Mr Crook then picked up a knife from the kitchen table where they were standing and stabbed Ms Zilic once, before running off in a panic.
15. Mr Crook then used Ms Zilic's mobile phone to block Tobias as a contact on her social media accounts. Tobias, seeing that he had been blocked, set up new accounts on WhatsApp, Instagram and Viber to re-establish contact with Ms Zilic. He sent her messages. He could see they were being read, before he was again blocked. All that must have been carried out by Mr Crook. Not knowing what had happened, Tobias took this to mean that Ms Zilic had chosen to stay with her husband and ceased contact.

16. Mr Crook also used Ms Zilic's phone to contact her mother as if he were Ms Zilic, thereby giving the false impression that Ms Zilic was still alive. This deceit was rightly identified as an aggravating factor by the judge.
17. At 7 pm that evening Mr Crook's father contacted West Midlands Police to report that his son had said he wanted to die by suicide and had threatened to drive off a cliff because his wife had left him for another man. A high-risk missing person investigation began, during which officers went to the home address to conduct enquiries, but the flat was secure and they were unable to gain entry at that time.
18. The police identified an automatic numberplate recognition activation for Mr Crook's car showing that he had been passing Oxford Services on the M40 motorway. His family received phone calls in which they heard he was self-administering insulin. It was apparent that he was drifting in and out of consciousness. He was found by the police in Little Marlow at approximately 10.20 pm, from where he was taken to Wexham Park Hospital with a suspected insulin overdose. He remained in hospital over the weekend. It was common ground that there had been a genuine attempt to commit suicide.
19. On Monday 27 November 2023, at just after lunch, Mr and Mrs Crook (the parents) went to Mr Crook's flat to remove his belongings. After parking, they saw a light in the kitchen. They thought that either Mr Crook had left the light on or that Ms Zilic was at home. Mrs Crook opened the main door with a key. Upstairs, they found Ms Zilic lying on the floor on her back in the corridor with her head resting against the wall. Mr Crook could see blood over her left side and on her arms and legs. She was cold to the touch and had no detectable pulse. There was a knife on the floor. Mr Crook called 999 and requested an ambulance and the police.
20. Ms Zilic was formally pronounced dead that day. The cause of her death was a stab wound to the chest. Postmortem examination revealed a stab wound into the right breast that had penetrated the chest cavity in a right to left, top to bottom, and front to back direction. There was a second smaller stab wound just to the left that merged with the main wound

without damaging any major structures.

21. As already indicated Mr Crook, when interviewed, made no comment.

### **The sentencing**

22. Ms Zilic's mother made a victim personal statement asking why Mr Crook had murdered Ms Zilic in such a brutal way, saying, "I look at her photograph in the silence of an empty room and I think she is going to talk to me... It hurts, everything hurts me."

23. Mr Crook was examined by a consultant psychiatrist. Dr Malhan, a consultant forensic psychiatrist, noted a history of diagnosed depressive illnesses, which had been treated medically with Citalopram and Mirtazapine. Dr Malhan also rehearsed the findings of an earlier psychiatric report and a psychological assessment. He confirmed Mr Crook's diagnosis of recurrent depression and noticed contemporaneous records of this condition at the time of the murder, saying that Mr Crook had a history with experiencing moderate to severe depressive episodes in the year leading up to the offence and that it was possible that he had also experienced an adjustment reaction. His view on balance was that although Mr Crook was depressed was likely to have had an adjustment disorder and had features of autistic spectrum disorder which did cause an abnormality of function, he did not believe that these were enough to substantially impair his ability to understand the nature of his actions, to form rational judgment, or to exercise self-control. The abnormality of mental functioning was a contributory factor but it was not significant.

24. Dr Cumming, also a consultant forensic psychiatrist, was instructed on behalf of the prosecution. He said he was less confident about whether the diagnosis, if present, had had a significant bearing upon the offence. He noted that the types of emotions which come from betrayal and deceit when a partner is unfaithful are not exclusive to having Autism Spectrum Disorder. He found the narrative of having the diagnosis more of an explanation for the failure of the relationship to develop and be sustained than a putative cause or factor in the killing.

25. A basis of plea was submitted on behalf of Mr Crook which said, "Mr Crook's depression,

adjustment disorder and features of ASD were impacting upon [the] mental functioning at the material time" and it was said that it was "an abnormality of mind, which was a contributing factor to the murder, however it falls just short of diminished responsibility."

26. The prosecution did not accept that the offending fell just short of meeting the criteria for diminished responsibility, and it seems that the matter was left to the sentencing judge on the basis of the reports to determine. In fact the judge said that:

"I am asked to conclude that you were suffering from an abnormality of the mind, which was a contributing factor for the murder, falling short of diminished responsibility. It is argued that the turmoil caused by the perceived ending of a treasured relationship would have substantially affected your ability to think rationally at the material time. Your resilience was lower than of many people during the disintegration of a relationship. My conclusion is that there was a small extent to which mental disorder lowered your degree of culpability."

27. When sentencing, the judge said that Mr Crook had disclosed to Dr Cumming, the consultant forensic psychiatrist, that he had learned that his wife had been unfaithful and discovered from social media the contact with Tobias, and said this:

"It is obvious that your decision to kill [Ms Zilic] arose from powerful feelings of attachment to [Ms Zilic] both physically and emotionally. [Ms Zilic] suffered from Obsessive Compulsive Disorder and rarely left your flat. She was isolated and tended towards self-harm. I have seen photographs of her injuries which appear to have been taken on 10th May 2023."

28. The judge found the following aggravating factors were present, having been directed by the prosecution and indeed the defence to the Domestic Abuse Guidelines. These were: first of all, the use of a knife; secondly, that Ms Zilic was vulnerable; thirdly, the location of the killing - the judge saying, "in her home where your wife was entitled to feel safe and the elements of breach of trust"; and finally, "your deceit after the killing by pretending that [Ms Zilic] was still alive", albeit that was at a time when it is common ground that Mr Crook was intending to kill himself.

29. The judge found the following mitigating factors, "You are 34 and have no previous convictions. This was not a premeditated killing. There was a diagnosis of Autism Spectrum Disorder which impacted on your mental functioning at the time that you stabbed

your wife", before, as I have already noted, concluding that the extent to which any mental disorder lowered degree of culpability was small. The judge found that "you were not in a relationship which could in any way be described as controlling" on his part, and he had offered Ms Zilic, before the killing, comfort and safety, and entered the guilty plea.

### **The Reference**

30. So we then turn to the real issue, which is whether or not the judge has balanced the aggravating and mitigating features correctly. It is common ground that the judge identified the correct aggravating features. It is common ground that the judge identified the correct mitigating features. So far as whether or not this is just an issue that some judges might have considered to be balanced one way or another, it is submitted on behalf of the prosecution that: this was simply a wrong sentence; the target had been missed; and although the margin for arithmetical adjustment might be small, this was still unduly lenient. On behalf of the respondent Mr Crook, it is pointed out that sentencing is still an exercise, in the end, about calculations and that the judge had balanced matters appropriately and come to a reasonable conclusion.
31. We do consider that the sentence that was passed on Mr Crook was a lenient sentence. This was because of the domestic circumstances in which this killing took place which merited an upward adjustment beyond that which was given. We do not, however, consider that the sentence was unduly lenient. This was because there were mitigating factors particular to this individual which the judge was entitled to take into account and did take into account, meaning that any adjustment we might make to the sentence would be relatively small. The reason we granted leave was because we consider the sentence lenient. The reason we refuse the Reference is because we do not consider it to be unduly lenient.
32. It should be emphasised that any killing in domestic circumstances will always merit an upward adjustment before further adjustments are made for aggravating and mitigating features from the starting point of 15 years set out in the schedule to the Sentencing Act 2020.



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