



Neutral Citation Number: [2021] EWHC 3169 (Admin)

Case No: 2021/7/YO

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 02/12/2021

Before :

SIR ANDREW NICOL

Shaun Johns (Minimum term review) (No.2)

Approved Judgment

Sir Andrew Nicol :

1. Shaun Anthony Johns was born on 19th March 1988. On 12th April 2006 he was convicted of the murder of Mr Gange. On the same occasion he was also convicted of robbery, attempted robbery, conspiracy to rob and 6 counts of obtaining goods by deception. On 19th May 2006 he was sentenced by Gibbs J. on the charge of murder to detention during her Majesty's Pleasure with a minimum term of 22 years (less time spent on remand). The sentences for the other offences ran concurrently. After taking account of time spent on remand, he must currently serve 21 years 3 months and 9 days in custody before he is considered for release on parole (i.e. in 2027). Mr Johns is now 32.
2. This not the first occasion that the minimum term on Mr Johns' sentence has been reviewed by the High Court. On 8th February 2018 it was considered by Langstaff J. – see *Shaun Jones Minimum Term Review* [2018] EWHC 204 (Admin). He decided not to recommend any reduction in the minimum term. Consequently, at present, Mr Johns' minimum term will not expire until August 2027. A copy of Langstaff J's judgment has been provided to me.
3. Langstaff J. has set out the details of the offence, the basis for reviewing a minimum term and the information that was then available to him. I gratefully adopt what he said. It is not necessary for me to repeat any of it.
4. At the same time, I should add that it is not my function to exercise any kind of appeal from his decision. Since we are both judges of the High Court, that would be wholly inappropriate. Rather, my function is to consider the material presently before me (which necessarily, because of the passage of time and other events, is more extensive than was available to Langstaff J.) and consider whether, in the light of that information, I should recommend a reduction in Mr Johns' minimum term.
5. As Langstaff J. said, there are three bases on which I could recommend a reduction in the minimum term. They are:
 - i) The offender has made exceptional and unforeseen progress during his sentence.
 - ii) The offender's welfare may be seriously prejudiced by his or her continued imprisonment, and the public interest in the applicant's welfare outweighs the public interest in a further period of imprisonment lasting until the expiry of the current minimum term.
 - iii) There is a new matter which calls into question the basis of the original decision to set the minimum term at a particular level.
6. There is no new information calling into question the basis of Gibbs J's minimum term. The third alternative is not therefore relevant. Swain and Co, solicitors, who represent Mr Johns, do rely on the other two.

Exceptional and Unforeseen progress

7. At the time of his convictions Mr Johns was in a bad place. He had previous convictions (for possession of an offensive weapon, for possession of cannabis and for criminal damage), but the probation officer who prepared his pre-sentence report considered from remarks which Mr Johns had made that he had in fact committed other offences. He had been expelled from his school and had left without any qualifications. The writer of the pre-sentence report considered that Mr Johns was at a high risk of re-offending and causing harm to the community. These had been serious offences with elements of pre-meditation and planning, the use of weapons and extreme violence. Mr Johns had used drugs and alcohol and had a complete disregard for law and order. Mr Johns had refused to talk to the probation officer when they first met on 10th August 2006. While on remand at HMYOI Glen Parva he had a total of 3 negative adjudications for fighting and assault. The probation officer who prepared the report felt that he himself was intimidated by Mr Johns.
8. Nothing I say in this judgment should be taken as diminishing the pain and suffering of the family of Mr Gange or the impact of the robbery on Mr Simon Stevens, Mr Eagle or the other victims of Mr Johns' offending. I have seen a victim impact statement from the family of Mr Gange which underlines the grief which they still feel despite the passage of time. Nonetheless, the task which I must undertake necessarily requires a focus on such changes as have occurred to Mr Johns.
9. The reports that I have received have all been extremely positive.
10. The last adverse adjudication was in January 2007 (and so 14 years ago). His security category has been reduced: it was Category A; it is now Category C (since January 2016). He has had no positive Mandatory Drug Tests. He has had Enhanced Status on the Incentive and Earned Privilege scheme for 11 years.
11. He has completed several courses designed to reduce his risk to others, notably the Self Change Programme, the Thinking Skills Programme and, while at HMP Warren Hill, he has completed the Therapeutic Community Programme in September 2020 and PIPE (Psychologically Informed Planned Environment) while at HMP Gartree.
12. In his letter to me, Mr Johns spoke of the death of Jack Merritt, who was murdered as part of a terrorist attack at Fishmongers' Hall. Mr Johns said that Mr Merritt had been a tutor of his and Mr Merritt's death had given him a personal experience of loss as a result of violence.
13. He has also undertaken much academic work. As I have said, he left school without any qualifications. While in custody he obtained an A level in Psychology and is currently studying for an Open University degree in Business Studies. On 19th July 2021 he was awarded a distinction by the Open University for his work on one course element of this.
14. With Cambridge University students he worked on a Butler Law course preparing a manual for Category A prisoners interested in obtaining recategorization. He has since become a Butler Law course mentor. He has become a Listener for Samaritans and a Shannon Trust Mentor. He was previously an orderly for the Lifeline Project which provided assistance for prisoners with a history of drug/alcohol misuse. He became an

Equalities representative for the Democratic Therapeutic Community at HMP Warren Hill. He has taken part in numerous fund-raising events for charities.

15. It seems that he has become a talented performer in a number of different art forms. He has received a Koestler Gold Award for his non-fiction and poetry. A play written by Mr Johns ('Chip Night') was the titular work for the Koestler East of England Exhibition. He received a certificate from the Arkbound Foundation for his story 'Deter the Most' which was due to be included in a book, 'Writing Within Walls' in May 2021. I have seen a reference for Mr Johns written in November 2020 by Julian Earwater who was a writer in residence at HMP Warren Hill. The High Sheriff of Suffolk was so impressed with Mr Johns that he enabled funding for Mr Johns to publish a 50,000 word book of his poetry.
16. The latest OASyS report was completed in October 2020 and commented that Mr Johns had made 'swift progress indicative of his custodial behaviour and his engagement and compliance with his sentence plan.'
17. William Sarginson in his TAR of December 2020 said of Mr Johns that his completion of the Therapy course at HMP Warren Hill 'cannot be understated- the pinnacle of the many achievements to date'. Mr Sarginson adds,

'I would identify the most conducive to his maturity and progress being his work with the Butler Law trust. He completed the Butler Law course in 2018 and became a Butler Law Mentor in 2019...Not only has his behaviour been exceptional, but his drive and initiative to his progression outside and inclusive of identified treatments is nothing short of remarkable.'

'Mr Johns' is an example of how one would adapt to a life sentence is a phenomenal template. Mr Johns has shown such exemplary behaviour and progress in the last 14 years.'

18. David Nicholson, the Governing Governor of HMP Warren Hill in September 2020 was glowing in his praise of Mr Johns. In the course of his reference he said,

'I would like to highlight the pro-active and progressive nature of Shaun over the last 18 months I have known him. He is pivotal to the Progressive Regimes and therapeutic community at Warren Hill and is a Rehabilitative Culture Champion who many other residents look up to in our community. The way Shaun conducts himself is a credit to him. He demonstrates very good ability to articulate himself, getting his views across in a proactive and constructive manner ... Shaun reflects what we want all our residents to achieve, risk reduction, substantial and real change by supporting and caring for others and being a pillar in his community. He has made the most of every aspect of our therapeutic community and Progressive Regime so that he can safely progress on his resettlement journey.'

19. Another reference on Mr Johns has also been supplied in September 2020 by the Deputy Governor of HMP Warren Hill,
20. I also have a report from Dr Louise Bowers, a forensic psychologist and chartered psychologist. Her report refers to Mr Johns' unstable and chaotic childhood and how he had (in the past) found support among delinquent peers. She explains why in her view Mr Johns has changed beyond recognition. She says,

‘Johns has made one of the most dramatic and sustained transformations I have observed among the minimum term reviews I have completed.’

Conclusion

21. In my view this is a case where it can be said that Mr Johns has made exceptional and unexpected progress. His risk to others has also been substantially reduced, though I emphasise that my task is to review the minimum term before he can be considered for release on licence: it will be for the Parole Board at the appropriate point to decide if the risk to the public is compatible with Mr Johns' release.
22. Each of the bases that I have listed above for a reduction in the minimum term are independent of each other. Since I have concluded that Mr Johns has made such progress that his minimum term should be reduced, it is not strictly necessary for me to consider the other bases for doing so.
23. But I would add that I see force in the additional points made by Dr Bowers and Mr Sarginson, that it would be harmful to keep Mr Johns in custody to his current tariff release date since he has achieved as much as he can in his present security category and the risk is that detention to his current release date would lead to his institutionalisation and be harmful to his reintegration into society.
24. Were it necessary, I would also recommend a reduction in the minimum term on this ground.
25. I will recommend that Mr Johns' minimum term is reduced by 2 years. It would therefore expire in 2025.

Sir Andrew Nicol