



Neutral Citation Number: [2019] EWCA Crim 1137

Case No: 201701486, 201702522, 201703184 C4

IN THE COURT OF APPEAL (CRIMINAL DIVISION)
ON APPEAL FROM INNER LONDON CROWN COURT
HHJ Madge
T20167162, T20167174

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 04/07/2019

Before:

LORD JUSTICE IRWIN
MR JUSTICE GOOSE
and
HIS HONOUR JUDGE POTTER

Between:

(1) ASHRAF ABDULLAH
(2) ALEXANDER PULULU
- and -
THE QUEEN

Appellants

Respondent

Peter Corrigan (instructed by **Lam and Meerabux Solicitors**) for the **First Appellant**
The Second Appellant was unrepresented
Nicola Shannon (instructed by **The Crown Prosecution Service**) for the **Respondent**

Hearing date: 28 June 2019

Approved Judgment

Lord Justice Irwin:

Introduction

1. On Friday 28 June 2019, we dismissed the appeal of Abdullah, and refused permission to appeal on further grounds as to his conviction. We refused leave to appeal against sentence to both Abdullah and Pululu. We now give our reasons.
2. This case arises from events taking place at the flat of a Mr Maloney on 6 October 2015. Two men, Ary Mohammed and Bahman Ahmadi went to the flat of Mr Maloney in Brighton intending to buy a cheap iPhone. When they got there, they were attacked by a group of men. They were tied up, belongings were taken and then, in order to get information from Mr Mohammed about the whereabouts of money, he was effectively tortured over the course of 5-6 hours using knives, a hot iron, an axe or hammer, and in other ways. In the course of this mistreatment a number of threats to kill were made. Eventually both men were taken out to Mr Maloney's car, which was in the car park outside. Both men were put in the boot, tied or restrained, and the boot was closed. Mr Mohammed had suffered serious injuries. Mr Ahmadi managed to get the boot open and then raised the alarm.
3. From this incident arose a number of charges against a number of men. Both the Appellant Ashraf Abdullah and the Applicant Alexander Pululu were charged and in June and July 2016 were tried in front of HHJ Madge and a jury at the Inner London Crown Court. At the conclusion of that trial [the first trial] Mr Abdullah was convicted of robbery, count 3 on the indictment. The jury were unable to agree on other counts. Pululu was convicted on 26 July 2016 of false imprisonment (count 1), robbery (count 3), wounding with intent to do grievous bodily harm (count 5) and issuing threats to kill (count 7).
4. In late January and February 2017, Abdullah was tried again on the outstanding counts against him. On 16 February 2017, he was convicted of false imprisonment (count 1 on that indictment), wounding with intent to do grievous bodily harm (count 3) and issuing threats to kill (count 4).
5. On 5 May 2017, both men were sentenced by HHJ Madge, again at the Inner London Crown Court. Abdullah fell to be sentenced for robbery (first trial), false imprisonment, s.18 wounding and threats to kill (second trial). The judge passed concurrent determinate sentences of 14 years imprisonment in respect of the robbery, s.18 and false imprisonment offences and 6 years concurrent imprisonment in respect of the threat to kill. He concluded that Abdullah was a dangerous offender and therefore passed extension periods of five years in relation to the sentences for false imprisonment, robbery and s.18, making a total of 19 years imprisonment for those three counts, comprising the custodial term of 14 years and an extension period of 5 years.
6. In respect of Pululu, the judge passed sentences of 17 years custodial term with an extension period of 5 years, a total of 22 years, in respect of the false imprisonment, robbery and s.18 offences concurrent in each case. He also passed a concurrent sentence of 6 years in relation to the threats to kill, a total of 22 years imprisonment.

7. Abdullah applied for leave to appeal his conviction. The single judge refused leave on four grounds but gave leave on one, hence he is an appellant. Through his new counsel, he renews his application for leave in respect of two of the other grounds bearing on his conviction (grounds 3 and 5) and renews his application for leave to appeal his sentence after refusal by the single judge.
8. Pululu renews his application for an extension of time in which to apply for leave against his sentence after refusal by the same single judge. Pululu is unrepresented before this court.

The facts in fuller summary

9. On 6 October 2015, the victim Mr Ahmadi spoke to the co-defendant Ben-Sellem in Brighton. Ben-Sellem sold Apple products cheaply and told Ahmadi that he had a phone for sale. Ahmadi's friend arranged with Ben-Sellem to attend Maloney's flat in Brighton later that day. When Mohammed and Ahmadi got to the flat Ben-Sellem let them in. Thereafter they were set upon by Abdullah, Pululu, Ben-Sellem, Maloney (the flat occupier) and another man called Tando. Mohammed and Ahmadi were tied up and robbed of their possessions and the cash they had on them. Their eyes were covered. Mohammed had a towel and a ligature put round his neck. Over the course of the next six hours, both men were the subject of violence, more serious violence in respect of Mohammed. Mohammed was tortured because the group in the flat suspected he had a large amount of money. He was beaten and had noxious liquid applied to his face; he was burnt with boiling water and with a hot iron; he had his arm slashed with a machete-type knife. He had boiling water poured over his feet and ankles and he had a sock stuffed into his mouth. Throughout the attack those present threatened to kill him.
10. During the incident Mohammed attempted to satisfy the attackers by saying he had money in his car, but giving a false location for where his car was parked. Two of the men went to check this out, but returned empty handed and the violence continued. After further violence Mohammed told the men that he had cash at his flat. Two of the men left and retrieved £3370 from the premises.
11. It was after that that both victims were placed in the boot of Mohammed's car and the men left in another vehicle. The victims managed to get out of the boot and got members of the public to call the police, who attended speedily. They found Maloney in his flat, clearing up. There were bindings in the bin and extensive fresh blood stains and skin residue stuck to the iron, which was sitting on an ironing board.
12. Mohammed suffered serious injuries. He had a 2cm laceration to the head, bruising and facial injury to his right cheek, swelling and a displaced fracture to the right eye orbit, a loose tooth, burns to the right upper arm, to the right neck and to the right side of his abdomen and chest. He had a left elbow laceration 5cm down into the muscle. He had burns and lacerations to the feet, as well as bruising and more minor lacerations. He had to be an in-patient in hospital for seven days and has continuing effects from his injuries. Ahmadi's injuries were minor.
13. Abdullah and Pululu were arrested in Pululu's hire car, when it was stopped on 14 October 2015. Inside this car was found Mohammed's satnav and keys for his address, but the satnav had been wiped of information about past movements.

The Appellant's case

14. Abdullah was interviewed on 15 October. He told the police that he worked at night as a train cleaner and that on 6 October he was at home. He stayed in his room and did not leave the house at all, being unwell. He knew nothing of the incident and did not know of the address where the attack had happened. Throughout his interviews and in evidence he maintained his innocence. He admitted to lying in his first police interview about his absence from work. He had told his employer that his young son had fractured his arm. This was a lie given because he did not wish to say that he was unwell again after previous absences. He also admitted in evidence that he had lied about his movements on 6 October. He had in fact left his house to buy some drugs, but had not wanted to say so because it would incriminate him and put his job at risk.

Abdullah: the grounds of appeal

15. As we have said, Abdullah originally sought to advance five grounds of appeal, although he has leave in respect only of one. He now seeks to advance three. We take them in turn. We begin with the ground in respect of which the single judge gave leave, Ground 4.
16. **Bad character.** The Appellant has previous convictions for the supply of heroin and cocaine. In the course of the second trial, Abdullah's counsel put to the victim Ahmadi that not only was he (Ahmadi) a drug user, which was accepted, but further that he (Ahmadi) had made a deliberate attempt to pervert the course of justice and was part of a joint enterprise to commit offences of violence and dishonesty. At the time of the trial, Ahmadi was serving a prison sentence in France for an offence of making a threat to a person in public office. Further, Abdullah gave evidence suggestive of his own current good character. As a result of this approach to the case, Abdullah's previous convictions for supplying drugs were admitted before the jury, at the application both of the prosecution and of the co-defendant Maloney, hence through the Gateways laid down in s.101(1)(f) and (g), and s.101(1)(e).
17. At the second trial, the prosecution sought leave to adduce before the jury the convictions of Ben-Sellem, Tando and Pululu from the first trial, alongside the Appellant's conviction for robbery in the first trial. Those applications were supported by Maloney whose defence was duress at the hands of the others. The prosecution argued that these convictions were evidence that the events took place, as well as supporting evidence of participation, association and links with the other defendants. The Crown also argued that without knowing of Abdullah's robbery conviction, the jury would be mystified as to why he was not facing a robbery count with the others. Abdullah opposed the admission of his conviction from the first trial. He argued that this conviction would have a disproportionate and prejudicial effect.
18. The judge ruled the convictions admissible. He ruled that the second trial would make no sense to the jury unless there was an explanation as to why the other named individuals were not present and why the Appellant was not facing a robbery charge. It was still open to Abdullah to argue the conviction was wrong and he was not guilty of robbery. The jury would be directed that the convictions were not evidence that the Appellant committed the outstanding offences.

Ground 4

19. The ground upon which leave was granted is not directed to the admission of this bad character evidence but concerns the summing up following admission of these convictions. The Appellant complains that the judge should have tailored his direction to the actual facts of the case and in failing to do so he erred in law. It is said it was essential for the jury to understand the purpose for which the convictions had been admitted. It was no part of the prosecution case, submits the Appellant, that the Appellant had a propensity to commit offences of this kind, or to be untruthful.
20. Mr Corrigan, who appears before us for the Appellant Abdullah, did not appear below at either trial. Trial counsel in the second trial, Mr Rashid, prepared the advice and perfected grounds that were before the single judge. That is a regrettably long and diffuse document.
21. The passages from the summing-up addressing the previous convictions read as follows. The first extract is directed to Abdullah's robbery conviction:

“Ashraf Abdullah has already been found guilty of robbing Ari Mohammed. He denies his guilt. He says that the jury which convicted him in the earlier trial were wrong. That conviction for robbery in the earlier trial means that as a matter of law he is to be taken to have committed that offence of robbery unless the contrary is proved. In other words, you can work on the basis that Ashraf Abdullah took some part in robbing Ari Mohammed unless he has satisfied you that it is more likely than not that the earlier jury was wrong to convict him of the robbery. However, guilt in respect of the robbery by itself is no indication of his guilt in relation to the other offences.

As you know, in this case Ashraf Abdullah and Martin Maloney both deny involvement in these offences. Ashraf Abdullah says that he was not present, that he had never been to Barclay House, and he says that he took no part in the attack upon Ari Mohammed.”

“Bad character. You have heard about the character of Ashraf Abdullah and Martin Maloney. Ashraf Abdullah has convictions for supplying heroin and cocaine and separately possession of heroin and crack cocaine with intent to supply....

In the old days, juries were sometimes not told about defendants' previous convictions or other bad character. That was because of the fear that such information would prejudice the jury against the defendant and that they would give it more weight than it deserved. Today such evidence is often admitted because juries understandably want to know whether what the defendant is alleged to have done is out of character or whether he has behaved in a similar way before.

Of course a defendant's bad character is only background. It does not tell you whether he has committed the offences with which he is charged in this case. What really matters is the evidence that you have heard in relation to the offences which the defendants are charged with now. So, be careful not to be unfairly prejudiced against the defendants by what you have heard about their previous convictions or character.

The prosecution say that their bad character shows their propensity or tendency to commit offences of the kind alleged and to be dishonest; in other words, they are less likely to tell the truth in this courtroom. The defence deny that. They say none of the offences previously committed by either defendant is of a similar nature or approaches the gravity of the offences you are considering, and members of the jury, we've been told that the defendants pleaded guilty to the previous offences.

It is for you, members of the jury, to decide the relevance, if any, of their bad character. If you think it right, you may take it into account when deciding whether or not they have committed the offences or whether or not their evidence to you was truthful. However, it does not inevitably follow that a person with bad character has committed the offences with which they are charged or are incapable of telling the truth. You must decide to what extent, if at all, their character helps you when you are considering whether or not they are guilty and whether or not they are telling the truth. But bear in mind that their bad character cannot by itself prove that they are guilty. It would be wrong to jump to the conclusion that they are guilty just because of their bad character.”

22. The written submissions prepared by previous counsel submitted that the direction was wrong in fact and law. These convictions had not been admitted on the basis of an application of demonstrating propensity or as establishing untruthfulness.
23. Mr Corrigan’s submissions to us can be summarised as follows. There was a need for a carefully crafted direction on how the jury should approach the robbery conviction. The jury had to decide the factual issue: was Abdullah in the flat? They needed a crafted direction to explain to them he could be guilty of robbery, through joint venture, without being in the flat, and thus not a participant in the false imprisonment or the torture. They also needed guidance in that the robbery conviction was not adduced to show propensity to commit the other offences charged.
24. The Crown’s response on ground 4 is that the bad character evidence was properly admitted and that it is well-established that, once admitted, it may be used for all relevant purposes, subject to the safeguard of a proper bad character direction. It is agreed that the bad character evidence of Mr Abdullah was admitted at the request both of the Crown and of the co-defendant Maloney. In the course of the trial, Abdullah’s defence attacked the witness Ahmadi as we have indicated. Mr Abdullah gave evidence of his own positive character and introduced elements which the Crown say gave a misleading and false impression.

25. In the course of his evidence as summed-up by the learned judge, the Appellant had said the following:

“After his last conviction he said that he was not involved in drugs. He wanted to be a role model for his two children and show his family that he could be a better man. His probation officer had given him advice, and he told us that the probation officer had said that selling drugs was not the life for him. He told us that he had taken that advice.

He told us that he had changed. He got himself a job working doing night shifts for Southern Railways and had been working for three years as a train cleaner. He said that he liked the job and hoped that he could move up the ladder to become a driver.”

26. The Appellant Abdullah’s defence was of course that he had nothing to do with these offences, had never seen Mohammed and did not know where the relevant flat was. He had never been there. He had never seen Maloney until he was in prison on remand. Thus, his defence was not: “I was guilty of the robbery but not guilty of the other offences”. Rather the opposite. His defence was he was not part of any of the offending. He adduced no other evidence to show the robbery conviction was wrong.
27. The Crown rely on a number of features of the case following upon that evidence. The evidence had given a misleading and false impression. He had admitted lying in relation to his absence from work that day. Maloney was running a defence of duress by his co-defendants which, if the jury accepted the prosecution case, included Abdullah. Hence, the Crown say Abdullah’s previous convictions were potentially relevant to a number of issues in the case, and not merely justified but rendered necessary a full bad character direction, irrespective of the specific basis upon which the convictions had been admitted in evidence in the first place. Ms Shannon fairly makes the point that whilst the judge in his ruling admitting the robbery conviction implied there would be a crafted direction on the implications, by the time of the summing up, the nuanced arguments had been overtaken by the defence offered by Abdullah. The issue was straightforward: the robbery conviction was wrong, and he had no part in any of this.

Our conclusions on ground 4

28. We consider this ground is without merit, essentially for the reasons given by the Crown. It is a long-established principle that previous bad character once admitted can be relied on as evidence in support of any inference or conclusion which may properly be drawn from it: see *Highton* [2005] 1 WLR 3472, and subsequent authorities helpfully digested in the current edition of Blackstone Criminal Practice at paragraphs F13.24 and 25. In our judgment this case, particularly given the way it developed, is a classic example of why that must be so. If the judge had confined his direction to letting the jury know that the robbery conviction was relevant only, for example, to counter Abdullah’s claim that he was a reformed man, that would have been highly artificial. If he had given an elaborate direction that the robbery conviction could mean involvement other than by presence in the flat that would have been confusing. Without a direction, there was a risk that the jury would conclude

Abdullah was guilty as a simple consequence of his robbery conviction; they needed a proper direction to cover such possibilities. Indeed, in the absence of a broad bad character direction there might be a legitimate complaint that a jury had gone too far in applying the robbery conviction, or indeed Abdullah's other bad character, without the necessary direction as to how to proceed. We accept this direction could have been more precise, but it was sufficient and cannot render the convictions unsafe.

Grounds of appeal the subject of renewed application for leave

29. As we have indicated, Mr Corrigan has abandoned Grounds 1 and 5.

Ground 2

30. This ground concerns the admission of Abdullah's previous convictions in the second trial (as opposed to the direction given to the jury in respect of them). Once again, the written grounds of appeal are diffuse and somewhat unclear. The submission of previous counsel appears to be that the admission of the robbery conviction reversed the burden of proof, or indeed was so prejudicial to Abdullah that it dominated the proceedings and prevented a fair trial.
31. Although formally standing over this ground, Mr Corrigan's submissions did not in practice expand on the written submissions of his predecessor.
32. In their response the Crown note that the trial judge considered the admissibility of the robbery conviction in accordance with s.74 of the Police and Criminal Evidence Act 1984 ["PACE"] and relevant authorities. He gave a reasoned ruling, which the Crown submits was correct in law and in the application of the facts. The Crown emphasise that this application was supported by counsel for Maloney, in support of his defence of duress. The learned judge thus had to consider the overall fairness of the trial in respect of Maloney as well as the issue between the Crown and Abdullah. The Crown also emphasised the fact that the judge permitted an amendment to the indictment so as to add the phrase "and others" in respect of each allegation, making it clear that the Crown's case was there may have been others involved not identified to the second jury, demonstrating it was not the Crown's case that the robbery conviction meant it was only Abdullah who had participated in the matters charged. Part of the purpose in doing so was to ensure that the issues of identification and participation by Abdullah were left open for decision by the jury and did not represent a foregone conclusion.
33. In his ruling, the single judge observed:
- "The judge made no arguable error in admitting the convictions for the reasons he gave in his ruling and those set out in the Respondent's Notice."
34. We agree. Particularly in the face of the application by Maloney it was inevitable that Abdullah's robbery conviction should be before the jury. Leave is refused in respect of this ground also.

Ground 3

35. This ground of appeal is addressed to the direction on identification evidence which is said to have been wrong in law, inadequate, unfair and not reflective of the evidence. Mohammed gave descriptions of those involved in the offences. He said that three black men and two white men were involved and the prosecution case was that the man described by Mohammed as “the third black man” was in fact Abdullah. Mohammed attended identification procedures, including one involving Abdullah but Mohammed did not pick him out. Ahmadi attended identification procedures, including one involving Abdullah. The jury saw the visual record of that twice. Ahmadi knew that one suspect only was on the procedure but he in fact picked out two men. In cross-examination, Ahmadi accepted he had identified two people and also accepted that he had been told he should choose only one person. Ahmadi said the two he picked out looked like each other.
36. In directing the jury, the judge stated that “the case against Ashraf Abdullah depends to some extent on the correctness of the identification of him by Bahman Ahmadi”. The judge gave a full and conventional direction about the care that must be taken in relation to identification evidence, including a direction as to the time and circumstances in which Ahmadi could have observed Abdullah. The judge directed the jury to consider whether there was other evidence which supported the identification: evidence of association, telephone evidence, and Abdullah’s conviction for the robbery. The Judge also directed the jury as to the factors which may have made identification more difficult enumerating a number of specific matters, including the “double identification”, or as the judge put it the identification of “a stooge” who it was agreed was not present at the offending.
37. In addition to the identification by Ahmadi, Mohammed identified Abdullah in the dock. As the judge reminded the jury during his summing-up, he had immediately warned them to place “little or no reliance on that purported identification. There is an obvious danger that a defendant occupying the dock might automatically be assumed by even a well-intentioned witness to be the person who committed the crime”. He concluded by directing the jury that the reference to Abdullah in that way carried “little if any probative value”.
38. In the formulated grounds of appeal the submission is that the judge failed to put the defence case adequately, or at all, in respect of this issue; that Ahmadi was “complicit” in the incident, and had given a number of inconsistent statements in relation to the episode; that the conduct of the identification procedure by Ahmadi was defective and that the direction “was designed to underplay the true weaknesses of the identification of [Abdullah] by [Ahmadi] and to exaggerate its reliability by the use of the previous convictions in an impermissible way”. This submission represents not merely a criticism of the summing-up but in fact an allegation of deliberate injustice by the judge. It is wholly unfounded.
39. Mr Corrigan makes no such assertion. His simple argument is that instead of telling the jury to place “little or no reliance” on the dock identification, the jury should have been told to disregard it entirely.
40. Ms Shannon responds by submitting that Ahmadi’s credibility and reliability were not crucial to Abdullah’s conviction. There was sufficient evidence, the Crown say, from

Mohammed alone, for a jury properly directed to convict on all counts. The identification procedure by Ahmadi was recorded and presented as a “negative” and was never advanced by the Crown as other than a partial or qualified identification. The issue was fully explored in cross-examination as was the allegation of complicity and dishonesty by Ahmadi. The jury were well able to consider whether his imperfect identification represented meaningful evidence or not. Moreover, the direction by the learned judge was careful, explored the difficulty fully and warned the jury appropriately, both as to the Ahmadi identification procedure and as to the difficulties attendant on a dock identification. The dock identification had to be seen in context. It was the response of the witness at the end of a long and “aggressive” cross-examination. It was not a pre-planned implication of Abdullah but a spontaneous and exasperated reaction.

41. In refusing leave the single judge expressed the matter simply:

“As to the Ahmadi video identification evidence, it was correctly admitted as potentially probative and its weaknesses were properly identified in the *Turnbull* direction. As to the dock identification, the direction given was sufficient.”

42. Once again, we agree with the conclusions of the single judge. Dealing with the dock identification, the judge’s immediate direction to the jury and his final direction in the course of his summing up were impeccable. As to the Ahmadi identification, it was properly admitted, a point which does not seem to have been contested by Abdullah. The carefully crafted direction given by the judge was, in our view, entirely appropriate in guiding the jury with proper care and caution to assess this evidence. Here too we reject leave to appeal.
43. For these reasons the appeal on ground 4 is dismissed and the renewed applications for permission to appeal on the other grounds are also rejected. Abdullah’s convictions stand.

Sentence – Abdullah

44. In sentencing, the judge, who had of course conducted both trials and was fully familiar with all the facts, began his consideration of the roles played by each by emphasising that the convictions were on the basis of joint enterprise. All the defendants were culpable and responsible for the harm caused. As we have noted, this extended episode can properly be described not merely as false imprisonment and the infliction of serious injury accompanied by threats to kill, but can properly be termed torture, in respect of Mohammed. The judge was satisfied that Pululu, Tando and Ben-Sellem all played a leading role in the planning and commission of these offences. He accepted that there was no evidence Abdullah played any role in the planning of the offence before his arrival at the premises. The judge also accepted that it was Pululu who used the heated iron on Mohammed, who hit him on the head with the hammer or axe and who Sellotaped his mouth and head. It was Tando who caused the serious injury to Mohammed’s arm with the sword and who held him down whilst he was burned. Ben-Sellem was the first to punch Mohammed in the face and was involved in tying him up. It was Ben-Sellem who sprayed Mohammed’s face with the noxious liquid, in addition to punching and kicking him. Ben-Sellem

cut Mohammed three times on the face with a knife and it was he who applied a wet towel to Mohammed's face.

45. The judge noted that “the third black guy” who “in view of the jury’s verdicts was clearly Abdullah” had a large knife and who hit Mohammed in the back and in the chest and kicked him in the head and chest. The judge noted that Abdullah “did not personally employ the extreme violence used by Pululu, Tando or Ben-Sellem but as part of the joint enterprise, provided additional muscle which enabled them to carry out the most brutal aspects of the attack”. It was for those reasons that the judge distinguished Abdullah’s role while still “extremely serious was less than that of Pululu, Tando or Ben-Sellem”.
46. The judge noted that Pululu, at 33, had 23 convictions for 32 offences, although none approached the seriousness of this offending. Tando, aged 28, had 22 convictions for 30 offences, including assault, robbery and burglary as well as involvement with class A drugs. Ben-Sellem also had a number of previous convictions, which were in some measure more minor but did include two convictions for threatening witnesses in order to obstruct or pervert justice.
47. The judge noted that Abdullah had four convictions for nine offences, all of which were drug-related.
48. The judge also considered the background of Maloney.
49. The judge had adjourned sentence so as to obtain reports as to the potential dangerousness of all these offenders. The report relating to Abdullah recorded that he continued to deny any involvement in the offending. Whilst the report acknowledged that the victim Mohammed “would have suffered significant emotional and physical harm” it went on to observe that it was unclear whether Mohammed remained affected. The judge disagreed, having seen more material as to the effect on the victim. The pre-sentence report confirmed that Abdullah did not understand the impact of his criminal behaviour. The probation officer concluded there was a medium risk of re-offending but a high risk of harm to members of the public, suggesting that Abdullah had a propensity towards the use of violence. Nevertheless, the author of the report concluded that the dangerousness threshold had not been passed.
50. The judge noted the mitigation advanced on behalf of Abdullah, including the submission that he was the only one of all the defendants who had no previous conviction for a specified offence, or for offences of violence.
51. The judge made specific reference to relevant Sentencing Council Guidelines. He observed that these offences “do not fit precisely within any guidelines. No guideline considers the combined effect of false imprisonment, robbery, s.18 and the making of threats to kill. However, the most helpful guideline is in my judgment the robbery guideline”. The judge went on to consider the relevant factors under the robbery guideline, in particular the extreme violence and the degree of harm caused. The judge then concluded that the appropriate determinate sentence in relation to Abdullah was 14 years imprisonment in total in respect of all the offences, save the threats to kill.

52. He also separately considered the question of dangerousness. For reasons which he set down, he did not accept the conclusion of the pre-sentence report. He noted that the author of the pre-sentence report cannot have seen the victim personal statements of Mohammed which set out the long-term effects of the offending, including a continuing need for psychiatric support and continuing physical consequences, particularly to the eye. In the light of the facts of the offending, Abdullah's previous convictions, the content of the pre-sentence report, Abdullah's total lack of remorse, and even considering all that has been said in mitigation, the judge concluded that Abdullah was dangerous, and hence passed the extension of five years.
53. We have not the slightest hesitation in saying that the judge's conclusions on this issue were not merely defensible but correct. They were correct for the reasons he gave. He was very well positioned to make the relevant judgment, having seen Abdullah over two extended trials. There is absolutely no prospect of successful appeal and permission to appeal the sentence is rejected.

Renewed Application to appeal sentence: Pululu

54. The facts of the offending are by now clear, as is the role played by Pululu in the offending. He was directly responsible for planning this episode and for carrying out some of the most brutal actions. In rejecting his application for permission to appeal, the single judge said:

“The offences were ... extraordinarily brutal, including sustained torture over a period of six hours and causing not only serious physical injury but also lasting psychological trauma. You were identified as one of the leaders, responsible for the planning and for hitting the victim on the head with the hammer or axe, Sellotaping his mouth, and using the heated iron to torture him. It is not arguable that a determinate term of 17 years was wrong in principle or manifestly excessive.”

55. We agree. The application for permission to appeal is refused.