



Neutral Citation Number: [2019] EWCA Crim 2008

Case No: 2019 00067 A3

**IN THE COURT OF APPEAL (CRIMINAL DIVISION)**  
**ON APPEAL FROM THE CROWN COURT AT NOTTINGHAM**  
**HHJ RAFFERTY QC**  
**T20187083**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 19 November 2019

**Before :**

**LORD JUSTICE SIMON**  
**MRS JUSTICE COCKERILL**

and

**HHJ BATE**

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**Between :**

**DEMI HARRIS**

- and -

**THE CROWN**

**Appellant**

**Respondent**

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**Mr Auty QC for the Crown**  
**Ms Bennett-Jenkins QC for the Appellant**

Hearing dates: 18<sup>th</sup> October 2019  
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**Approved Judgment**

## **Cockerill J:**

1. On 22 October 2018 in the Crown Court at Nottingham before HHJ Rafferty QC the Appellant, having been acquitted of murder, was convicted of manslaughter.
2. On 6 December 2018, she was sentenced by the same Judge to 8 years imprisonment and to pay Victim Surcharge Order of £170. 140 days was ordered to count towards sentence under s.240A Criminal Justice Act 2003.
3. That sentencing exercise involved a consideration of the 2018 Manslaughter Definitive Guideline, which had at that time only been effective since 1 November 2018.
4. The present hearing is that of her substantive appeal against sentence, permission having been granted by the full court in June of this year, following refusal by the Single Judge.

## **The Facts**

5. The relevant facts of this case can be stated fairly briefly. The appellant had been in a relationship with the victim, Christopher Pearson, for approximately 3 years. She was 20 and he was rather older – 39 years old. They lived together at his home, a semi-detached property in Strathmore Close in Hucknall.
6. Their relationship was somewhat volatile, and there was considerable evidence in the lengthy agreed facts which were put before the jury to suggest that Mr Pearson was on occasion aggressive and violent towards the appellant. There had been no fewer than 14 Police attendances, and a referral to a domestic violence organisation in 2016.
7. By way of example, on one occasion Mr Pearson pulled the Appellant across a room by her hair. On another he hit her repeatedly. On one occasion she bit him to encourage him to desist from such behaviour. On others she rang the police, but did not pursue any complaint of domestic violence; events which were characterised as “*crying wolf*” by the Prosecution and examples of coercive control by the Defence. Witnesses were called at trial who might be said to support either of these cases – or both. On two occasions the Appellant was observed to have a 30 cm long large bladed turquoise blue chef’s knife with her. On one of these occasions she brandished the knife in the direction of Mr Pearson.
8. On Saturday 17 February 2018 the Appellant and Mr Pearson visited bars in Hucknall town centre. During the course of the evening they met up with a number of other people, who were invited back to their home after the bars had closed. It was not in issue that all of them were quite drunk. At some point the Appellant removed herself from the party and went to bed.
9. Between 04:30 and 04:45 the Appellant looked out of her bedroom window and saw Mr Pearson in, or near, the hot tub, wearing only his boxer shorts. A couple of the male guests were naked. A couple of partially dressed female guests were in or near the hot tub. The Appellant shouted towards Mr Pearson who responded by removing his boxer shorts. The Appellant went outside to confront him.
10. As she argued with Mr Pearson one or more of the other men pulled her, fully clothed, into the hot tub. The Appellant was clearly angry about this. She climbed out and went

back into the house, returning moments later with a plastic milk bottle filled with pool cleaner, some of which she poured into the hot tub. No one was injured. The Appellant then went back inside and flicked the master switch of the main fuse box off, stopping the hot tub and the music which was playing.

11. Mr Pearson got out of the hot tub and followed the Appellant inside. For what happened then we can have only the Appellant's account. Her evidence was that Mr Pearson was very angry and attacked her, getting hold of her by the hair. She said that in fear of attack and in an attempt to defend herself against an attack by him she reached out, and being against the bedside table, she laid her hand on the blue knife already referred to - which it was Mr Pearson's habit to keep in the bedroom, on or in the bedside cabinet for personal protection. At trial there was a dispute about whether this account was feasible, given that a glass of orange juice on the bedside table was undisturbed.
12. What is clear is that at some point in the next minutes, the appellant stabbed Mr Pearson with moderate force twice. It was the Appellant's evidence that she did so in the course of a struggle while Mr Pearson had her by the hair. Remembering that biting him had worked in the past, she said she "*wanted to poke him to get him off me*".
13. A guest, Gemma Robinson, went into the house to get dressed. She went upstairs and found the Appellant on the landing in a distressed state. Mr Pearson was lying on his back injured. The Appellant said that she had stabbed him because he attacked her. Other guests arriving on the scene placed Mr Pearson in the recovery position and administered Cardio Pulmonary Resuscitation. The emergency services were called at 05:50. The knife was found at the foot of the stairs.
14. Mr Pearson was taken by ambulance to hospital and was treated for two wounds to the left upper side of his abdomen. He received three blood transfusions, but died at 12:39 in the operating theatre.
15. A post-mortem was undertaken on Monday 19 February by Dr Stuart Hamilton who concluded that death was caused by a stab wound to the abdomen which had severed the aorta just in front of the spine. It had caused massive blood loss. A second deep wound passed into and through the abdomen. Dr Hamilton also noted four further wounds to Mr Pearson's left elbow, wrist and upper arm, which he said were in keeping with defensive injuries; though as Ms Bennett-Jenkins noted, these lacked some of the characteristics of defensive injuries and could have been caused in some other way. The injuries resulted from at least three "interactions" with the knife.
16. The Appellant was arrested and charged with Mr Pearson's murder, alternatively his manslaughter. Her defence was self-defence. At trial, as already noted, she was acquitted of murder but found guilty of manslaughter, the jury thereby rejecting the defence of self-defence.

### **The Sentencing Remarks**

17. In the light of the submissions made for the Appellant it is important to summarise the sentencing remarks. First, the Judge reviewed the relationship history. He noted the evidence of abusive behaviour on the part of Mr Pearson: "*certainly seemingly on a regular basis he was abusive to you either verbally or violently*". He was unable to form a clear view as to the relationship overall.

18. He reviewed the evidence as to the course of events. He noted that the Appellant was aware what Mr Pearson's response was likely to be to her actions by the hot tub. He said that Mr Pearson was "*naked and, in that sense, vulnerable*" when he followed the appellant, and there was an argument between them. He noted that Mr Pearson did not immediately assault the Appellant and that on the Appellant's account Mr Pearson took hold of her by the hair, while at some stage she came to be in possession of the knife from the cabinet in the bedroom.
19. In this context he noted the evidence that the Appellant had been in possession of the knife on two earlier occasions prior to 19 February. He indicated that the appellant gave a different account of those events which the jury either rejected or did not think featured when considering what took place at the top of the stairs.
20. He noted that the Appellant told the jury that Mr Pearson had made threats to kill her, as he had done before, and she feared that on this occasion those threats would be carried out. He noted that even after the Appellant had been taken by the hair, Mr Pearson struck no blow and that meanwhile she did not tell Mr Pearson that she had the knife.
21. The Judge accepted that the jury's verdict meant that it accepted that the appellant did not attack Mr Pearson intending to kill him or intending to cause him serious harm, but that it had rejected her defence of self-defence, saying: "*inherent in that finding must have been a decision by them that you were aware that you had a knife in your hand and that you used it in an unlawful way*".
22. The Judge then stated that the use of a knife to kill was a serious aggravating factor in any case and formed part of the background to the relevant sentencing guideline. He noted the starting point for offences of murder when a knife was taken to the scene had been increased by Parliament to 25 years and that the Lord Chief Justice had said repeatedly that those who used knives in any circumstance should expect condign punishment. The Judge indicated that these principles must be applied in the Appellant's case.
23. He summarised the evidence of the wounds. He noted that the pathologist found that at least moderate force had been used to inflict the wounds and concluded that the minor injuries were in all probability defensive injuries. He said that anyone using a knife, in any circumstance, needed to understand that the risk of causing serious injury or death was high whether intended or not. The Judge found that what happened at the top of the stairs was "*the last straw*"- the Appellant lost her temper and stabbed Mr Pearson.
24. The Judge considered the new Manslaughter Definitive Guidelines and the need to avoid a mechanistic application of them. He then reflected on the difficulty in determining the Appellant's level of culpability. He found that there was "*a feature in this case that put the offence potentially within Culpability B*", namely that death was caused in the course of an unlawful act which carried a high risk of death or really serious injury which was, or should have been, obvious to the offender. He also noted that Culpability D reflected incidents where death was caused during the course of an unlawful act, which was committed in defence of self or others, where not amounting to a defence. This was also said to accord with the finding of the jury.

25. He went on to say: “*the court has the difficult balancing exercise of sentencing in a case where Culpability B might be here, Culpability D is here also and having to make a decision on balance as to where this case therefore comes. Between B and D is C*”. He then went on to note that the particular factors referenced for that category in the Guideline did not apply here. He rejected the submission that he should sentence on the basis that this was a Category D case and concluded that there must be a sentence of immediate imprisonment.
26. He stated that the one statutory aggravating factor was the use of a weapon. On mitigation the Judge treated the Appellant as a person of good character. He noted that the Appellant was remorseful straight after the incident and attempted to give what assistance she could. He referred to the history of violence by Mr Pearson to the Appellant, noting that the Court could not say whether it was significant. He highlighted the facts that the offence was not premeditated and the Appellant was young.
27. The materials, including the Pre-Sentence Report, which the Judge took into account also included the fact that she demonstrated an understanding of the impact of the offence on the victim’s friends and family. In addition, she was assessed as a low risk of re-offending and as posing a low risk of harm to members of the public. The Probation Officer also highlighted an element of vulnerability due to the significant age between the Appellant and the victim and the nature of the relationship.
28. The Judge observed that the starting point for a Category C offence was 6 years with a range of 3 to 9 years, while for Category B the starting point was 12 years with a range of 8 to 16 years. He concluded that had she been older and there had not been the mitigating factors that there were, the starting point would have been 10 years. The Judge concluded that the appropriate sentence in the circumstances of the case was 8 years imprisonment.

### **The Grounds of Appeal and oral submissions**

29. The grounds of appeal were that:
  - i) The learned Judge failed to afford the Appellant the benefit of the most favourable construction of the verdict.
  - ii) The learned Judge erred in having regard to remarks about sentencing for murder by knife attacks carried out in public.
  - iii) Insufficient credit was given for the numerous mitigating features.
  - iv) The learned Judge erred in failing to identify in which category the offence should be placed within the definitive guidelines on manslaughter.
  - v) The learned Judge wrongly appeared to select Category C as reflective of the Appellant’s culpability.
  - vi) In those circumstances the sentence passed was manifestly excessive.
30. Those grounds have been pursued fully and eloquently in argument before us by Ms Bennett-Jenkins QC, for whose assistance we are most grateful. She emphasised in particular the tragic background of this matter and the youth of the Appellant, as well

as the plethora of material available to show how severely and sincerely distressed she herself was by Mr Pearson's death, and her subsequent descent into shock and clinical depression.

31. She also noted the good use to which the Appellant has put her time in custody since her conviction, the enhanced status she has attained and the creditable progress she has made in vocational and non-vocational education.
32. The core of the submission made, however, was that the sentencing remarks were not as accurate as they might have been and paid insufficient regard to the mitigation and history of the parties in terms of the background of domestic abuse. It was submitted that, given that there was evidence of self-defence (albeit excessive), this should have been the operative indicator, overriding other possibilities within the higher categories.
33. It was argued that the Judge thus erred in choosing a higher starting point and the result was to double or treble the sentence applicable for a Category D offence in the case of a girl who committed an offence in exceptional circumstances, and had no indicators at all of further offending.
34. In addition, reliance was placed on the remarks relating to use of knives. It was Ms Bennett-Jenkins' contention that this case could not be more different than the case from which those remarks were drawn and that citing it effectively pushed the Judge towards the wrong starting point.

## **Discussion**

35. Turning to consider these submissions, we consider the grounds largely together, since it was apparent from argument that in reality they overlapped. Most of the submissions effectively took aim at the Judge's starting point in terms of categorisation.
36. We deal first with the argument that regardless of indications from other categories, the Judge was obliged to sentence on the hypothetical version of events most favourable to the appellant. Although Ms Bennett-Jenkins did not refer us to any authority in support of this submission, we are mindful of the fact that this issue was dealt with by this court in *R v Bertram* [2004] 1 Cr App R(S) 27 and further clarified recently in *R v King* [2017] EWCA Crim 128 where at paragraph 31 the court said:

“Where there is only one possible interpretation of a jury's verdict(s) then the judge must sentence on that basis. When there is more than one possible interpretation, then the judge must make up his own mind, to the criminal standard, as to the factual basis upon which to pass sentence. If there is more than one possible interpretation, and he is not sure of any of them, then (in accordance with basic fairness) he is obliged to pass sentence on the basis of the interpretation (whether in whole or in relevant part) most favourable to the defendant.”

37. The present case was (as Ms Bennett-Jenkins conceded) one where more than one interpretation of the jury's verdict was open to the Judge and where in our view it was clearly possible for the Judge – well placed as he was, having been the Trial Judge, to

be sure of his interpretation of the facts. In those circumstances he cannot be said to have erred in law in not preferring the interpretation urged by the defence.

38. In reality, the thrust of the appeal was not that the Judge was as a matter of law obliged to prefer the most favourable hypothesis, but that on the evidence this was in truth a case of excessive self-defence and should have been sentenced as a Category D case. This was, in effect, the submission made to the Judge on sentencing.
39. Like the Judge, and despite Ms Bennett-Jenkins's submissions, we find ourselves unable to accept this argument. This was in our judgment not a case which should be categorised as a true case of excessive self-defence, at least to the extent of ignoring the other indicators.
40. Plainly the Judge concluded that this was not the case. Equally plainly in our view he was entitled to do so. Here there were at least three blows, including the fatal blow, a second severe blow which went through the body and at least one blow which resulted in the defensive (or "*quasi-defensive*") injuries. On the contrary, it would appear that the Appellant had no significant injuries. It was clear on her own evidence that she had the knife for some time before using it and that in this time Mr Pearson did not injure her beyond grabbing her by the hair. The fatal incident on any analysis occurred at least some steps away from the location of the knife before it was used.
41. Furthermore, as the Judge noted, there was evidence that the Appellant had on two previous occasions armed herself with the same knife that was used to kill Christopher Pearson. On one occasion she lunged towards him and on the other it was in the pocket of her dressing gown when police attended. Certainly there was ample evidence that Mr Pearson had previously acted violently towards the Appellant, but that does not mean that the evidence which negatives a strong case of excessive self-defence should have been ignored.
42. The other way in which Ms Bennett-Jenkins put her case was that once it was established or accepted by the Judge that there were indicators of two categories within the Guideline the Judge should, because of the weight of the evidence of abuse, have used Category D as the starting point for the sentencing exercise.
43. This approach, advocated by Ms Bennett-Jenkins, seems to us to ignore the clear wording of the Manslaughter Guideline. That document – into which of course a very great deal of thought has been put by the Sentencing Council – acknowledges the possibility of situations which will encompass factors within more than one category and provides guidance as to how to proceed when that is the case.
44. Specifically:
  - i) Before the initial stage the following text appears in bold:

**“The characteristics set out below are indications of the level of culpability that may attach to the offender’s conduct; the court should balance these characteristics to reach a fair assessment of the offender’s overall culpability in the context of the circumstances of the offence.**

**The court should avoid an overly mechanistic application of these factors.”**

- ii) Before determining the starting point, the Guideline warns:

“Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

**Where a case does not fall squarely within a category, adjustment from the starting point may be required before adjustment for aggravating or mitigating features.”**

- iii) Before the list of aggravating factors, the following text appears in bold and in its own box:

**“Care should be taken to avoid double counting factors already taken into account in assessing culpability.”**

45. It follows that, based on the approach urged by the Guideline, unless this were a case where the Judge concluded that it was truly a case of excessive self-defence, he would have been wrong to follow the defence's submissions and sentence simply on the basis of Category D. As this court said in *AG's Ref (Bailey)* [2019] EWCA Crim 731 at [24] (a case also dealing with the Manslaughter Guideline):

“when a case does not fall within one of the four categories, the judge will need to identify a starting point somewhere between them before any adjustment is made for aggravating or mitigating features.”

46. The Judge had the difficult task of weighing the evidence and striking an appropriate balance. It was open to him to conclude that an adjustment up from Category D was the best way of doing this; but equally it was open to him, based on his conclusions on the evidence, to conclude that the circumstances of the case better suited an adjustment down from Category B.
47. So the Judge did not err when noting – and balancing - both the points for and against the Appellant. On the one hand he recognised that there were features consistent with excessive self-defence, but he also correctly identified aspects of the case consistent with Category B – a factor which the defence submissions have consistently ignored. Nor did he err by not starting in Category D.
48. Where it seems to us that the Judge's exercise can be criticised, however, is in his apparent failure to reach a conclusion on category and starting point before considering the aggravating and mitigating factors, as the Guideline indicates is the right approach. This is because in this case if the exercise does start from Category B on the (perfectly reasonable) basis that this must be taken to be an offence where the acts “*carried a high risk of death or GBH which was or ought to have been obvious to the offender*”, that



conclusion is reached on the basis that the act involved a sizeable knife – which may have an impact later in the process.

49. At that point the Judge omitted a logical step, in that he noted the two factors, and then noted: “*between B and D is C*”, without concluding that C was the appropriate category. Ultimately one has to infer where the Judge placed the offence by reference to the conclusion that had the Appellant been older and the mitigating factors identified did not apply, the sentence would have been 10 years.
50. This implies that, having considered the factors in the B category, and the factors in the D category, he was starting within Category B, but shifting the starting point from 12 years to 10 years. This appears to be a figure which also takes into account the use of a knife as an aggravating factor, because the Judge said: “*the sole aggravating feature is the use of the weapon in the repeated sense that I have identified*”, and then reduced the 10 years by 2 years solely by reference to “*the matters that have been prayed in aid by Ms Bennett-Jenkins and all of the mitigating factors that I have made reference to*”. (That is: good character, remorse, assistance at the scene, lack of premeditation, history of abuse and youth.)
51. On this basis, and following the reasoning of the Judge, it would seem that his starting point before the aggravating factor of the knife was considered was 8 years – on the cusp of Categories B and C; reflecting a starting point within Category B adjusted downwards by a significant amount to take account of the Category D factors, but not going to the length of fixing a starting point half way between the 12 years of Category B and 2 years of Category D.
52. Thus, though in one sense the Judge’s approach adopted the approach set out in the Guideline, which is that there will often be characteristics of more than one sentencing category, and while the Judge seems to have followed a careful approach to that first weighing exercise, when it came to the precise application of the approach set out in the Guideline there was an element of imprecision.
53. There are two potential areas for criticism. The first is the approach to aggravation in the form of the use of the knife.
54. This is akin to, but distinct from the ground advanced by Ms Bennett-Jenkins that manslaughter itself encompassed the use of the knife. Plainly that submission is not correct. It is not the case (as cases of one punch manslaughter demonstrate) that the use of a weapon, still less a knife, is accounted for in the offence of manslaughter itself. The Guideline specifically makes provision for a Judge to count the use of a weapon as an aggravating factor in appropriate circumstances.
55. Nor are we attracted by the related submission that the Judge should not have referred as he did to published guidance for knife attacks in public places. This argument makes far too much out of a brief reference to a general proposition. Further we consider that it was appropriate in the context of the case (and the decision to be made as to where within the Guidelines to commence the consideration) to make reference to the policy factors relating to knives – it has long been accepted that use of a knife will be an aggravating factor to offences of violence and this is reflected in the sentencing Guidelines and in the authorities.

56. As was noted in *R v. M, AM and Kika* [2010] 2 Cr App R (S) 19 (endorsed by this Court last month in the case of *R v Qoraishi (A-G ref)*, [2019] EWCA Crim 1602):
- “... [I]t is always an aggravating feature of any case involving injury – and of course death – that the injury or death has resulted from the use of a knife or any other weapon ...”
57. There is an obvious reason for this: the danger posed by the weapon itself and the difficulty in defending against its use in an attack.
58. The Judge did not in any way suggest a factual similarity between this case and the kinds of cases involving street knife crime, including the particular case alluded to by the Judge.
59. We consider that the point he made has particular resonance, bearing in mind the submission which was made to him for the defence, which amounted to suggesting that an existing Category D factor should effectively override a Category B factor. This as perhaps the more so as context for his decision that Category B was indeed an appropriate starting point for the sentencing exercise.
60. Where we part company with the Judge is that if, as appears to have been the case, the Judge approached sentence on the basis that this was a Category B case (to be adjusted for Category D elements), that approach took into account the use of the knife. On that basis it was wrong in principle – and contrary to the express warning in the Guideline - to count the use of the knife as an aggravating factor.
61. The second basis for criticism mirrors another ground of appeal: namely that insufficient credit was given for the Appellant’s mitigation. We are less attracted by this submission. It is not necessary for a sentencing judge to replicate every submission made or list every agreed fact. It is quite apparent that the Judge balanced the competing interests with great care.
62. The main thrust of this complaint was that the Judge gave insufficient weight to the history of abuse. We do not accept this submission for two reasons. The first is that although the Judge queried whether the abuse was significant so as to strictly fall within the guideline as a mitigating factor, it is plain from his remarks in the context of mitigation that he did take this into account. In his opening remarks, he was quite clear that Mr Pearson had been regularly abusive verbally and violently. Then, in listing mitigation, he said:
- “undoubtedly there had been an ongoing situation of the kind I described at the opening of these sentencing remarks. ... I am bound to take account of all of these factors in assessing sentence and I make it plain that I do.”
63. The second reason is effectively the mirror image of the point on aggravation. The Judge plainly did consider an adjustment fell to be made on the basis of an element of excessive self-defence. That argument was itself predicated on the evidence of Mr Pearson’s past abuse of the Appellant. Without the prior occurrences, she would not have been in fear of his anger. That being the case, it seems to us strongly arguable that to count the history of abuse as a significant additional mitigating factor would be to

double count in favour of the Appellant. This was a point noted in *Bailey*. It seems to us that the Judge's approach in counting it, but not elevating it to the most significant factor in the mitigation was therefore correct – and possibly generous to the Appellant.

64. Ms Bennett-Jenkins's developed submissions appeared at one point to amount to a complaint more generally about the Judge's factual findings (a matter not formally raised as a ground of appeal). In any event, we are not persuaded by this submission. So, for example the Judge's views on the relative degree of anger of each party was one which was taken out of the context of the consideration of the sentencing exercise itself. As for the Judge's reference to nakedness of Mr Pearson, which was suggested to be a prejudicial irrelevancy, we consider that this was not irrelevant given that it removed any possibility of Mr Pearson's being himself armed, which could be relevant to the events which then occurred.
65. We therefore reject the submission that the Judge erred in his approach to the mitigating factors.
66. On that basis it seems to us that the correct approach would have been for the Judge, having reached his starting point of eight years prior to any aggravating and mitigating factors, to have added no aggravating factors, but simply to reduce the figure by two years to reflect the mitigation he accepted. That would have led to a sentence of 6 years. This conclusion would place the offence in the broad band of "medium culpability". This appears to us to be an appropriate overall band (a consideration noted in *Bola* [2019] EWCA Crim 1507).
67. We would add that – as the authors of the Guideline have anticipated – complex considerations may arise in cases where more than one category is engaged. One approach may be for a sentencer to conduct something of an iterative exercise in this sense; if two categories are engaged, logically the appropriate sentence should be capable of being reached either from the starting point of adjusting downwards from the higher category or adjusting upwards from the lower category.
68. In this case on the Judge's general approach, but as we have viewed the matter: Starting point B, 12 years; adjusting downwards to 8 for the self-defence Category D aspects; and then downwards further to 6 for mitigation. But the same balancing exercise might equally be arrived at by starting at the top of Category D, 4 years (to reflect the limitations of the excessive self-defence argument); adjusting upwards by 4 years to reflect Category B factors (knife); before reducing for mitigation.
69. However the drafting of the Guideline – and the approach of this Court in *Bola* - suggests it may be preferable for the sentencer to balance the competing considerations in terms of an overall culpability band, make plain the band from which he or she is starting, and then weigh aggravation and mitigation from that starting point. Here, as the Judge noted the and as we conclude, the appropriate overall band, reflecting a fair assessment of culpability, is Category C. A starting point of 6 years in Category C (intending some harm, but without counting the knife) allows for upwards adjustment for the knife and downwards adjustment for mitigation, reaching the result we have already outlined.
70. We should deal briefly also with the submission that the Judge failed to give sufficient credit for the fact that a plea to manslaughter had been canvassed, but was rejected by

the Crown. Canvassing a plea is not usually sufficient to attract credit and there is no good reason here to adopt a different approach. In addition it appeared to be open to debate whether there was in fact any formal “canvassing” of a plea.

71. The sentencing exercise was, as we have noted, sensitive and complicated and there were competing considerations. We acknowledge the Judge’s careful reasoning, and his considered conclusions. Nevertheless for the reasons set out above we have concluded that the Judge imposed a sentence which was too long and on a basis which justifies the intervention of this Court.
72. Accordingly we quash the sentence imposed and substitute a sentence of 6 years imprisonment.