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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
The Strand
London
WC2A 2LL

Wednesday 18th December 2019

B e f o r e:

LORD JUSTICE HOLROYDE

MR JUSTICE CAVANAGH

and

HIS HONOUR JUDGE PICTON

(Sitting as a Judge of the Court of Appeal Criminal Division)

R E G I N A

- v -

KERRY KYSHA-LEE DONOVAN

AARON WOOLCOCK

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Miss T J Ayling QC appeared on behalf of the Appellant Kerry Kysha-Lee Donovan
Mr J Femi-Ola QC appeared on behalf of the Appellant Aaron Woolcock

Mr A Orchard QC appeared on behalf of the Crown

J U D G M E N T
(Approved)

LORD JUSTICE HOLROYDE:

1. Following a trial at the Central Criminal Court before His Honour Judge Heathcote-Williams QC and a jury, the appellant Kerry Donovan was convicted of the murder of her great uncle, Leroy Junior Edwards. Her cousin, Aaron Woolcock, was convicted of the manslaughter of Mr Edwards. On 18th April 2019, Ms Donovan was sentenced to life imprisonment, with a minimum term of 27 years (less the days she had spent remanded in custody). The appellant Woolcock was sentenced to fourteen years' imprisonment.
2. Both appellants now appeal against their sentences by leave of the single judge.
3. The principal issues in these appeals relate to the correct approach to a judge's determination of the factual basis for sentencing, and to whether in this case the judge was entitled to make the decisions he did in determining the basis for sentencing.
4. We must focus upon those issues and the other points raised by the appellants. In doing so, however, we do not lose sight of the human realities of the case. In particular, we have well in mind that the murder of Mr Edwards not only ended one life but also blighted many others. We have read the Victim Personal Statement in which one of his daughters, writing on behalf of all her family, makes very clear the extent of their loss and their difficulty in coming to terms with the death of Mr Edwards.
5. Mr Edwards lived on the upper floor of a terraced house which had been divided into flats. His neighbour on the ground floor was woken in the early hours of 18th August 2018 by banging noises. He went to investigate and found blood in the communal hallway. When the police arrived, they found that a trail of blood led from the front door to the door of Mr Edwards' flat. Mr Edwards was found on the floor just inside his own front door. He had been stabbed in the neck and chest. He had also sustained a lesser wound to the chest and numerous defensive injuries to his right arm and both hands. He was taken to hospital but, sadly, efforts to save his life were unsuccessful.
6. The prosecution case was that, having taken crack cocaine and cannabis, and after drinking alcohol, Ms Donovan had visited Mr Edwards' flat at around midnight and had later left. She withdrew £50 from a cash machine, but her subsequent attempts to withdraw more were unsuccessful because there was virtually no money left in her bank account. She telephoned Woolcock and arranged to meet him. He came, bringing with him a knife in a sheath. We have seen a photograph of the weapon. It was a hunting knife with a sharp, pointed blade, 18½ centimetres long with one cutting edge and a serrated upper edge.
7. The two appellants travelled to Mr Edwards' flat by taxi, for which Woolcock, who was unemployed, paid. Ms Donovan rang the buzzer, whilst Woolcock remained in the background, ready to assist. Mr Edwards came downstairs and opened the front door. He was stabbed by Ms Donovan at the front door. He managed to close the door behind him and made his way back upstairs to his own flat before collapsing.
8. The appellants fled on foot, leaving behind incriminating evidence. They changed their clothes and dumped the clothes they had been wearing and their mobile phones. None of those items has been recovered.
9. When arrested and interviewed, Ms Donovan said that she was sad about Mr Edwards' death, but otherwise declined to comment. Woolcock said that he had been invited to a party by Ms

Donovan and had therefore met up with her; but he did not know what had happened until after the event.

10. At trial Ms Donovan gave evidence. She said that Mr Edwards had sexually abused her during her childhood and that he had raped her earlier on the night of his death. She admitted that she had stabbed Mr Edwards and thereby inflicted fatal injury, but said that she had done so in self-defence. She also raised the partial defence of loss of control.

11. There was evidence that, shortly after the killing, Ms Donovan had told a nurse at a hospital that Mr Edwards had come to the front door of the building armed with the knife. She did not say the same to the jury. Her evidence to the jury was that she had been struggling with Mr Edwards and had then spotted that Woolcock had a knife in the waistband of his trousers. She had taken it from him, unsheathed it, and used it to stab Mr Edwards.

12. Mr Orchard QC, for the prosecution, began his cross-examination and asked questions about suggested implausibility's in her account. After a time, Ms Donovan said that she wanted to change her plea (although she did not actually do so), and she then refused to answer any more questions. Accordingly, her evidence came to an early end.

13. Woolcock, for his part, did not give evidence.

14. The judge accepted a submission that in Ms Donovan's case the partial defence of loss of control should be left to the jury. It was submitted to him by Miss Ayling QC, who appeared on behalf of the appellant at trial as she does before us, that he should direct the jury about this partial defence in terms which did not include any reference to the provision in section 54(4) of the Coroners and Justice Act 2009, which has the effect of excluding the partial defence if, in carrying out the killing, the offender acted in a considered desire for revenge. With all respect to Miss Ayling, we are bound to say that in the circumstances of this case we do not see how that submission could possibly have succeeded. Be that as it may, the judge rightly rejected it. In a written ruling explaining his reasons, he said this:

"In my judgment, it is realistically possible that the jury could credit Ms Donovan's history of sexual abuse by Mr Edwards and that she therefore had a significant grievance against him and a significant fear of further sexual abuse by him, but the jury could accept the prosecution case about what took place on the night in question, in particular that, at about 0345, Ms Donovan brought the knife or caused the knife to be brought to the scene for the purpose of attacking Mr Edwards, and Mr Edwards did not attack her in any way, rather she attacked him with the knife, and the jury could find that the motive suggested by the prosecution for her attack on him is mistaken and that the true motive for her attack on him was planned revenge for the sexual abuse which she had previously suffered."

The jury returned the verdicts to which we have referred.

15. Ms Donovan is now aged 30. No pre-sentence report was thought to be necessary in her case and none is necessary now. She has a son, now aged 12, who has for some years lived with his father and who, as we understand it, sees Ms Donovan on alternate weekends.

16. In his sentencing remarks, the judge summarised Ms Donovan's personal circumstances in these terms (at page 4C):

"She has had periods of achievement and stability in her life but also periods of depression and self-harming. Her life appears to have become increasingly chaotic in years leading up to the murder. She attempted suicide in 2015. She pleaded guilty to two charges of public disorder arising from a single occasion in 2016 and on that occasion also obstructing police officers, including threatening to stab a police officer, for all of which she was sentenced to a community order. Over the ensuing two years, she had four convictions for failing to comply with that community order. She earned some money by occasionally cleaning for Mr Edwards."

Later, the judge said that by February 2018 Ms Donovan was dependent on crack cocaine and cannabis and was drinking heavily. Her finances were, therefore, precarious. From April 2018, in addition to other debts, she had arrears of rent, such that her home was the subject of a suspended possession order.

17. The appellant Woolcock is now aged 31. He had given an account to the author of the pre-sentence report, which was prepared in his case, to the effect that he had been drinking and taking drugs that night, had been called by Miss Donovan who invited him to a party, and had travelled in the taxi, believing that they were going to a party. He admitted to the author of the report that he had his knife in its sheath in the waistband of his trousers. He said that he carried it for protection, having been assaulted in the past. He said that Ms Donovan had taken the knife from him and that he had remained outside the premises and did not know what had happened until after the event.

18. In his sentencing remarks, the judge summarised Woolcock's personal circumstances in these terms (at page 5C of the sentencing remarks):

"The author of the pre-sentence report on him says he has told me that he passed several GCSE exams. He did find some short-term work but agrees that mostly he has lived off his mother. At the time of the offending he accepts that he had no money. His partner, who has since given birth, was on universal credit. The impression I got was of a young man aged 30 who has not worked, preferring to live off his mother and who had a developing interest in both Class A and B drug use. Mr Woolcock had a warning for possession of pepper spray in 2006 at the age of 17; cautions for assault in 2007, aged 18; and for simple possession of cannabis in 2012, aged 23; and eight convictions for eleven offences between 2007 and 2017, including possession within his own home of a stun gun disguised as a torch in 2013; [but] mostly for simple possession of cannabis, ecstasy and cocaine."

19. In his sentencing remarks, the judge set out in some detail the basis on which he would sentence. He accepted that Ms Donovan may have suffered sexual abuse when she was a child, but he rejected her claims that she had been sexually abused in childhood by Mr Edwards and that Mr Edwards had expressed a sexual interest in her younger brother. The judge explained his reasons as follows (at page 3F):

- "1. In my judgment, Ms Donovan is not a person whose word can be relied on unless she is either making an admission contrary to her own interest or what she says is supported by independent evidence.
2. She had never made any allegations against Mr Edwards before the murder.
3. Her motive in making these allegations after the murder was plainly to try and justify or excuse what she had done.
4. By killing Mr Edwards she had deprived him of the opportunity to respond to these allegations.
5. Examination by the police of extensive material which they removed from Mr Edwards' flat revealed no evidence of him having any sexual interest in children or, for that matter, in male on male sex, whatsoever.
6. The police interviewed a number of other family members, none of whom supported these allegations."

20. The judge went on to say that the evidence drove him to the conclusion that in the years leading up to the murder there had been some sexual relationship between Ms Donovan and Mr Edwards, from which she had derived some financial advantage. He found that Ms Donovan had felt a degree of resentment about the relationship. Features of the evidence which were relevant in this regard were that, at an earlier date, Mr Edwards had taken some photographs of Ms Donovan posing naked and that when the flat was searched after the killing, Ms Donovan's knickers were found under the pillow of Mr Edwards' bed.

21. As to the circumstances of the murder, the judge rejected Ms Donovan's account that she had been raped by Mr Edwards. He summarised his reasons for doing so as follows (at page 6A):

- "1. Her unreliability as a witness previously mentioned.
2. The inherent incredibility of aspects of that account.
3. The inconsistency between that account and her immaculate appearance in the CCTV footage very shortly afterwards.
4. The unlikelihood of her saying in a taxi later that night that she wanted two or three men to 'fuck' her (which she did say), if she

had in fact been raped earlier that night.

5. Her failure to mention the alleged incident with Mr Edwards to [the] nurse when she attended hospital the following day or in three interviews with the police.

6. The absence when she was examined by the forensic medical examiner the following day of any of the injuries which she subsequently claimed to have suffered in the alleged incident and a corresponding absence of damage to Mr Edwards' fingernails which he would have been likely to have sustained if her account of the alleged incident were true."

22. The judge said that he was sure that Ms Donovan's motive in returning to the flat was not revenge but robbery: she believed that Mr Edwards had money in the flat. The judge was sure that she had enlisted Woolcock to assist her in robbing Mr Edwards, and sure that Woolcock willingly provided the knife to her, knowing the purpose for which he was providing it. He said (at page 7D-F):

"From the route to verdict, the jury in finding Mr Woolcock guilty of manslaughter must have been satisfied so that they were sure that Mr Woolcock intentionally encouraged and/or assisted Ms Donovan to strike Mr Edwards with the knife. I am sure that Mr Woolcock formed that intention that night well before he and Ms Donovan arrived in Ringstead Road and that what he did with that intention was to provide the knife and to be available if occasion arose to assist in joining the confrontation with Mr Edwards."

The judge added that the jury, by their verdict, had not been sure that Woolcock had intended that the knife, if and when used, would cause really serious injury.

23. The judge observed that Ms Donovan's evidence was notable for its dishonesty and its callousness about the victim. He identified (at page 12E) the following aggravating and mitigating factors. First, as to the aggravating factors, other than those already taken into account in reaching his starting point for sentence, the judge listed:

"1. That she was under the influence of drugs and alcohol which she had voluntarily consumed.

2. That she was the leader of a joint attack.

3. That the attack was on a man in his mid-60s who was on his own, unsuspecting and unarmed.

4. That it was a murder committed on the doorstep of the house where the victim lived and which should, of all places, have been the place where he was entitled to feel safe.

5. That it was committed at night.
6. That it must have inflicted significant terror and suffering on the victim during the admittedly short period he remained conscious.
7. That she made no effort to help or get help for the victim.
8. That she changed her clothes and dumped both sets of clothes and her phone in an attempt to escape detection.
9. That she made very nasty false allegations against Mr Edwards in an attempt to blame him for what she had done to him."

As to mitigation, the judge found:

- "1. That her previous criminal record was not long or particularly serious.
2. That Mr Edwards was partly responsible for an inappropriate relationship with her as an adult which left her with a sense of resentment which I am sure played a part in her decision to rob him with a knife.
3. That the [intended] robbery was not long in planning and was not sophisticated in planning or execution.
4. That the prosecution has always rightly accepted that while Ms Donovan intended to cause Mr Edwards really serious bodily harm, she did not intend to kill him.
5. That she did at least admit that she was the person who wielded the knife.
6. That she does show some awareness of the awfulness of what she has done and some remorse, albeit that she appears less concerned about the taking of Mr Edwards' life or the devastating effect on his family and friends than about the consequences for herself.
7. That although she is not her son's primary carer, her son will have little, if any, opportunity for contact with his mother as he grows up."

24. Applying the provisions of paragraph 4 of Schedule 21 to the Criminal Justice Act 2003, the judge was satisfied that this murder had been committed for gain, with the result that the starting

point for the minimum term was 30 years. Under paragraph 5A of that Schedule, it was a murder where a knife was brought to the scene and was used as a weapon, for which the starting point would be 25 years. The judge concluded that in all the circumstances the appropriate minimum term in Ms Donovan's case was one of 27 years. He said (at page 16B):

"In my judgment, viewed as a murder where a knife was brought to the scene and used, the further aggravating features, including the additional feature that the primary motive was robbery, outweighed the mitigating features, but viewed as a murder for gain, this killing, terrible as it was, was not as long or as carefully or as lethally premeditated as many murders for gain."

25. In Woolcock's case, the judge determined that the offence fell into category B of the Sentencing Council's definitive guideline in respect of offences of manslaughter by unlawful act because "death was caused in the course of an unlawful act which carried a high risk of death or really serious injury which was or ought to have been obvious to the offender". Category B cases which involve high culpability have a starting point of twelve years' custody and a range from eight to sixteen years. The judge identified (at page 14C) the following aggravating features, which had not already been taken into account in that categorisation:

1. That Mr Woolcock had some previous criminal record for possession of weapons and illegal drugs.
2. That he was under the influence of drugs and alcohol which he had voluntarily consumed at the time of this offence, although this is partly taken into account already in the categorisation since I am sure it was the drugs and alcohol which blinded him to the otherwise obviously high risk of really serious bodily harm.
3. That the manslaughter occurred in the course of an attempted robbery.
4. That it was he who provided the knife, although the fact that the knife was used is already taken into account in the categorisation since it was the use of the knife that created the obviously high risk of really serious bodily harm or death.
5. That it was a joint attack.
6. That the attack was on a man in his mid-60s who was on his own, unsuspecting and unarmed.
7. That it was a manslaughter committed on the doorstep of the house where the victim lived and which should have, of all places, been the place where he was entitled to feel safe.
8. That it was committed at night.
9. That it must have inflicted significant terror and suffering on the victim during the admittedly short period he remained

conscious.

10. That Mr Woolcock made no effort to help or get help for the victim.

11. That he dumped his clothes and phone in an attempt to escape detection and kept out of the way for a month."

26. The judge then identified the following mitigating features:

"1. That his previous criminal record for possession of weapons was for possession of weapons which were of a different nature, less serious and some time ago. And his previous criminal record overall was for much less serious offences.

2. That he was the junior partner in the joint enterprise.

3. That the intended robbery was not long in planning nor sophisticated in planning or execution.

4. That he was not the stabber and did not have immediate control over the degree of force with which the knife was used.

5. That he has not sought to blame the victim.

6. That although he does not fully accept his guilt, he has expressed remorse.

7. That his innocent partner and young son will be deprived of much contact with and support from him for a considerable number of years."

The judge concluded that the aggravating features outweighed the mitigating features. He did not find Woolcock to be a dangerous offender. In those circumstances he imposed the sentence of fourteen years' imprisonment.

27. On behalf of Ms Donovan, Miss Ayling QC submits that the minimum term was manifestly excessive in length. She submits, first, that the judge made unjustified findings of fact and wrongly sentenced on the basis that the motive for murder was robbery. She puts forward a number of reasons why she suggests that that cannot have been the motive and criticises the judge for ignoring or failing to give sufficient weight to those points. She relies on the fact that the judge gave the ruling (from which we have already quoted) as to a considered desire for revenge in the context of the partial defence of loss of control. The essence of her argument is that the judge there accepted that, on the evidence as a whole, the jury were entitled to find that Ms Donovan did lose her control but was motivated by revenge for what she had suffered at Mr Edwards' hands. The verdict, she submits, was consistent with the jury having made such findings and, if they did so, it would not be right to sentence on the basis of a murder for gain. She relies on principles stated most recently in *R v King (Dwayne)* [2017] EWCA Crim 128,

[2017] 2 Cr App R9S) 6, and in a number of earlier cases. In particular, she relies on *R v Stosiek* (1982) 4 Cr App R(S) 205 as supporting her submission that where there was sufficient evidence to leave to the jury the issue of loss of control, and where a jury may easily, as the issue had been left to them, have formed the view that Ms Donovan had acted from a considered desire for revenge, the benefit of the doubt as to the way in which the jury came to their conclusion should have been resolved in the appellant's favour. Miss Ayling argues that the judge was not entitled to reject Ms Donovan's evidence that she had been abused by Mr Edwards, and, in particular, she submits that the judge wrongly based his decision on an unwarranted assumption that if the abuse had happened, Ms Donovan would surely have complained about it long before the murder.

28. In a note which she had helpfully prepared for the sentencing hearing, Miss Ayling had accepted that if her primary submission succeeded, the judge would be bound to conclude that the appropriate starting point was 25 years. At the hearing, however, she learned that Mr Woolcock had told the author of his pre-sentence report that he had taken the knife to the scene – an admission which he had not previously made. Miss Ayling submits that that admission was consistent with Ms Donovan's evidence that she had spotted the knife in the waistband of Woolcock's trousers and that, accordingly, this was not a case of the knife being taken to the scene for use as a weapon. On that basis, she argues that the appropriate starting point should have been one of fifteen years.

29. Finally, Miss Ayling submitted that the judge gave insufficient weight to matters of mitigation – in particular, expert evidence prepared during the trial, in which two consultant forensic psychiatrists expressed the view that Ms Donovan did appear to have some, though not all, of the features of post-traumatic stress disorder, and had in the past self-harmed. In addition, there was an earlier report from a different psychiatrist which made reference to Ms Donovan having suffered from depression over a period of several years. Ms Ayling points out that under paragraph 11 of Schedule 21 to the 2003 Act, one of the statutory mitigating factors is mental disorder or mental disability, which lowered the offender's degree of culpability.

30. On behalf of Woolcock, Mr Femi-Ola QC submits that the sentence of fourteen years' imprisonment was manifestly excessive in length. Woolcock's position is, of course, affected by the findings which the judge made about Ms Donovan's motivation. Mr Femi-Ola similarly submits that the judge made unjustified findings of fact. He adopts in this regard the submissions of Miss Ayling and argues that the effect of the judge adopting that incorrect and unjustified basis in Woolcock's case was that the crime was wrongly elevated to one falling within category B, rather than category C, of the sentencing guideline.

31. Mr Femi-Ola similarly submits that the evidence did not support the judge's finding that the killing was motivated by robbery. He, too, puts forward a number of reasons why he suggests that the evidence in fact pointed away from an intention to rob; and he argues that the judge had, in effect, created a speculative and unrealistic version of events which wrongly imported into the case a number of aggravating features which were not present. Had the judge not fallen into that error, submits Mr Femi-Ola, he would have placed the offence into category C, medium culpability, for which the starting point is six years' custody and the range three to nine years; or, at the most, he would have placed the offence at the bottom of the category B range.

32. The submissions made on behalf of the appellants were resisted by the respondent in a detailed Respondent's Notice, to which Mr Orchard QC has added brief oral submissions this morning.

33. We are very grateful to all counsel for their assistance. We have reflected on their

submissions. In *King (Dwayne)* the court considered a number of earlier cases in which there had been discussion of the approach which a judge should take to make findings of fact for the purposes of sentencing after a jury trial, including *Stosiek* and *R v Bertram* [2004] 1 Cr App R(S) 27. Having reviewed those cases, Sweeney J, giving the judgment of the court, summarised the court's conclusions as follows:

"31. In our view the correct approach by the judge, after a trial, to the determination of the factual basis upon which to pass sentence, is clear. If 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."

Having referred to the case law which supported those conclusions, and having in particular rejected any suggestion that *Stosiek* created a free-standing principle, Sweeney J continued:

"34. Instead, the *Stosiek* line has clearly been subsumed within the correct approach that we have identified above – as explained by Fulford J (as he then was) in giving the judgment of the Court in *Bertram* ... when, at [20] and [21], he said:

'Where, for instance, one or more plausible alternatives are left to the jury, as the foundation of their verdict "in those circumstances, the court has to be extremely astute to give the benefit of any doubt to a defendant about the basis on which a jury convicted" per Watkins LJ in *Stosiek*....

Put otherwise, where a jury's verdict is consistent with more than one version of the facts, it is for the judge, carefully applying the criminal standard of proof, to determine which version is correct. Accordingly, when the basis of the jury's verdict is not clear, where there is uncertainty as to what the jury concluded, the judge is under a positive duty to decide the factual basis for the sentence When discharging that duty, where there is genuine confusion or obscurity, such as to make it impossible for a judge to make a positive finding to the criminal standard, then the sentence should be on the basis most favourable to the defendant"

34. We respectfully adopt and endorse those statements of principle. We accept that in the light of the directions which had been given as to the partial defence of loss of control, one possible explanation of the verdict is that the jury accepted Ms Donovan's account of sexual abuse by Mr Edwards, but were sure that she stabbed him in a considered desire for revenge for that abuse. In those circumstances, it is clear from the principles stated in *King (Dwayne)* that the judge had to consider carefully whether he could be sure that Ms Donovan was motivated by robbery and not revenge before he could properly sentence on that basis. If he was in any doubt about that, then he was bound to give the benefit of the doubt to Ms Donovan.

35. Applying those principles to the present case, we are satisfied that the judge was entitled to find that the murder was committed for gain and to sentence both appellants accordingly. We are not persuaded that the various features of the evidence relied on by Miss Ayling and Mr Femi-Ola, even when viewed collectively, made it impermissible for the judge to find the facts as he did. With respect to counsel, the fact that it is possible with hindsight to point to logical flaws in a plan formed by two persons who had been abusing controlled drugs and alcohol does not lead to the conclusion that the judge could not properly make the findings that he did. In particular, the fact that the judge had left loss of control as an issue for the jury, and had included in his direction a reference to the statutory exclusion in relation to a considered desire for revenge, did not mean that he was obliged to sentence on the basis which Miss Ayling and Mr Femi-Ola suggest.

36. The partial defence of loss of control was properly left to the jury because it was raised by Ms Donovan's evidence and the jury might reasonably have accepted some or all of that evidence. The exclusion of the partial defence in cases of a killing in a considered desire for revenge was a necessary part of the judge's directions of law. The judge was, nonetheless, entitled to find that he could clearly determine and be sure of a different factual basis.

37. We have set out at some length passages from the judge's sentencing remarks because, in our view, they show clear and cogent reasons why the judge did not believe Ms Donovan's evidence on this issue and why he was sure that the true motive was robbery. He did not rely solely on an assumption as to the likelihood that a victim of sexual abuse would complain. Absence of complaint was only one of the several features of the evidence which he took into account and was coupled, for example, by reference to the context of Ms Donovan's conduct and remarks immediately after the killing.

38. We are, therefore, satisfied that the judge correctly identified the starting point for Ms Donovan's minimum term, in accordance with statute, to be 30 years. He correctly moved downwards from that starting point to reflect his finding that Ms Donovan's intention when she stabbed Mr Edwards was to cause really serious injury, rather than to kill, and also to reflect the fact that the financial motivation did not involve any very lengthy or sophisticated planning or execution.

39. We have considered carefully whether the judge should have made any greater allowance than he did to reflect the expert evidence as to Ms Donovan's general mental state, or to the fact that her long term of imprisonment carries with it a substantial reduction in her contact with her young son and thus impinges on him as well as on her. We conclude, however, that the weight to be given to the psychiatric evidence could be only limited. It fell short of a firm diagnosis of post-traumatic stress disorder and, in so far as Ms Donovan was suffering from post-traumatic stress disorder, the possible causes thereof were identified as the killing or the sexual abuse which Ms Donovan said she had suffered at the hands of Mr Edwards. The former plainly could not assist her on sentence; the latter could not assist her because of the judge's rejection of her account of sexual abuse.

40. As to the unhappy position of Ms Donovan's son, the judge took that into account. As to the generally unhappy features of Ms Donovan's life, which emerged from the information about her before the court, those were matters of which the judge was clearly aware but to which he could give only limited weight.

41. In those circumstances, whilst we have been greatly assisted by Miss Ayling's submissions, we are unable to conclude that the minimum term selected by the judge was manifestly excessive.

42. Turning to the case of Woolcock, we are again of the view that the judge was entitled to make the findings that he did as to the circumstances and motivation of the appellant's visit to Mr Edwards' home and as to the circumstances of the stabbing, and to sentence accordingly. In particular, we are unable to accept Mr Femi-Ola's submission that the conviction for manslaughter pointed away from robbery. We do not think that that conclusion can properly be drawn. In the light of the directions which the judge had given, the jury's verdict showed, as the judge said, that the jury were sure that Mr Woolcock had intentionally encouraged Ms Donovan to strike Mr Edwards with the knife and/or had assisted her to strike with the knife by bringing it to the scene and/or giving it to Ms Donovan and/or making himself available to joint her if the need arose. Given the hideous nature of the knife, any use of it against Mr Edwards carried with it a high risk of death or serious injury which ought to have been obvious to Woolcock. High culpability was therefore established, and the judge was plainly entitled to put the case into category B. He was also plainly entitled, for the reasons which he gave, to find that the aggravating features outweighed the mitigating features and accordingly to move upwards from the guideline starting point.

43. The sentence of fourteen years' imprisonment was well within the category range. Grateful though we are to Mr Femi-Ola, we can see no ground on which that term of imprisonment should be reduced in length.

44. For those reasons these appeals against sentence fail and are dismissed.

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