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NCN: [2022] EWCA Crim 445  
IN THE COURT OF APPEAL  
CRIMINAL DIVISION

CASE NO 202103522/A3



Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday 17 March 2022

Before:

LADY JUSTICE MACUR DBE

LADY JUSTICE CARR DBE

MRS JUSTICE MAY DBE

REGINA  
V  
VASILE BRATU

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NON-COUNSEL APPLICATION

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**J U D G M E N T**

LADY JUSTICE CARR:

### **Introduction**

1. This is a renewed application for leave to appeal by the applicant who is now 40 years of age. He was convicted after trial of the murder of Ms Constanta Bunea on 4 April 2021. On 21 October 2021 the trial judge (HHJ Heathcote Williams QC) sentenced the applicant to life imprisonment with a specified minimum term of 21 years under section 322 of the Sentencing Act 2020.

### **The Facts**

2. The judge sentenced the applicant on the following factual basis. The applicant had come to the United Kingdom from Romania in around 2012. By around 2015 he made his living, at least in part, through the earnings of female sex workers. Ms Bunea was one of those workers. She was also Romanian; she was 49 years old at the time of her death.
3. The applicant had arranged for Ms Bunea to come over to the United Kingdom in 2019 and to do sex work here. A relationship between them developed. The applicant left his wife and children and went to live with Ms Bunea in a succession of short-term flats from where she worked as a sex worker. Ms Bunea was a vulnerable person who sometimes self-harmed. She loved the applicant and was anxious of losing him. Whilst in one sense he loved her back, he was also abusive to her, preying on her affection for him, her anxiety and her limited command of English. He caused her cuts and bruises in order to control her and he lived off her earnings as a sex worker. He discouraged her from contact with some of her family and friends. By April 2021 the applicant and Ms Bunea had developed a crack cocaine habit. Ms Bunea was sad and unwell and wanted to return to Romania.
4. On the night of 3 and 4 April 2021 both had taken crystal meth and crack cocaine. There was an argument. Ms Bunea threatened to disobey the applicant and to leave. She got dressed to do so, with her jacket on and her handbag across her body. Frightened of assault, she locked herself in the bathroom and opened the window in a desperate attempt to escape - even though the flat in question was on the fifth floor. The applicant broke the locked bathroom door open and stabbed her in the back with a pair of scissors. He did so with sufficient force to drive the blade of the scissors through several layers of outer clothing, into her skin and through muscle. The scissors nicked the underside of a rib and travelled into Ms Bunea's left lung and aorta. The applicant then attempted to dispose of some of the drug paraphernalia and wiped his telephone before then shouting that an ambulance should be called. He called emergency services. They arrived very quickly but Ms Bunea could not be revived.

5. The judge sentenced the applicant without a pre-sentence report. We agree that one was unnecessary, not least in circumstances where the judge had presided over the applicant's trial. The applicant's antecedents included a conviction in 2018 for possession of a knife in a public place. The judge did have before him a victim personal statement from Ms Bunea's daughter, Ms Dinu, which we have also read.

### **Grounds of Appeal**

6. The minimum term is said to have been manifestly excessive in that there was insufficient evidence for the judge to reach the conclusion that he did, namely that the applicant had previously assaulted the deceased. The only evidence to support that contention was Ms Dinu's evidence, she having seen marks on her mother on three or four occasions. Ms Bunea herself had never complained of any assault and Ms Bunea had been the victim of an earlier assault or robbery by a third party. Further, it is suggested that the judge was wrong to conclude that the applicant had delayed calling emergency services. That conclusion was based only on the evidence of a neighbour, who had heard moaning from a bathroom window at least half an hour or so before the applicant called emergency services. Finally, it is said that the judge gave insufficient weight to the available mitigation, including the applicant's lack of intent to kill.

### **Discussion**

7. The appropriate starting point for the minimum term under schedule 21 of the Sentencing Act 2020 was 15 years; but that was not necessarily the appropriate end point. There were multiple uncontested aggravating factors, including the use of scissors as a weapon, driven to the hilt with at least moderate force, the applicant's previous convictions, the fact that he was subject to a Community Order at the time of the offending and under the influence of alcohol and Class A drugs, the breaking down of the locked bathroom door and the cover up afterwards.
8. On contested matters the judge was uniquely well placed to assess the true position, having heard all of the evidence. There is no proper basis for impugning what were conspicuously careful, factual findings by the judge, made expressly and correctly by reference to the criminal standard of proof. Thus he was entitled to be sure on the evidence, including that of Ms Dinu, that the applicant had met Ms Bunea before her arrival in the UK, that he had arranged accommodation for sex workers including her and that the murder took place in the context of a relationship in which the applicant took advantage of Ms Bunea's vulnerability and affection and was abusive and controlling of her for the purpose of prostitution. He was entitled to find that the applicant had physically assaulted her in the past. The nature of the relationship between the applicant and Ms Bunea was an important part of the Crown's case, in terms of providing a motive for Ms Bunea to want to leave and the applicant to react so violently to that attempt. The issue was explored through the evidence of Ms Dinu and, for example, the presence of older injuries identified on Ms

Bunea at the post-mortem which could not be accounted for. The judge was also entitled to find that the applicant had pursued Ms Bunea into the bathroom, where she had sought to flee for shelter from him on the night in question. The judge accepted that the applicant did not intend to kill but rather to cause really serious bodily harm. But he was entitled to find that the applicant delayed in calling for help and mounted a cover up. As for the delay, there was clear evidence that female moaning had been heard from the open window of the bathroom where Ms Bunea was killed, separately, distinctly and well before the applicant himself had been heard to be shouting.

9. The judge had full regard to the available mitigation, including a lack of premeditation and intention to kill, but was entitled to conclude, as he did, that the multiple serious aggravating factors substantially outweighed the mitigating factors. This was so in particular taking account of the context of the offending, namely a controlling, violent relationship in which the applicant took full advantage of Ms Bunea's vulnerability.
10. In short, like the single judge, we conclude that the sentence was not arguably manifestly excessive. The renewed application is refused.

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