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IN THE COURT OF APPEAL

CRIMINAL DIVISION

No. 202002237 A4

NEUTRAL CITATION NUMBER: [2021] EWCA Crim 717

Royal Courts of Justice

Tuesday, 20 April 2021

Before:

LORD JUSTIS EDIS
MR JUSTICE LAVENDER
HIS HONOUR JUDGE FLEWITT QC

REGINA
V
RAVINDER SINGH HEER

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MR T. RAGGATT, QC appeared on behalf of the Appellant.
The Crown were not represented.

J U D G M E N T

MR JUSTICE LAVENDER:

- 1 This is a renewed application for leave to appeal against sentence. On 12 March 2020 in the Crown Court at Birmingham the applicant was convicted on one count of manslaughter. On 10 August 2020 in the same court the applicant was sentenced to 15 years' imprisonment.
- 2 On 6 September 2019 the applicant stabbed and killed Dale Grice. The applicant ended Mr Grice's life and brought grief and misery to the lives of others, as Mr Grice's mother, aunt and grandmother said in their powerful and moving statements. No sentence imposed by any court can undo the harm done by the applicant on that day.
- 3 On that day Mr Grice was a guest at a wake, following the funeral of the grandmother of Remy Connor, the applicant's partner. The applicant was not invited to and was not welcome at the funeral or the wake, which took place at the home of Miss Connor's mother. Despite that, the applicant arrived at the wake drunk and carrying a large kitchen knife. As he entered the house, he stabbed the doorframe in anger. The applicant was escorted to the door, but went back in and made a remark to Mr Grice, who said, "Let's take it outside." Both men walked outside and squared up to each other. Mr Grice threw a punch. The applicant swung his arm overhead and brought the knife down into Mr Grice's back. He did so with such force that the knife cut through a rib, penetrated to a depth of 15 centimetres and penetrated the lower lobe of a lung.
- 4 The judge held that the applicant's culpability was high and that the case, therefore, fell into category B of the sentencing guidelines for unlawful act manslaughter. No issue is taken with that. Consequently, the starting point was 12 years' imprisonment, with a range of 8 to 16 years, before aggravating and mitigating factors were considered.
- 5 The judge identified as aggravating factors the fact that the applicant was intoxicated by drink and possibly drugs, the fact that he was subject to a community order (which had

been imposed as recently as 14 May 2019, for two offences of assault on an emergency worker, which were themselves committed while a community order was in place) and the applicant's previous convictions, as to which the judge said as follows in paragraph 28 of his sentencing remarks:

"a. You have three prior convictions for possession of an offensive weapon in a public place, relating to a glass hammer, a knuckle duster and a ceremonial sword. I bear in mind that they occurred over ten years ago. You were, however, in your mid-20s then, and therefore, an adult at the time.

b. You also have convictions for a number of offences of violence, including convictions for affrays committed in 2001, 2002 and 2014; an assault occasioning actual bodily harm arising out of the same incident in 2014; an assault on a police officer in 2012 and two assaults on police officers in April 2019.

c. In relation to the incident of 2014, which occurred shortly before your 32nd birthday, you had barricaded yourself into a room in your parents' house, verbally and physically threatening police officers who attended the incident, which lasted several hours. You struck out with a wooden bat at officers wearing riot gear and using riot shields. It is particularly relevant that you used a knife to stab one officer's foot, penetrating the officer's police boot and causing a superficial injury to the foot. You also poured alcohol over several police officers and threatened to set them on fire."

6 The judge did not accept the prosecution submission that it was an aggravating factor that the applicant had taken the knife to the scene of the crime. The judge said that he had taken account of that factor in determining that the case fell within category B, so that it would be double counting to treat it as an aggravating factor.

7 As for mitigating factors, the judge accepted that the applicant's remorse appeared genuine. The judge also accepted that the offence was not premeditated. The judge noted that the applicant had a young son, suffered from diabetes and had struggled with alcoholism and drug addiction for many years. The judge also took account of supportive letters from the applicant's family and friends. These included, notably, a letter from Miss Connor's grandfather, the widower of the deceased at the funeral.

- 8 The grounds of appeal are that the sentence imposed was manifestly excessive in all the circumstances. In his advice on appeal and his submissions today Mr Raggatt has emphasised that this was a case of a single stab wound, that both men were intoxicated and that Mr Grice threw a punch before the applicant stabbed him. He submitted that the sentence imposed was only one year away from the maximum envisaged by the guidelines. This suggests that the judge had considered that the aggravating features elevated the case to the maximum figure in the guideline and that mitigation only reduced it by one year. He submitted that the aggravating factors did not justify such an uplift and that the mitigating factors merited a reduction of more than one year. He submitted that the judge double counted the most recent conviction, since the judge treated it as an aggravating factor, both that the applicant had that conviction and that he was subject to the community order imposed as a result of that conviction at the time of this offence.
- 9 He also submitted that none of applicant's previous convictions were serious specified offences and that all of them were much less serious than the present offence. He submitted that the applicant's intoxication was less significant than it might have been in another case because there was evidence that he was not violent when sober.
- 10 He also drew attention to the fact that the applicant had twice offered to plead guilty to manslaughter, and he submitted that the documentary material relied on in mitigation was powerful, particularly the letter from Miss Connor's grandfather. Overall, he submitted that the mitigating factors outweighed the aggravating factors.
- 11 In the respondent's notice, it is submitted that the judge was entitled to regard the previous convictions as a significant aggravating feature and did not double count them and the judge was entitled to take the view that the applicant's actions and culpability placed the offence at the top of the range.
- 12 We have carefully considered Mr Raggatt's submissions. We start, however, by noting that

there is one respect in which we respectfully disagree with the judge. We consider that he was entitled to regard the fact that the applicant brought the knife to the scene as an aggravating factor and, indeed, a significant aggravating factor. This would have been a category B case even if the applicant had not brought the knife to the scene. Plunging a knife into Mr Grice's back was an unlawful act which carried a high risk of death or grievous bodily harm which was or ought to have been obvious to the applicant. That would have been the case even if the applicant had picked the knife up, say, in the kitchen of the house where the wake was taking place. Thus, it would not have been double counting to treat the fact that the applicant brought the knife to the scene as an aggravating factor. The seriousness of that aggravating factor is recognised in the different starting points prescribed by law for murders where a weapon is or is not brought to the scene of the crime.

13 While it is true that the applicant's previous convictions were not for offences as serious as manslaughter, the number of offences involving the possession of weapons or the use of violence, and in one case the use of a knife, meant that, taken together, they too constituted a significant aggravating factor. If we accept that the applicant is not violent when he is sober, that only serves to emphasise the significance of the fact that he was intoxicated as an aggravating factor. All too often people who get drunk do things which they would not do when sober. It was not double counting to take account as aggravating factors of both the offending which gave rise to the most recent previous conviction and the fact that the present offence was committed while the applicant was subject to the community order imposed for that offending.

14 Looking at the aggravating factors as a whole, we consider that the judge was fully entitled to take the view that they took the appropriate sentence to the top of the range before allowing for the mitigating factors. The offers to plead guilty to manslaughter were made on a conditional basis. The offer was that, if the prosecution agreed not to pursue the count of murder, which was the primary case against the applicant, then the applicant would plead

guilty to manslaughter. The offers were not accepted by the prosecution and the applicant did not, as he could have done, plead guilty to manslaughter. Instead, at trial he argued that he was acting in lawful self-defence when he killed Mr Grice and that the jury could find him not guilty of either or manslaughter. In those circumstances, his conditional offers to plead guilty to manslaughter had no bearing on sentence. Mr Raggatt submitted that they demonstrated his remorse, but advancing the defence of self-defence is not a demonstration of remorse, nor is offering to make a bargain with the prosecution. In any event, however, the judge accepted that the applicant was genuinely remorseful. Mr Raggatt accepted that there could, of course, be no question of any discount for an indication of plea, since these conditional offers did not amount to an unequivocal indication of plea.

- 15 We have read the documents relied upon by the applicant by way of mitigation, which stress the positive features of his character. The judge took account of this material, but we are not persuaded that it is arguable that the judge was obliged to reduce the applicant's sentence any more than he did on account of the mitigating factors.
- 16 In all the circumstances, we have come to the clear conclusion that is not arguable that the applicant's sentence was either manifestly excessive or wrong in principle. Accordingly, we dismiss this application.

CERTIFICATE

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