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IN THE COURT OF APPEAL  
CRIMINAL DIVISION  
CASE NO 202300573/A5  
[2023] EWCA Crim 946.



Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Tuesday 25 July 2023

Before:

LADY JUSTICE THIRLWALL DBE

MR JUSTICE MARTIN SPENCER

MR JUSTICE HILLIARD

REX

V

CONNOR JESS POOL

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MR C BENSON KC appeared on behalf of the Appellant.

MS K MAYLIN appeared on behalf of the Crown.

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

MR JUSTICE MARTIN SPENCER:

1. With leave of the single judge, the appellant, Connor Jess Pool, appeals against the sentence of 9 years' imprisonment imposed by HHJ Angela Morris KC, sitting in the Crown Court at Winchester, for an offence of manslaughter.
2. The offence arose out of an incident in Salisbury town centre, shortly after 3.00 am on Sunday 20 February 2022. Two separate friendship groups were in town. The members of those groups all lived locally and knew each other through schooling, the local football club or mutual friends. Some animosity started to grow between the groups following an altercation at The Chapel Nightclub at about 2.15 am, involving Adam Krajewski and Louis Hartley. At that stage neither the appellant nor the victim, Freddie Fontete-Jones, were present or involved.
3. What then followed we take from the sentencing remarks of the learned judge. At approximately 2.30 am friends of one group associated with the appellant pursued and clashed with some of the victim's friends in another short-lived altercation. At around the same time, Mr Fontete-Jones received a call and, on the back of that, decided to call a taxi to take him into the centre of Salisbury, a decision which was to prove fatal for him. Having arrived, Mr Fontete-Jones met up with some of his friends.
4. Within a short period of time matters had taken a turn for the worse, leading to the two opposing groups congregating outside the Chic-o-Land fast food restaurant. Mr Fontete-Jones arrived on the scene and approached the group. Whatever else was happening, no one disputes that he was generally acting as a peacemaker. The appellant arrived on the scene shortly afterwards. There is no suggestion that he was aggressive at that stage, either to the opposing group in general or to Mr Fontete-Jones in particular. Indeed, until very shortly before the appellant aimed his punch at Mr Fontete-Jones, the

aggression was coming from others in the two opposing factions. There is no suggestion that Mr Fontete-Jones was acting anything other than soberly, and he was being placatory throughout the time up to the moment he was attacked by the appellant.

5. The CCTV footage and evidence suggests that the catalyst for what followed was an unprovoked attack by one James Lidster of the appellant's group on Chay Sykes of Mr Fontete-Jones's group, which caused Mr Fontete-Jones to return to the area outside Chic-o-Land. Those present at the scene, who witnessed what occurred next, speak of Mr Fontete-Jones trying to calm the situation down. Even if he was angry when questioning two people who had attacked his friends, witnesses speak of Mr Fontete-Jones's hands being by his side at the moment the appellant attacked him. There is a dispute whether the appellant was standing in front of Mr Fontete-Jones or to his side. The learned judge considered that this mattered little in the context of this case but, on the evidence, she was satisfied that the appellant was not standing directly in front of Mr Fontete-Jones because, if he had been, Mr Fontete-Jones would have had time to react. In any event, the appellant threw a punch at Mr Fontete-Jones which was, firstly, totally unprovoked, and secondly, sufficiently hard to knock him off his feet in circumstances where he had no chance to defend himself. Mr Fontete-Jones fell backwards and hit his head on the road rendering him unconscious. He sustained a brain injury followed by cardiac arrest and he died three days later on 23 February 2022.
6. Following the incident the appellant immediately left the scene and, as the learned judge commented, his actions before handing himself in to the police the following day did him no credit. He casually went to purchase goods at a petrol station before making himself scarce, checking into a hotel room with his girlfriend. Before attending the police station, he disposed of his mobile phone with the intention, as the learned judge found, to

frustrate the police in their investigation. His delay in attending the police station rendered any forensic tests of his system, such as toxicology, evidentially useless.

Initially in interview the appellant chose not to answer any questions, as was his right, but some considerable time later presented a prepared statement asserting that he had acted in self-defence. However, some 5 months later he accepted responsibility for Mr Fontete-Jones's death.

7. The learned judge, rightly and appropriately, paid tribute to the deceased victim, who was only 23 years old. She described him as the beloved son of Gilly Tete and a devoted brother to his five siblings. His sister, Emma, gave to the court a moving account of her brother, and the devastation which his death had caused to the whole family. He was a hard worker, and described by all who knew him as a generous, kind and a gregarious person. He looked after his mother, cared about his siblings and was a popular young man in the locality, being a good, kind and loyal friend to many. The learned judge described his death as having caused irreparable damage to the family, such that it would leave forever an enormous empty hole in the lives of those who knew and loved him. The learned judge recognised that no sentence she could pass would ever fully reflect the value of Mr Fontete-Jones's life and the loss his death had caused, and we are equally awake to that point.
8. Sentencing the appellant, the learned judge placed this offence in category B for the purpose of the Sentencing Guideline on Manslaughter, which carries a starting point of 12 years' custody and a sentencing range of 8 to 16 years. After taking into account the aggravating and mitigating factors, she returned to the starting point of 12 years, to which she applied a 25 per cent discount, as credit for the appellant's plea of guilty, giving the 9 years' custody imposed. She placed the offence in category B on the basis that the punch

thrown by the appellant was “an unlawful act, which carried a high risk of death or causing grievous bodily harm which ought to have been obvious to him”. Although the judge was unable to assess the level of drunkenness of the appellant, she concluded that it had been sufficient for him to have misread the situation and to have acted unjustifiably aggressively when Mr Fontete-Jones's actions had been solely as peacemaker. Her assessment of the category stemmed principally from the force of the punch, which took a 15-stone muscular young man off his feet in circumstances where he had no opportunity to defend himself. The appellant ought to have realised that there was a high risk of causing really serious injury by the manner in which that punch was administered. The fact that the intention was formed only moments before the act was carried out and in a state of drunkenness, provided no excuse where the consequences were irreversible. The learned judge considered the appellant's drunkenness, on his own admission, to be an aggravating feature together with his actions after the event. She took into account as mitigating factors his age and effective good character, his limited role in the events of the evening prior to the fatal blow, and his remorse, as expressed through a letter he had written to the court. She also took into account references which spoke of the appellant's diligence, honesty and other good qualities, indicating that the events of that night were wholly out of character. Supplementing those matters Mr Benson KC, who has appeared before us on behalf of the appellant, has referred to evidence from the prison, showing the kindness which the appellant has shown to vulnerable prisoners and to his behaviour as a model prisoner. We take those matters into account as well.

9. On behalf of the appellant, it is contended by Mr Benson, for whose written and oral submissions we are very grateful, that firstly, the learned judge wrongfully classified the offence in category B, when it ought to have been in category C, on the basis that she

failed to give sufficient weight to countervailing eyewitness testimony that at the time of the punch the victim was angry and squaring up to two other men, rather than acting in an unambiguously placatory manner, as it was put by the single judge. The likely site of the blow is consistent with a blow from the front and, in any event, the punch was not the direct cause of death, which was likely to have been caused by the secondary impact with the ground.

10. The appellant pleaded guilty subject to a basis of plea namely, the blow was not intended to kill or cause really serious harm; it was struck in the context of an ongoing and emotionally charged situation; the earlier events had not concerned the appellant or the victim in any way; the incident in which the appellant was involved and when his punch was delivered lasted only seconds and there was no history or animosity between the appellant and the victim. All this, submitted Mr Benson, should have led to the offence being placed in category C. He further submitted that, even if the offence was correctly categorised as B, the learned judge should have reached a sentence before credit for plea which was towards the bottom of the sentencing range and she failed to give any or sufficient credit for the mitigation, including the fact that the appellant surrendered himself to the police, that he had shown genuine remorse, that he was a young man of effective good character whose references spoke of a caring, sensitive, hard-working and non-aggressive young man, whereby this offence was wholly out of character. Conversely, he submitted that the learned judge gave too much weight to the perceived aggravating factors and in particular, the appellant's post-event conduct. He submitted that the appellant did not know how badly Mr Fontete-Jones had been hurt, and the investigation had not been significantly hampered by the absence of the appellant's phone.

11. Mr Benson further submitted that sentence imposed is out of line with other cases of single-punch manslaughter, committed in circumstances which were more seriously aggravating, relying on three Attorney-General's References: R v Ally Gordon [2020] EWCA Crim 360; R v Coyle [2020] EWCA Crim 484 and R v Taiwo [2020] EWCA Crim 902. It is accepted on behalf of the appellant that the 25 per cent discount for plea was appropriate.
12. For the respondent, Ms Maylin submits that the learned judge was entitled, on the facts of this case, to classify the offence as category B, the judge being in the best position to determine the factual matrix. This was not a case of excessive self-defence. The force deployed in the punch was sufficient to knock Mr Fontete-Jones off his feet. Mr Fontete-Jones was a peacemaker rather than the aggressor, he was sober and the assault on him was totally unprovoked. She submits that having correctly classified the offence in category B, the learned judge was entitled to reach a sentence of 12 years before applying the discount for plea.
13. In our judgment, for the reasons stated by the learned judge and the reasons which we have received from Ms Maylin, the learned judge was correct to categorise this offence within category B. However, we do consider that having done so, and having started within the statutory guidance at a sentence of 12 months, the learned judge should then have applied the mitigating factors in such a way as to move the sentence down towards the bottom of the range rather than stay or come back to the starting point having taken into account the mitigating and aggravating factors.
14. We agree with Mr Benson's submissions that the learned judge gave too much weight to the perceived aggravating factors and insufficient weight to the mitigating factors. On that basis, we do quash the sentence of 9 years and considering, as we do, that the

sentence before discount for plea should have been one of 10 years' imprisonment rather than 12 years, we reduce the sentence to one of 7 years and 6 months. The sentence will accordingly be quashed, and a sentence of 7 years and 6 months imposed in its place. The victim surcharge shall stand at £190.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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