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IN THE COURT OF APPEAL
CRIMINAL DIVISION
(SITTING AT MOLD CROWN COURT)



CASE: 2021 00420 A3
NEUTRAL CITATION NUMBER: [2021] EWCA Crim 113

The Law Courts,
Raikes Ln,
Mold CH7 1AE

Tuesday 22 June 2021

LORD JUSTICE HOLROYDE

MR JUSTICE SWEENEY

MR JUSTICE PICKEN

REGINA

v

MATTHEW WILLIAM MASON

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MR GORDON COLE QC appeared on behalf of the APPELLANT
MR IAN UNSWORTH QC appeared on behalf of the CROWN

J U D G M E N T
(Approved)

1. LORD JUSTICE HOLROYDE: The appellant, now aged 20, appeals by leave of the single judge against his sentence for an offence of murder committed when he was 18 years old. In particular he appeals against the minimum term of 28 years which he was ordered to serve before being eligible for consideration for release on life licence.
2. We begin by referring to a reporting direction under section 45A of the Youth Justice and Criminal Evidence Act 1999 which was made in the Crown Court. This relates to a number of young persons, friends and family of the deceased. They have been named earlier in this hearing but for the purposes of this judgment we shall refer to them as A, B, C, D, E, F, G and H. The direction states that, during their respective lifetimes, no matter may be included in any publication if it is likely to lead members of the public to identify them as persons concerned in those proceedings. In particular, no publication shall include any of their names, addresses, educational establishments or places of work, or any still or moving images of them. For the avoidance of any doubt, we emphasise that that direction remains in force, and we make a similar direction in respect of any publication reporting the proceedings in this court.
3. The appellant was 18 years 10 months old at the time of the murder in December 2019. He had no previous convictions. His victim, Alexander Rodda ('Alex'), was aged just 15 years 9 months. It appears that they had known one another at school.
4. In 2019 Alex initiated correspondence via social media, which seems quickly to have become sexual. The appellant sent a picture of his erect penis to Alex. The two met on a number of occasions and engaged in penetrative sexual activity, both oral and anal.
5. In November 2019 Alex messaged the appellant's girlfriend. He told her about the sending of the photograph of the appellant's penis and about their meeting. As a result, she ended her relationship with the appellant.
6. On the following day the appellant made the first of a series of payments to Alex which eventually totalled more than £2,000. It appears that the appellant was very anxious that his sexual relationship with Alex should not be disclosed. Alex told a friend that the appellant was paying him for sex and that he would report the appellant to the police if the payments stopped. The friend protested that this was a form of blackmail and was wrong, but Alex seems not to have been deterred. Nor did he show any sympathy when the appellant protested that the payments were emptying his bank account.
7. On 6 December 2019 the appellant made internet searches on topics such as poisons and unsolved deaths of missing persons.
8. The appellant and Alex met on 9 December 2019. That day the appellant sent £102 to Alex, which left him with a balance of £26 in his bank account.
9. They met again on 12 December. The appellant had told Alex that he would take him to a special secret place where they could have sex. They drove in the appellant's car to a wooded area and walked into the woods. The appellant was armed with a heavy spanner, concealed in his sleeve. It seems that Alex knelt in front of the appellant. Whilst he was in that vulnerable position, the appellant struck heavy blows to Alex's head with the spanner. The initial blows would have rendered Alex unconscious, but the appellant continued his attack, causing multiple lacerations and fracturing the skull.
10. Having bludgeoned Alex to death in that brutal manner, the appellant left his body in the woods and drove away. He disposed of Alex's phone, which has never been found. He went to the home of a friend to shower, and then to a pub, where he met friends and took a selfie -- apparently in an attempt to create an alibi. When Alex's friends and family later contacted the appellant, anxiously asking if he knew where Alex was, he callously lied to them.
11. In the early hours of the following morning the police sent a text message to the appellant, telling him to contact them. Instead of doing so he drove back to the woods, where he spent about an hour apparently trying to move Alex's body. When Alex's body was later found, his trousers and underpants were around his ankles.
12. The appellant was arrested later that day. The murder weapon was found in the boot of his

car. When interviewed under caution he made no comment.

13. At his trial in the Crown Court at Chester before the Honorary Recorder of that city, His Honour Judge Everett, the appellant admitted killing Alex but said he had acted in self-defence. In the alternative he put forward the partial defence of loss of control. The jury, who must have disbelieved his evidence, convicted him of murder.
14. At the sentencing hearing on 25 January 2021 the judge began his sentencing remarks by saying to the appellant:

"I have to sentence you for the murder of a 15-year-old boy, something I tell you now, I'm not convinced you ever really appreciated at any stage."

15. The judge referred to the victim personal statements from Alex's parents. Each member of this court has read those statements. They vividly express the anguish which Alex's murder has brought to his family and friends. It is clear, as the judge rightly said, that they will never recover from their loss. No sentence of any court can do anything to make good that loss, and like the judge we can do no more than make our decision in accordance with the law. In doing so we have well in mind the human realities for the bereaved whose lives have been blighted by this dreadful murder, and we extend our sympathy to them.
16. The judge accepted that it had been Alex who initiated the social media correspondence but said that thereafter the appellant had actively encouraged what was for Alex his first real sexual experiences. He pointed out that the appellant had committed serious sexual offences against a young and naïve victim which would in themselves have resulted in a sentence of custody, and the appellant, he said, had been motivated by self-interest throughout. Although Alex had demanded money to keep quiet about the sexual offending, the judge regarded that as naïve behaviour by a 15-year-old with no real understanding of the consequences of his actions. The appellant, in contrast, was not only 3 years older but also "much more worldly wise and mature" than his victim. It was, pointed out the judge, the appellant's choice to engage in the sexual activity which had led to the situation in which he was being pressed for money.
17. The judge, as he was required by law to do, imposed the sentence of custody for life. In determining the minimum term which the appellant must serve before he can even be considered for release on licence, the judge agreed with the submission of both counsel that the appropriate starting point was one of 25 years, in accordance with paragraph 4 of Schedule 21 to the Sentencing Code established by the Sentencing Act 2020. He took into account the following aggravating factors: the murder was committed at least in part to prevent disclosure of the unlawful sexual relationship; it was planned and premeditated; the appellant intended to kill and "went about it with a ruthlessness that utterly beggars belief for any person but particularly for a person still in their teens"; he had left Alex to die; he had disposed of important evidence, tried to establish a false alibi and tried to dispose of Alex's body.
18. The judge identified three mitigating factors. First, he accepted that the murder had been committed at least in part because of the demands for money which had been made. Secondly, he accepted the evidence of positive good character given by a number of witnesses who knew the appellant. Thirdly, he said, "I keep in mind that you were only 18 at the time, but only to a limited extent keeping in mind your careful planning".
19. The judge concluded that the aggravating features would have increased the minimum term from the statutory starting point of 25 years to 30 years. The mitigating factors in his view made it appropriate to reduce that by 2 years. Thus the judge set a minimum term of 28 years.
20. On behalf of the appellant, Mr Cole QC submits that the minimum term is manifestly excessive in length. He submits that the judge failed to give sufficient weight to the appellant's youth, positive good character and the fact that he was being blackmailed. He points to evidence given at trial by the witnesses who spoke of the appellant's good

character and described him as a young man who was not by nature violent or aggressive. Mr Cole further points out that the evidence given by friends of the appellant showed that in the period leading up to the murder he had become withdrawn and depressed and, unusually, was asking people to lend him money. Mr Cole suggests that the appellant was frightened of others finding out that he had a homosexual relationship. Mr Cole readily acknowledges the aggravating features of the case but submits that there was strong mitigation which was not given sufficient weight.

21. Mr Unsworth QC, for the respondent, submits that the judge took the appropriate starting point and correctly identified the relevant aggravating and mitigating features. He submits that it is important to keep in mind that the jury rejected the partial defence of loss of control. He submits that the judge made proper allowance for the appellant's age and previous good character and the circumstances in which the appellant was paying money to Alex. The judge's conclusions, submits Mr Unsworth, were soundly based on the evidence and, having presided over a lengthy trial, he was in the best position to determine what weight to give to the various factors.
22. We are grateful to counsel, both of whom appeared at the trial, for their very helpful written and oral submissions.
23. Very recently, in the case of R v Popoola [2021] EWCA Crim 842, a constitution of this court considered (at paragraphs 22 to 29) the principles applicable when sentencing a young adult convicted of murder. That decision was not of course available to the judge in this case. In Popoola, as in this case, the appropriate starting point under the relevant statutory provision was a minimum term of 25 years for an adult offender, but would have been 12 years if the offender were aged under 18 at the time of the murder. Referring to the well-known cases of R v Peters & Others [2005] EWCA Crim 605 and Attorney-General's Reference (R v Clarke) [2018] EWCA Crim 185, and to the Sentencing Council's General Guideline: Overarching Principles, the court in Popoola emphasised the need to consider not only the chronological age but also the maturity of a young adult offender.
24. In the present case, the judge was faced with a difficult sentencing process. He was clearly correct to regard this murder as a dreadful crime, which the appellant had planned, ruthlessly executed and then tried to cover up. The judge was in the best position to assess the appellant, and he was plainly entitled to find that the appellant was much more mature than his victim and was motivated throughout by selfish considerations. The element of blackmail by Alex was rightly set in the context of the appellant's own criminality in committing sexual offences against a boy of 15.
25. However, the judge also had to give appropriate weight to the appellant's young age. The appellant was of course an adult, and there is nothing to suggest that he was any less mature than his contemporaries. The judge did not, however, say anything to suggest that he found the appellant to be significantly more mature than others aged under 19. We note in this regard the opening words of the sentencing remarks to which we have referred. As the Lord Chief Justice said in the case of Clarke, "full maturity and all the attributes of adulthood are not magically conferred on young people on their 18th birthdays". The significance of that principle in the present case, in our view, is that it affects the weight to be given to the appellant's culpability in committing sexual offences against Alex and to the element of planning and premeditation of the murder. Those serious aggravating features were undoubtedly present, but they were the conduct of an 18-year-old, who, according to the witnesses, was not generally violent or aggressive and who had been blackmailed into parting with almost all his money. In particular the judge, as we have noted, expressly limited the weight to be given to the appellant's young age because of his "careful planning"; but it was the planning of an 18-year-old, threatened with the revelation of a homosexual relationship which he wished to conceal. The reaction to such a threat of a very young adult is in our view likely to be significantly less considered than the reaction of a mature adult.
26. We hesitate to differ from the judge. We are, however, persuaded with all respect to him

that he fell into error. He rightly observed the distinctions in age and maturity between the appellant and his young victim, but he then failed to give sufficient weight to the appellant's age, level of maturity and previous good character. We agree with the judge that the aggravating features outweighed the mitigating and that it was necessary to make an upward adjustment from the statutory starting point. But in our judgment the appropriate adjustment was to a minimum term of 26 years and that 28 years was manifestly excessive. We therefore allow the appeal to this limited extent. We quash the sentence of custody for life with a minimum term of 28 years less the 406 days on remand in custody. We substitute for it a sentence of custody for life with a minimum term of 26 years less the 406 days on remand in custody.

27. Mr Cole and Mr Unsworth, perhaps you would be good enough to agree the arithmetic between you and pass a note to the Registrar so that the appropriate term of years can be entered in the court record.

MR UNSWORTH: Of course.

MR COLE: Yes.

LORD JUSTICE HOLROYDE: Thank you very much. Thank you both.

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

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