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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2023/02810/A1,
2023/03044/A1, 2023/03074/A1
Neutral Citation: [2024] EWCA Crim 603



Royal Courts of Justice
The Strand
London
WC2A 2LL

Friday 17th May 2024

B e f o r e:

LORD JUSTICE EDIS

MR JUSTICE MURRAY

HIS HONOUR JUDGE DENNIS WATSON KC
(Sitting as a Judge of the Court of Appeal Criminal Division)

R E X

- v -

ELVIS GRANT
LAMAR GRANT
JAMAL GRANT

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Mr N Karbhari appeared on behalf of the Applicant Elvis Grant
Mr M Ivers KC appeared on behalf of the Appellant Lamar Grant
Mr P Rouch KC appeared on behalf of the Applicant Jamal Grant

Mr B O'Neill KC appeared on behalf of the Crown

J U D G M E N T

Friday 17th May 2024

LORD JUSTICE EDIS: I shall ask Mr Justice Murray to give the judgment of the court.

MR JUSTICE MURRAY:

1. On 25 July 2023, following a trial in the Central Criminal Court before the Recorder of London, HHJ Lucraft KC, and a jury, Jamal Grant, then aged 31, and his father, Elvis Grant, then aged 51, were each convicted of the murder of Devon Jensen-Wallace. Their co-defendant, Lamar Grant, then aged 26, the son of Elvis and brother of Jamal, was acquitted of the murder of Devon Jensen-Wallace but convicted of his manslaughter. Each of them was also convicted of one count of doing acts tending and intended to pervert the course of public justice.
2. On 8 August 2023, at the Central Criminal Court, the Recorder of London sentenced the three offenders as follows:
 - a. Jamal Grant was sentenced to life imprisonment, with a minimum term of 24 years less 427 days spent on remand in custody, with a concurrent determinate sentence of two years' imprisonment for the offence of perverting the course of justice;
 - b. Elvis Grant was sentenced to life imprisonment with a minimum term of 24 years less 160 days spent on remand in custody, with a concurrent determinate sentence of two years' imprisonment for the offence of perverting the course of justice; and
 - c. Lamar Grant was sentenced to a determinate sentence of 13 years' imprisonment for the manslaughter, with a consecutive sentence of two years' imprisonment for the offence of perverting the course of justice, for a total sentence of 15 years' imprisonment.
3. Jamal Grant and Elvis Grant renew their applications for leave to appeal against sentence following refusal by the single judge. Lamar Grant appeals against his sentence with the leave of the single judge.
4. At this hearing Jamal Grant is represented by Mr Peter Rouch KC, acting *pro bono*. Elvis Grant is represented by Mr Naeem Karbhari. Lamar Grant is represented by Mr Michael Ivers KC. The Crown has submitted a Respondent's Notice, and Mr Brian O'Neill KC has attended to assist the court this morning.
5. On 31 May 2018, during an incident that occurred on St Raphael's Estate in north west London, Jamal Grant was stabbed in the back, below his left shoulder blade. He received a bruised and punctured lung. He was 26 years old at the time. His father, Elvis Grant, took him to hospital. During his trial at the Central Criminal Court, Jamal Grant said that it was Devon Jensen-Wallace who had stabbed him in May 2018. Following the incident in May 2018, the police arrested Devon Jensen-Wallace and Jamal Grant on suspicion of affray, but ultimately no action was taken against either of them. Devon Jensen-Wallace subsequently moved away from the estate.
6. On 1 June 2022, Devon Jensen-Wallace visited a friend's home on St Raphael's Estate, near to where the three offenders lived. Devon Jensen-Wallace and two friends went to a nearby shop at around 6.26 pm. Shortly after that, Devon Jensen-Wallace was attacked

by the three offenders. The Crown's case was that during the attack Jamal and Elvis Grant were carrying machetes or knives and that Lamar Grant was carrying a baseball bat. One witness gave evidence at the trial that Jamal Grant crept up on Devon Jensen-Wallace and stabbed him in his right leg with a machete. After he had been wounded, Devon Jensen-Wallace fled the scene, but collapsed nearby.

7. About half an hour after he was stabbed, despite the efforts of members of the public and emergency paramedics who were called to the scene, Devon Jensen-Wallace passed away at the age of 25 years. His death was caused by a single stab wound to his right leg which cut across his femoral vein.
8. After the stabbing, Jamal, Elvis and Lamar Grant removed the clothing that they had worn and disposed of the weapons that they had carried during the attack. CCTV footage showed Jamal, Elvis and Lamar Grant wearing dark clothing when returning to their home after the attack, and then walking past CCTV cameras a few minutes later in different clothing. The clothing worn by the Grants and the machetes or knives carried by Jamal and Elvis Grant during the attack were never recovered by the police. This is the basis for the offence of perverting the course of justice, of which each of the offenders was convicted. The baseball bat carried by Lamar Grant was recovered by the police and was found to have traces of Devon Jensen-Wallace's DNA on it.
9. All three offenders were subsequently arrested for the offences. After arrest, each gave a false account of what had happened, claiming not to have been present at the attack on Devon Jensen-Wallace.
10. At the trial, Jamal Grant, who was the only one of the three to give evidence, admitted to having been present at the incident, but claimed to have acted in self-defence and in defence of his father. That claim was rejected by the jury.
11. Jamal Grant had a number of previous convictions, the first of which was when he was aged 16. In terms of relevant offences, he was convicted in 2010 of attempted robbery and attempted burglary, for which he was sentenced to 22 months' detention in a young offender institution. In May 2012 he was convicted of assaulting a constable and breaching an antisocial behaviour order. In December 2012 he was sentenced to 16 months' detention in a Young Offender Institution for burglary. In March 2017 he was sentenced to eight months' imprisonment for possession of a knife or bladed article in a public place. In February 2019 he was sentenced to three years' imprisonment for a robbery that had occurred the previous year.
12. Elvis Grant had previous convictions for burglary and theft in 1992 and 1993, minor drugs offences from 2007 to 2022, and some driving offences in 1998 and 1999. Some months before the murder of Devon Jensen-Wallace, machetes had been found at his address when the police had attended.
13. Lamar Grant was convicted in June 2011, at the age of 13, of attempted robbery, and in August and November 2012 of further robberies and assault. In July 2013 he was made subject to a Youth Rehabilitation Order for two years, with various requirements. During the period of 2014 to early 2018 he was convicted of some relatively minor offences which were dealt with by fines or community orders. In August 2018 he was made subject to a suspended sentence order for taking a motor vehicle without consent and handling stolen goods. In June 2018, he was convicted of assault and sentenced to 12 months' imprisonment. In 2021 he was convicted of some driving matters that resulted in a fine and endorsement of his driving licence.

14. At the sentencing hearing on 8 August 2023, the Recorder of London had the benefit of a victim personal statement from each of Devon Jensen-Wallace's mother, Samantha, his sister, Berlyn, and his girlfriend, Chanelle. He also had the benefit of sentencing notes prepared by prosecution counsel, by counsel for Jamal Grant, and by counsel for Lamar Grant, as well as “a very large number of letters and testimonials” about the three offenders, mostly from family and close friends.
15. The judge proceeded to sentence without a pre-sentence report on any of the offenders. None was necessary then, and none is necessary now.
16. The judge noted that the motivation for the attack on Devon Jensen-Wallace was revenge for the stabbing of Jamal Grant in 2018, nearly four years earlier. He then reviewed the offending history of each of the offenders, which we have just summarised.
17. The judge noted the submission made on Jamal Grant's behalf, that most of his previous convictions had been the result of guilty pleas. His most recent conviction was in February 2019 for an offence committed in June 2018. He had no previous convictions for serious violence. The judge noted that he had four sons and a daughter.
18. The judge noted that Elvis Grant had no convictions for violence. He bore in mind his age and the likely age he would be on release from the sentence he was about to impose.
19. The judge noted the submission made on behalf of Lamar Grant, that he had played a minor role compared to that of his father and older brother. The judge commented:

“In many ways the points he makes are inevitably going to be reflected in the fact that you are to be sentenced for manslaughter and receive a determinate term, rather than for murder with a life term.”
20. The judge determined that, having regard to paragraph 4(2) of Schedule 21 to the Sentencing Act 2020, the appropriate starting point for the minimum term in the cases of Jamal and Elvis Grant was 25 years. This has not been disputed on behalf of either Jamal or Elvis Grant. The judge was satisfied that each had taken a machete or knife with him to the scene of Devon Jensen-Wallace's murder. There may have been only one stab wound, but the judge was satisfied that both weapons were produced during the course of the attack.
21. The judge cited as relevant aggravating factors that:
 - a. the offence was committed as part of a group;
 - b. there was a “degree of planning”;
 - c. others had been with Devon Jensen-Wallace when the Grants went to confront him, which meant that those others were put at the risk of harm by the armed confrontation between the Grants and Devon Jensen-Wallace; and
 - d. the incident took place in broad daylight in a densely populated residential area and was witnessed in part by members of the public of various ages.
22. The judge also took into account, to the extent relevant, the previous convictions of each of Jamal and Elvis Grant.

23. The judge found that the only mitigating factor was that each of Jamal and Elvis Grant had the intention to cause serious injury, rather than to kill.
24. The judge decided that he should make no distinction between Jamal and Elvis Grant as to the length of the minimum term. While Jamal Grant inflicted the fatal wound, each went armed with a machete or knife. Furthermore, Elvis Grant, although more lightly convicted, should, as the father of the other two offenders, have stopped the attack from happening.
25. The judge determined that the appropriate overall minimum term for each of Jamal and Elvis Grant was one of 24 years. He reached this by increasing from the starting point of 25 years to 27 years for the aggravating factors he had identified. He then reduced that for the lack of an intention to kill and for totality, to a minimum term of 23 years, before adding 12 months in order to reflect the additional criminality of the offence of perverting the course of justice. Finally, the judge deducted the days that each of Jamal and Elvis Grant had spent on remand in custody prior to sentence.
26. For the offence of perverting the course of justice, he passed in each case a concurrent determinate sentence of two years' imprisonment.
27. Turning to Lamar Grant, the judge considered that his culpability fell within category B of the Sentencing Council guideline for unlawful act manslaughter on the basis that Devon Jensen-Wallace's "death [was] caused in the course of an unlawful act which carried a high risk of death or grievous bodily harm which was or ought to have been obvious to the offender". The judge indicated that the common aggravating factors identified in relation to his father's and brother's offence of murder applied equally to the offence of manslaughter. He also took into account, to the extent relevant, Lamar Grant's previous convictions.
28. The judge considered the question of dangerousness in relation to Lamar Grant and decided that the test for a finding of dangerousness was not met. The starting point for sentence was therefore 12 years' imprisonment. Allowing for the aggravating factors, and having regard to totality, the sentence he imposed for the offence of manslaughter was 13 years' imprisonment, with a consecutive sentence of two years' imprisonment for the offence of perverting the course of justice.
29. Finally, the judge noted that none of the three offenders had shown any remorse for the killing of Devon Jensen-Wallace.
30. On behalf of Jamal Grant, Mr Rouch KC submitted that the judge gave too much weight to the aggravating factors he had identified and made an insufficient downward adjustment for the important mitigating factor of lack of an intention to kill. Reviewing in turn each of the aggravating factors found by the judge, Mr Rouch attempted to persuade the court that the attack on Devon Jensen-Wallace could not, properly speaking, be described as a group attack. There was only one stab wound and one stabber, although Elvis Grant, who did not inflict the stab wound, had been armed with a knife or a machete. The judge should not, therefore, have found group offending to be an aggravating factor.
31. While the judge had noted that the aggravating factor of some degree of planning needed to be tempered having regard to the circumstances giving rise to the attack, Mr Rouch submitted that the judge still gave this aggravating factor too much weight. There was no significant planning, he submitted. The attack was a spontaneous reaction to Devon Jensen-Wallace having been seen near the home of the Grants. The bringing of weapons

to the scene was not an aggravating factor, because it was already covered by the starting point for the minimum term of 25 years. As to the aggravating factor of a risk to others raised by the attack, Mr Rouch submitted that there had been no real risk of harm to Devon Jensen-Wallace's friends. Indeed, one of the two friends was also a friend of Jamal Grant. Finally, Mr Rouch submitted that the fact that the offence was committed in broad daylight in a densely populated residential area did not justify an upward adjustment. It is, sadly, commonplace, he submitted, that knife attacks occur in public areas in broad daylight. This aspect was therefore adequately covered by the 25 year starting point for the minimum term without further uplift.

32. Mr Rouch also submitted that the judge gave too much weight to Jamal Grant's offending history, which was of limited relevance given that he had no previous convictions for offences of serious violence. His one previous conviction for having a bladed article was only for its possession, not for its use. His most recent conviction, in February 2019, was for a robbery committed in June 2018.
33. Mr Rouch submitted that the offence of perverting the course of justice was not in itself something that aggravated the overall criminality. He submitted that it was commonplace for knife crimes that the offender would dispose of the knife after the offence.
34. On the other hand, Mr Rouch submitted, the mitigating factor of a lack of intent to kill in the circumstances of this case was of particular significance. There was a single wound to the victim's thigh, and the judge failed to make an adequate downward adjustment for that fact.
35. On behalf of Elvis Grant, written submissions, together with a renewal note, were provided by Mr Cairns Nelson KC, which we read along with all of the other papers relating to each of the offenders. As we have already noted, at the hearing Elvis Grant was represented by Mr Karbhari, who adopted the oral submissions made Mr Rouch.
36. We are not persuaded by any of these submissions that either Jamal Grant or Elvis Grant has any arguable grounds of appeal. The Recorder of London carefully identified each of the aggravating features relevant to the offence of murder, and he identified the weight he attached to them. The group nature of the offending was evident and clearly one of the most important aggravating features identified by the judge.
37. It was suggested by Mr Nelson in his written submissions on behalf of Elvis Grant that the judge ought not to have taken into account group offending as an aggravating factor, as it was not specified in paragraph 9 of Schedule 21 to the Sentencing Act 2020. Paragraph 9 of Schedule 21, however, is clearly not exhaustive ("Aggravating factors ...that may be relevant to the offence of murder *include*") The judge was, therefore, not limited to the aggravating factors specified in paragraph 9 (or in paragraphs 2(2), 3(2) and 4(2) of Schedule 21) when assessing the culpability of Jamal and Elvis Grant.
38. The judge did not find that there was significant planning or premeditation, but he was clearly entitled to find, having heard all of the evidence presented at the trial, that there was some degree of planning and to give that factor appropriate weight. The same is true of the other aggravating factors that he identified. The judge's assessment of the appropriate downward adjustment for the single mitigating factor of a lack of intention to kill was well within the range open to him on these facts.
39. Accordingly, for these reasons we refuse the renewed applications for leave to appeal against sentence of each of Jamal Grant and Elvis Grant.

40. In his written submissions in support of Lamar Grant's appeal against sentence, as developed orally before us this morning, Mr Ivers KC submitted that the judge gave insufficient weight to the minor role played by Lamar Grant in the incident that resulted in the death of Devon Jensen-Wallace. He submitted that it was not enough for the judge simply to have observed that his lesser role would be reflected in the lower sentence that he would receive for the offence of manslaughter. Mr Ivers submitted that by failing properly to consider the limited nature of Lamar Grant's role in the attack, the judge wrongly placed his offending in culpability category B of the relevant guideline, when at its highest it should have been placed in category C, given the balancing of the category B factor found by the judge with the category D factor of his minor role in the attack.
41. Mr Ivers submitted that no witness had seen Lamar Grant use the baseball bat that he carried to the scene. He emphasised other factual differences between Lamar Grant's role and that of his co-defendants. There was CCTV evidence that Lamar Grant had stood some distance from where the stabbing occurred. Unlike his father and brother, Lamar Grant did not chase after Devon Jensen-Wallace.
42. As for Lamar Grant's previous convictions, Mr Ivers submitted that the robbery matters were committed when he was a juvenile and there was nothing similar to the offence of manslaughter in his offending history.
43. In relation to the offence of perverting the course of justice, Mr Ivers submitted that Lamar Grant played a "lesser role". He did not, for example, dispose of the baseball bat he had been carrying.
44. Mr Ivers submitted that, in summary, by virtue of placing Lamar Grant's culpability in too high a category, the judge adopted too high a starting point for sentence and passed a sentence for manslaughter that, together with the consecutive term of two years' imprisonment for the offence of perverting the course of justice, was manifestly excessive.
45. In his written submissions, Mr Ivers referred the court to *AG Reference (R v Parry)* [2023] EWCA Crim 421, in which the three men were charged with murder, but convicted of manslaughter in relation to the killing of a member of a rival motorcycle gang. While the principal offender's sentence of 12 years' imprisonment was found to be unduly lenient, the court did not find that the co-offenders' sentences of four years' imprisonment were unduly lenient, even though the roles of the co-offenders were instrumental in the events which led to the death of the deceased.
46. We do not find *Parry*, given the factual differences between that case and this one, to be of assistance. Although we agree with the single judge that Lamar Grant's appeal is arguable, having considered the written and oral submissions made by Mr Ivers, we are of the view that the judge was right to conclude on these facts that Lamar Grant's culpability fell within category B of the guideline for the reasons he gave. Although Lamar Grant was acquitted of murder, he had participated in an armed group attack on Devon Jensen-Wallace with his father and his brother. The three of them had changed their clothing, had grabbed weapons (albeit Lamar Grant's weapon was not a machete or knife), and the three of them had gone together to confront Devon Jensen-Wallace. They were motivated by a common desire for revenge for the attack on Jamal Grant in 2018.
47. The other aggravating factors identified by the judge in relation to the murder were also relevant to Lamar Grant's offending. The judge took into account his offending history and gave it appropriate weight. The judge, who had heard all of the evidence at the trial,

was entitled to conclude that Lamar Grant's role was more than minor in the sense used in category D of the guideline, even though he lacked the specific intention for murder. We do not consider that the judge was wrong to categorise Lamar Grant's culpability as falling within category B of the manslaughter guideline. Having presided over the trial, the extremely experienced judge would have been in a far better position than we are to assess the factual basis for, and therefore the extent of, Lamar Grant's culpability for his involvement in the unlawful killing of Devon Jensen-Wallace.

48. In relation to the offence of perverting the course of justice, Lamar Grant, like his father and older brother, changed into dark clothing before going to the scene of the attack. Following the attack, and knowing what had just occurred, Lamar Grant returned home and disposed of the clothing he had been wearing, which has never been recovered. The baseball bat was recovered (which, although carried to the scene, was apparently not used in the attack, the presence of the victim's DNA on the bat remaining unexplained). Lamar Grant was complicit in the actions of his father and brother in disposing of the clothing and the machetes or knives that they had carried and, in Jamal Grant's case, used.
49. Accordingly, there was no error of fact or principle in the judge's determination of the sentence for the offence of perverting the course of justice. He was entitled to order the sentence to run consecutively to the sentence for the offence of manslaughter. It is clear that he had regard to totality in doing so.
50. For these reasons, we dismiss Lamar Grant's appeal against sentence.

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

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