

IN THE CROWN COURT AT WINCHESTER

Winchester Combined Court Centre
Winchester Combined Court
The Law Courts
Winchester
Hampshire
SO23 9EL

BEFORE:

HER HONOUR JUDGE MILLER

BETWEEN:

R

PROSECUTION

- and -

DAVID RICHARD GRAY

DEFENDANT

Legal Representation

Ms Kerry Fiona Maylin (Barrister) on behalf of the Prosecution
Mr Alexander Abdu Taylor-Camara (Barrister) on behalf of the Defence

Other Parties Present and their status

Dr Amit Chatterjee – Consultant Psychiatrist

Sentencing Remarks

Recording date: 21 June 2018
Transcribed from 11:12:13 until 11:19:56

Reporting Restrictions Applied: No

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Her Honour Judge Miller:

A David Gray, you were charged with murder committed in February of 2017, probably committed on the night of 12 and 13 February. The victim was Carl Scott, his body not being found in his flat where the killing happened until 22 March.

B There has always been a question over your fitness. You have a long-standing diagnosis of schizophrenia, which combined with the illicit drugs you have taken, meant that you have had periods when you are well but also periods of paranoid and unpredictable behaviour. However, initially the psychiatrists instructed on both sides were of the view that you were fit to plead and to stand trial, so you entered not guilty pleas in October of 2017.

C

The first trial, listed in December of 2017, was not able to go ahead when you were mentally unwell in the weeks before the trial. So your medication was changed, it being hoped that you could be tried. You had been transferred to a psychiatric hospital by the prison service.

D Counsel Mr Dean QC and his junior, Mr Taylor-Camara who is here today, were at Court on 22 March of this year when the case was listed for mention and they had a lengthy conference with you that day.

E The trial was listed for the second time to take place in late April of this year when your counsel told me that they were adequately instructed, that they were not concerned about representing you despite various things you had said about your representation in various forms. The Court, though, had a number of concerning communications from you in the lead up to the trial saying that you would not attend and, on the day of the trial itself, your treating psychiatrist, Dr Chatterjee, wrote to the Court saying that he felt it would be unwise to force you to come to Court. That you would be hugely disruptive to the trial process.

F

G In the event, at the request of the Court, both Dr Chatterjee and his colleague wrote short reports on your condition. In their view you were not, then, fit to plead. Your mental health had deteriorated to the point where you were not fit to stand trial. Dr Chatterjee said in his report that you:

H “Were always likely to go downhill as any future trial approached.”

I decided that I could not adjourn again to see if you could become fit to stand your trial. That justice had to be done after so long a wait already.

A

As two doctors were in agreement that you were unfit to stand your trial and both the Prosecution and the Defence agreed that we should proceed with matters, I found in terms that you were unfit to stand your trial and made a finding under Section 41 of the Criminal Procedure (Insanity) Act 1964, based upon the evidence I had read from both doctors at Thornford Park Hospital where you were being treated. It was clear that you were unable to instruct your legal team. That even if forcibly brought to Court, you would be unable to participate meaningfully in the trial process.

B

C

The trial took place on the question of whether or not you had done the act of unlawfully killing Carl Scott. Your Defence team advanced your Defence of self defence and kidnap to the best of their ability. But the evidence that the Court was presented with from the scene, the forensic evidence, the evidence of what you had said to your friends and acquaintances after the event were all compelling.

D

The attack on Mr Scott was with his own decorative, but lethal, axe that he kept for display in his own home which you embedded in his head. You also stabbed him a number of times to the chest. You then left him to die and he was not found for many weeks. The Jury convicted you unanimously of having killed unlawfully on 1 May 2018. We have heard this morning Mr Scott's mother reading her moving Victim Impact Statement to us. I will not repeat what she has just said.

E

F

Your history shows previous offences of battery, affray, possession of a bladed article and an assault occasioning actual bodily harm. There have been many violent incidents also involving staff since your detention. The last two offences that you committed resulted in Hospital Orders. After the finding of fact, I adjourned sentence even though it is correct to say, as the Prosecution point out, that the only possible in sentence in law here is a Hospital Order with a Restriction Order under Section 53 of the Criminal Procedure (Insanity) Act 1964.

G

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Two new reports, therefore, have been written for disposal. Dr Isles is a completely independent and new doctor who has been brought in. He reviews your full history and

agrees the diagnosis of paranoid schizophrenia, together with mental and behavioural disorders caused by illicit drug use. He concludes:

A

“The Hospital Order should be restricted under Section 41 of the Mental Health Act, given the very serious nature of the offence, i.e. a homicide, your antecedents, the background of a relapsing and remitting course of mental illness which has been complicated by considerable drug and alcohol misuse and with non-compliance with psychotropic medication. Also the fact of your future risk of causing serious harm as is demonstrated by the presence of multiple risk factors for future violence in the context of homicide.”

B

C

Dr Chatterjee also wrote a new report on 5 June of this year. He, as I have said, is your treating psychiatrist. He detailed your current condition very thoroughly, your treatment and your progress, saying you are still, even now:

D

“Of labile mood. [That you are] paranoid, guarded and irritable.”

E

He says you still require treatment and your treatment is not always successful. You are likely to relapse in any situation where you do not comply with taking your medication but, even on medication, you are not fully well. Your treatment is required for the protection of the public as well your own.

F

Today, Dr Chatterjee has attended to give evidence as is required before the Court can make a Section 41 Order, even though it is required in law. He said he met you specifically to prepare the report. He confirmed today orally the diagnosis of paranoid schizophrenia which is being treated as far as possible. A bed is available as required. You are currently more settled but symptoms of disorder persist with auditory hallucinations instructing you to commit violent acts. Also paranoid delusions and difficulties with staff persist. Your medication is now only under control by injection as you will not comply with taking it.

G

Your disorder, he said:

H

“Warrants ongoing detention in hospital but [you] can be managed in a medium-secure setting.”

A The current risk, he said, to the public is high. A Restriction Order, in his opinion, is appropriate though it is, of course, a matter finally for the Court.

B Under the terms of Section 41, I have to consider your forensic history which I have already stated. The nature of the current offence which was a violent and brutal murder. The likelihood of your committing further offences if set at large, which I consider to be very high indeed, especially given your inability to comply with taking medication, your illicit drug use and the fact that even in hospital with medication you are far from well. There is also the question, most importantly, of whether the public needs protection from serious harm from you.

C The view I take is that public most certainly needs the fullest possible protection from you and I, therefore, make a Hospital Order with a Section 41 restriction. As a result of that, you will be detained in a hospital with restrictions until the doctors have deemed you fit for release. But that release will not take place until a mental health tribunal have considered your case and that they agree you can be released.

D Thank you very much. Please take him down.

E

The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

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