Case No: 201602984 A1,

201603623 C1 and

201603630C1

Neutral Citation Number: **[2017] EWCA Crim 647**

IN THE COURT OF APPEAL (CRIMINAL DIVISION)

ON APPEAL FROM OXFORD & CENTRAL CRIMINAL COURT

HHJ SMITH

T20157233

IN THE COURT OF APPEAL (CRIMINAL DIVISION)

ON APPEAL FROM THE CROWN COURT AT PRESTON

HHJ BROWN

T20167023

Royal Courts of Justice

Strand, London, WC2A 2LL

Date: 23/05/2017

Before :

LADY JUSTICE HALLETT

VICE PRESIDENT OF THE COURT OF APPEAL CRIMINAL DIVISION

LORD JUSTICE TREACY

and

MRS JUSTICE MCGOWAN DBE

- -

Between :

R Respondent

- and -

JOYCE 1st Appellant

KAY 2nd Appellant

- -

- -

D Hislop QC (instructed by **Cartwright King Solicitors**) for the **1st Appellant**

A S Webster QC (instructed by **Forbes Solicitors**) for the **2nd Appellant**

S Medland QC and A Blake (instructed by **Crown Prosecution Service**) for the **Respondent**

Hearing date: Thursday 27 April 2017.

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Judgment

The Vice President :

Introduction

1. These two appeals have been heard together because each involves a consideration of the judgments in R v Stewart (James) [2009] EWCA Crim 593, [2009] 2 Cr. App. R. 30 and A.G's Reference (No. 34 of 2014) (Jenkin) [2014] EWCA Crim 1394, [2014] 2 Cr. App. R. (S) 84. Both appellants suffered from schizophrenia and killed whilst under the influence of alcohol and or drugs.

2. Kay was convicted of murder and sentenced by His Honour Judge Brown, the Recorder of Preston, to life imprisonment with a minimum term of twenty three years. He has leave to appeal against conviction on one ground namely an alleged conflict between the judgments in R v Stewart (James) and A.G's Reference (No. 34 of 2014). His application for leave to appeal against sentence has been referred to the full court by the single Judge:

3. Joyce's pleas to manslaughter on the grounds of diminished responsibility, two counts of making threats to kill, one count of assault occasioning actual bodily harm and one count of threatening with an offensive weapon were accepted by the Crown. Her Honour Judge Zoe Smith sentenced him to life imprisonment with Hospital and Limitation directions under section 45A of the Mental Health Act 1983. The period of nine years was specified as the

minimum term. Joyce has leave to appeal sentence on one ground only namely that he was given insufficient credit for his timely guilty pleas.

Appeal against conviction of Kay

Facts

4. The appellant who turns fifty this year has a long history of alcohol and drug abuse. He started glue sniffing at thirteen, drinking alcohol at fifteen and taking drugs at eighteen. Heroin was his ‘drug of choice’ but he also injected amphetamine on a regular basis. Throughout his adult life he has had contact with mental health services and engaged in frequent bouts of violence. He has not responded meaningfully to any of the many offers of help made to him.

5. He is now a diagnosed paranoid schizophrenic. Drug use (particularly amphetamines) triggers and exacerbates his symptoms. This led to acute episodes, including at least one psychotic episode that required in patient treatment. The appellant was well aware of this. On a number of occasions and for substantial periods, he refrained from taking amphetamines, because he recognised that they had a markedly deleterious effect on his behaviour.

6. Nevertheless, in June 2015 the appellant went on a three day ‘bender’. He drank copious amounts of alcohol and took multiple unlawful drugs including heroin and amphetamine. On 18 June 2015, in the grip of a psychotic episode and armed with a large kitchen knife he entered the garage of Mr Ian Dollery in York Road, Lytham. He stabbed Mr Dollery to death in a frenzied and brutal attack. The attack was heard by the deceased’s family. Armed only with a broom handle, the deceased’s wife and daughter bravely went to Mr Dollery’s aid. They witnessed part of the attack which left the deceased with thirty five separate stab wounds, nine of which were to his face and head including a stab wound to his left eye socket, fracturing the orbital plate. Thirteen stab wounds were to the chest (four to the heart) and the others to the legs, arm and abdomen. The wounds were inflicted with such force that six of the deceased’s ribs were fractured. The

maximum depth of the wounds was twelve to thirteen centimetres, the entire length of the blade of the knife.

7. The appellant walked off carrying the blood stained knife and threatened to kill the cat of a neighbour. On arrest he was still in an acute psychotic state and was detained under the Mental Health Act. On 20 June 2015 a sample taken of his urine revealed traces of cocaine, amphetamines, methamphetamine, morphine, cannabis and ecstasy.

8. The appellant was interviewed by police on 25 November 2015 and he gave a prepared statement confirming he had no knowledge or memory of the stabbing, but he remembered being at a friend's flat earlier that day, drinking and taking drugs. He told police he had used heroin for twenty years and was not alcohol dependent.

9. Three psychiatrists provided reports for the court. They agreed that the appellant suffered from schizophrenia and had a heroin dependency. Both are recognised medical conditions under the ICD10 classification. Two of the doctors, Dr Collins and Dr Bacon, were of the view he also suffered from an amphetamine dependency that together with the schizophrenia substantially impaired his responsibility for his actions. Dr Collins gave as an analogy as pot of hot water simmering away (schizophrenia) brought to boiling point by the intoxication. Dr Barlow accepted the analogy but disagreed with the two suggestions that the psychotic state arose from a recognised medical condition and that the intoxication was involuntary. In his opinion, the appellant's schizophrenic condition was stable and was not sufficient substantially to impair the appellant's responsibility; the appellant's psychotic state arose from voluntarily induced intoxication.

10. The only issue at trial was whether the appellant's responsibility for the murder was diminished by reason of an abnormality of mental functioning arising from a recognised medical condition. In the judge's words:

> ".. was the psychotic episode leading to the killing caused by the voluntary consumption of drink and drugs or was it caused by, or significantly caused by, the schizophrenia made worse by the intoxication against a background of a dependency syndrome."

11. The Defence case was that at the time of the killing he was suffering from an acute relapse of schizophrenia causing psychotic symptoms. Although he was heavily intoxicated with illegal drugs and alcohol, it was primarily the underlying mental illness which was responsible for his psychotic state. In any event, his intoxication was not voluntary because he also had an alcohol and drugs dependency syndrome which combined with schizophrenia, led to an irresistible craving for and/or compulsion to drink and take drugs and prevented him from forming a rational judgment or exercising self-control.

Appeal against conviction

12. Section 2(1) of the Homicide Act 1957 as amended and where relevant provides that a person who kills is not to be convicted of murder if he was suffering from an abnormality of mental functioning which arose from a recognised medical condition, which substantially impaired his ability to understand the nature of his conduct, to form a rational judgment or to exercise self-control and which provided an explanation for his/her acts. An abnormality of mental functioning provides an explanation for a person's conduct if it causes, or is a significant contributory factor in causing that person to carry out that conduct.

13. The judge's directions were intended to echo the terms of section 2(1) and to follow the guidance given by the court in Stewart. At the time of the trial Mr Webster QC accepted them as entirely appropriate and in accordance with the law. After conviction, having read the judgment in Jenkin, he changed his mind. He obtained leave by arguing there was a tension or even conflict between the approach to diminished responsibility and voluntary intoxication adopted in Stewart and the approach in Jenkin (albeit the latter judgment is concerned solely with sentence).

14. At the hearing of the appeal, Mr Webster abandoned his argument that there is a conflict. He recognised that the issues in Stewart and Jenkin were different. He reformulated his ground of appeal in this way: the courts now have a far greater understanding of mental illness and should be prepared to adopt a more nuanced approach to it. Someone with paranoid schizophrenia, who kills whilst suffering a florid psychotic episode, should

not be debarred from relying upon the partial defence of diminished responsibility on the basis of their voluntary intoxication. The judge wrongly excluded from the jury's consideration the possibility that the appellant was suffering from an abnormality of mental functioning (a psychotic state) which arose from a medical condition (schizophrenia) and which, in combination with voluntary intoxication, substantially impaired his responsibility for his actions. The jury was effectively left with a stark binary choice: schizophrenia and dependency syndrome equals guilty of manslaughter, schizophrenia and voluntary intoxication equals guilty of murder.

15. On his reading of the judgment in Jenkin, the court accepted that this is the proper approach. He referred us in particular to paragraphs 16, 19, 35 and 36 of the judgment. It will suffice to rehearse paragraph 35:

> "The judge's conclusion after very careful consideration of the medical evidence before him was that although the offender had suffered from an abnormality of mind, namely schizoid-affective disorder/schizophrenia, the offender's voluntary taking of drugs had triggered the offender's vulnerability to psychosis and led to the killings."

Conclusions in the appeal against conviction of Kay

16. We do not have the benefit of a detailed analysis of the medical evidence in Jenkin (it was not necessary to the decision) but we do have sufficient to indicate the flaw in Mr Webster's argument. The law does not debar someone suffering from schizophrenia from relying on the partial defence of diminished responsibility where voluntary intoxication has triggered the psychotic state, but he must meet the criteria in section 2 (1). He must establish, on the balance of probabilities, that his abnormality of mental functioning (in this case psychotic state) arose from a recognised medical condition that substantially impaired his responsibility. The recognised medical condition may be schizophrenia of such severity that, absent intoxication, it substantially impaired his responsibility (as in the case of Jenkin); the recognised medical condition may be schizophrenia coupled

with drink/drugs dependency syndrome which together substantially impair responsibility. However, if an abnormality of mental functioning arose from voluntary intoxication and not from a recognised medical condition an accused cannot avail himself of the partial defence. This is for good reason. The law is clear and well established: as a general rule voluntary intoxication cannot relieve an offender of responsibility for murder, save where it may bear on the question of intent.

17. The appellant in this case, therefore, had to establish either that his intoxication was involuntary and together with the schizophrenia substantially impaired his responsibility (as the defence experts argued) or that the schizophrenia standing alone substantially impaired his responsibility.

18. The difficulty facing the appellant was that, unlike the appellant in Jenkin or the appellant Joyce (to be considered later in this judgment) there was no medical evidence available to him that his underlying illness was of such a degree that, independent of drug or alcohol abuse, it impaired his responsibility substantially. On the contrary this appellant’s condition was stable. There was therefore no medical evidence to support a partial defence based on schizophrenia alone. Once the jury rejected the defence assertion that he was suffering from dependency syndrome, he no longer had a defence. There was therefore no additional basis upon which the case could be left to the jury.

19. For the avoidance of doubt, had there been any tension between the judgments in Stewart and Jenkin, we would unhesitatingly have followed the former. Stewart follows a long line of authority including the decision of the House of Lords in Dietschmann [2003] 2 Cr App R 4 [2003] 1 AC 1209 which is binding on us. In any event, Jenkins is a sentencing case in which diminished responsibility had already been established. It was purely concerned with the separate exercise of identifying factors relevant to sentence. It identified the voluntary taking of drugs as an aggravating factor.

20. For all those reasons, we see no reason to depart from the approach in Stewart. Coupled with the provisions of section 2(1) of the Homicide Act (as amended), it provides a clear and sensible approach for directing the jury.

The approach is neither binary nor simplistic but is flexible enough to encompass a wide variety of factual circumstances in a manner that is fair to all. It takes full account of the kind of mental health issues under consideration and our increased understanding of them. In our view, it rightly does not necessarily provide even a partial defence to everyone diagnosed with schizophrenia, who, well aware of the possible consequences, chooses to abuse drink and or drugs to excess and then kills.

Application for leave to appeal against sentence.

Antecedents

21. The appellant was aged forty eight at the time of sentence. He had fifty convictions for one hundred and two offences spanning from 1984 to 2014. His relevant convictions included six offences against the person (wounding, assault, and battery) and four offences relating to firearms and weapons. He had a conviction for wounding/inflicting grievous bodily harm in 2011 which resulted in a term of fourteen years imprisonment. He admitted becoming involved in fights on a regular basis albeit they did not result in criminal proceedings.

Victim Personal Statements

22. Victim Personal Statement were before the Court from Andrea Claire Dollery (the wife of the deceased) and Grace Dollery (the daughter of the deceased). They describe in graphic terms the impact upon them of the offence and the loss of Mr Dollery. We do not intend to add to their distress by rehearsing their contents.

Sentencing remarks

23. The Judge described this as a savage and brutal attack on a wholly innocent man, which was witnessed by the victim’s wife and daughter. Over thirty wounds were inflicted with considerable force. After the attack another innocent bystander was also threatened.

24. The offence was aggravated by the ferociousness of the attack in the garage of the victim’s home. The victim’s family tried to defend him and feared for their own safety. The impact on them was immeasurable. They

will never recover fully. The appellant had failed to co-operate with Mental Health Services and he had a number of previous convictions for violence. At the time of the killing, he had taken amphetamines despite being warned about the dangers of taking those drugs. Furthermore, he had taken a knife to the scene of the offence.

25. The starting point for sentence was twenty five years. This was increased to twenty nine years to reflect the aggravating features and then reduced to twenty three years less time spent on remand to take into account the appellant's mental illness and other mitigating factors, including his six months at Ashworth Hospital prior to being charged.

Ground of appeal

26. There is one proposed ground of appeal namely that in the light of the appellant's mental illness, the judge was wrong to select a starting point of 25 years. The judge should have placed greater weight on the fact that had it not been for the psychosis he would not have taken a knife to the scene and the attack would not have been so brutal. It was not his fault he suffered from the psychosis.

Conclusions re sentence

27. Unfortunately, it was the appellant's fault to a significant degree that he suffered from a psychosis. The jury rejected the defence that the appellant's intoxication was voluntary. They rejected the assertion that he was suffering from a relevant dependency syndrome in addition to the schizophrenia. They preferred Dr Barlow's opinion that the cause of the psychotic episode was voluntary intoxication. The appellant was well aware of the possible consequences of taking a cocktail of drugs yet he chose to go on a three day 'binge'. Mr Dollery paid with his life for the appellant's decision.

28. Parliament has decreed that where a knife is taken to the scene the starting point for the minimum term for murder is twenty five years. There can be no complaint about the judge's taking that starting point where an accused put himself in a psychotic state by voluntarily drinking and taking drugs and armed himself with a knife. Similarly, there can be no complaint about the judge's treating the sustained brutality of the attack in the

presence of members of his family as an additional aggravating feature meriting an uplift where the psychotic state arose from his conscious decision.

29. We acknowledge that the mitigation, including the appellant's underlying illness, merited a significant downward adjustment from the starting point, as did the trial judge. He reduced the figure by six years (the equivalent of a twelve year determinate term). The final figure of twenty three years for a brutal killing in these circumstances was not excessive. We refuse leave.

Appeal against sentence of Joyce

Facts

30. On 7 December 2015, the victim, Justin Skrebowski and his wife, dropped their children off at nursery and travelled to Mr Skrebowski's workshop near Abingdon in Oxfordshire. Just after 10 am, he left the workshop to do some banking and shopping.

31. The appellant had been seen acting strangely that morning. He appeared agitated and angry. The appellant had gone out to buy cigarettes and on his return reported that someone had threatened him and that he had threatened to stab them in return. The appellant was also seen swearing and kicking a bicycle. When a neighbour remonstrated with the appellant he replied "I'm going to stab you bruv". The appellant then went into town where he went to a pharmacy for his methadone prescription.

32. At about 11.20 am, the appellant and the victim were both in a Poundland store. The appellant took a large kitchen knife and fork from the shelves and stabbed Mr Skrebowski in the lower back, severing an artery and causing fatal bleeding. The appellant withdrew the knife and armed with at least two knives walked around the store, in a rage, shouting "this is what you get" or "this is what you deserve". The appellant left the store. He approached a retired couple outside and threatened to kill them. He threatened others with a knife saying to one man "do you want me to cut your fucking head off?" He asked another man, Mr Wilkins, "do you want me to kill you?" and threatened to put one of the knives across Mr Wilkins'

throat. Mr Wilkins put his hands up to protect himself. The appellant's knife caught his thumb causing it to bleed.

33. The appellant continued to threaten passers by including a woman with a small child and a pram. Police officers arrived and the appellant shouted "I told them I was going to stab someone". He threw the knives down. The appellant was taken to the police station. When arrested for murder, the appellant said "Is he dead? Murder? Is he dead?" along with "Yeah, I fucking did it bruv, fucking deserved it. Shouldn't have fucked with me. You make someone look like a fucking piece of shit, that's what you fucking get."

Antecedents

34. The appellant was aged thirty at the time of sentence. He was brought up in a stable family unit and had a "normal happy childhood". He started smoking cannabis at the age of fifteen and moved onto smoking skunk which he described as making him 'paranoid'. In his late teens and early twenties he abused a wide variety of class A drugs including heroin and crack cocaine. He has been in contact with drugs services since the age of eighteen or twenty and was prescribed methadone as a substitute for heroin. He continued to take illegal drugs despite suffering from drugs induced psychotic episodes. At the age of twenty five he was diagnosed as a paranoid schizophrenic. In the months before the killing his condition deteriorated and his behaviour became increasingly paranoid and unpredictable. There were incidents of aggression. A psychiatric assessment at the end of October 2015 suggested he posed a significant risk of harm to others.

35. He had five convictions for ten offences spanning from 3 February 1998 to 30 October 2015. They included possession of class A drugs, dangerous driving, two offences of battery, possessing an offensive weapon, and three offences of using threatening words and behaviour.

Psychiatric evidence

36. Dr Philip Joseph, Consultant Forensic Psychiatrist, reported that at the time of the killing the appellant was suffering from an abnormality of mental functioning, namely paranoid schizophrenia. His mental health problems

may have been triggered by abuse of drugs and alcohol but he suffers from a long standing psychotic mental illness independent of his drug abuse. In Dr Joseph's opinion, the abnormality of mental functioning was a significant contributory factor in the killing. It did not provide a full explanation because the appellant was intoxicated with drugs and alcohol at the material time. Dr Joseph did not determine whether the intoxication was voluntary or as a result of a dependence on drugs or alcohol, but even if voluntary and the effects of intoxication discounted, the abnormality of mental functioning was sufficiently severe to impair his responsibility for the killing substantially. Dr Joseph referred to the appellant's retaining a degree of 'culpability' because of his continued abuse of drink and drugs despite contact with drug treatment services over many years.

37. Professor Fazel of Oxford University agreed with the diagnosis and the assertion that paranoid schizophrenia was the main contributing factor to the killing. The appellant informed him that he had taken drugs the night before the killing including a synthetic cannabinoid ('spice'), and alcohol on the morning of the killing. The Professor felt this did not provide a full explanation for the killing because of his history of taking similar drugs. However, the offences were not entirely attributable to his schizophrenia because of his use of psychoactive substances and alcohol which triggered an acute and severe relapse in his mental state. The appellant would have been aware of the potential consequences of taking such substances particularly 'spice' because it had made him aggressive in the past. He had not been diagnosed as dependent upon them.

38. Dr Sengupta confirmed that the appellant was suffering from an enduring psychotic mental illness, paranoid schizophrenia. He has a history of 'mental and behavioural disturbance due to illicit substance abuse'. In the past he had been diagnosed as having 'opioid dependence and poly substance misuse'. He took heroin, crack cocaine, ecstasy, ketamine, steroids, cannabis and spice on a regular basis over the years but his drug habits depended on the funds available to him. He drank but there was no indication of alcohol dependence. In Dr Sengupta's opinion, the offence was driven by psychosis as opposed to mental and behavioural disturbances attributable to substance misuse. He had 'limited insight' into his condition

in custody and was likely to relapse and become violent. The appellant was admitted to Broadmoor Hospital on 14 March 2016 and a bed remained available.

39. All the doctors agreed that if the appellant's psychotic symptoms remained untreated, he would continue to be a danger to the public. Dr Sengupta thought he would require treatment in Broadmoor Hospital for the foreseeable future.

Victim Personal Statements

40. Victim Personal Statements were before the Court from members of Mr Skrebowski's family and friends all of which described the devastating effect his death has had upon them, especially his widow and their young twins.

Sentencing remarks

41. The judge observed that Mr Skrebowski's death had traumatised his immediate and extended family leaving a young widow and twins with no father. She acknowledged that the appellant had a long history of mental illness and noted that the appellant had a previous conviction for possession of a sword with which he had threatened a neighbour. She expressed her concern that although the appellant had been treated for schizophrenia over the past decade, he had not moderated the taking of illegal substances. This was despite the fact the he was aware that such drug taking would exacerbate his symptoms.

42. She concluded that the proper disposal was a hybrid Order under section 45A of the Mental Health Act 1983 and a discretionary life sentence. The appellant is currently dangerous and will remain so unless he stops taking drugs and alcohol and receives treatment. She fixed what she called a minimum term of eighteen years on the manslaughter offence and declared he would serve half of that before being eligible for parole.

43. Unfortunately, the judge failed to pass sentence on the other counts to which he had pleaded guilty. She held a further hearing under the slip rule. The Judge re-iterated that it was her view that a discretionary life sentence should be imposed on count 1 and that the appellant retained a significant

responsibility for his actions. On this occasion she correctly described the term of eighteen years as the notional determinate sentence and the minimum term as nine years imprisonment less time spent on remand. She announced that the sentence on count 2 would have been forty months reduced to thirty months imprisonment on a plea of guilty, on count 3 she imposed “three years consecutive”, on count 4 two years imprisonment concurrent and on count 5 three years imprisonment concurrent. The Judge confirmed that all the sentences took into account the guilty pleas that were entered.

Grounds of Appeal

44. There are two grounds on the first of which the appellant has leave.

Ground one

45. The appellant entered his guilty plea to Count 1 (manslaughter on the grounds of diminished responsibility) at the earliest opportunity and therefore should have received a discount of one-third and not one-quarter from the Judge’s starting point.

46. The defence served the initial report from Dr Joseph as soon as it was available with an indication of an intention to plead guilty to Count 1 upon the basis of diminished responsibility. Any delay thereafter was caused by the Prosecution’s instructing Professor Fazel. It was agreed between the prosecution and defence, for pragmatic reasons, that there was little point in arraignment until Professor Fazel had reported. As soon as he had provided his report a hearing was arranged and the appellant pleaded guilty to all counts as previously advised. He was therefore entitled to a full one third discount in relation to all offences yet on count 2 the judge seems to have awarded a twenty five per cent discount.

47. In the absence of any reasons for departure from the Sentencing Council’s Guideline on Guilty Pleas, Mr Hislop invited us to find the reduction of 25 per cent as opposed to one third was simply an error.

48. If the judge made a similar error in relation to the notional minimum term for the manslaughter offence, her figure before discount for plea must

have been twenty four years. Giving full credit for plea would reduce that figure to 16 years, one half of which is 8 years.

Ground two

49. Mr Hislop sought to renew his second ground on the basis that a figure of twenty four years before reduction for plea failed sufficiently to reflect the impact upon the appellant of his long term drugs and alcohol problems, his limited insight into his own mental illness and the severity of the illness. The judge was wrong to assess the appellant's culpability with reference to his past failure to address his substance and alcohol abuse, his knowledge that his abuse made his mental condition worse and his taking drugs and alcohol the night before and on the morning of the killing.

50. None of the doctors had specifically addressed the issue of whether his intoxication was voluntary and it was therefore unfair to attribute to him responsibility for alcohol and substance abuse. His illness was of such severity, that it was difficult to disentangle what was voluntary and what was not. The Judge failed to recognize the important distinction between knowledge that his alcohol and drug misuse made his mental health worse and the defendant's ability to choose whether he took drugs and alcohol.

51. Accordingly, the judge was wrong in assessing his residual culpability as "significant".

Conclusion on sentence

52. It is unfortunate that the judge omitted to mention the amount of credit she would give on the manslaughter charge and the extent to which she reflected the other offences in the notional determinate sentence. The consequence has been a large degree of speculation. In the circumstances, we prefer to approach the sentencing exercise afresh to determine whether the minimum term of 9 years was excessive.

53. First, we consider residual culpability or responsibility. It is for the judge, not the experts, to decide on the level of responsibility retained albeit she no doubt found considerable assistance in the expert reports. At least two of the doctors were of the opinion that the appellant was to a degree

culpable. He may have limited insight into his condition but he knew of the impact on his mental state of certain substances such as ‘spice’, and he knew how aggressively he might react. Yet he chose to take them. There was no evidence of dependency. On the contrary the medical evidence suggested he was capable of refraining from taking illegal drugs and alcohol when his funds ran out and he was perfectly capable of refraining from taking spice.

54. In those circumstances the judge was entitled to find that the appellant retained what she called a significant degree of responsibility.

55. Furthermore, the appellant was responsible not only for killing Mr Skrebowski but also for four other offences that must have terrified his victims and everyone else in the vicinity. With respect to Mr Hislop, his submissions ignore the fact that the appellant committed several offences. The judge, in determining the notional determinate sentence on manslaughter was obliged to reflect his overall offending in the final figure.

56. Bearing all those factors in mind, we are satisfied that a figure of twenty seven years before giving credit for plea as a notional determinate sentence may be severe but it is not excessive. Giving the appellant full credit for his pleas of guilty, one arrives at the same figure of eighteen years, one half of which produces a minimum term of nine years to be served. We emphasise this is a minimum term to be served before any consideration can be given to his release on parole. Given the appellant’s history and refusal to co-operate with agencies offering him help, when at liberty, the prospects of his being released for a very long time to come must be slim.