

HMA v Steven Loughton

May 21, 2020

At the High Court in Edinburgh today, Lord Beckett imposed an Order for Lifelong Restriction on Steven Loughton after the offender was found guilty of killing his brother (culpable homicide) by reason of diminished responsibility.

The punishment part of the Order was set at 3 years and 7 months. This is the minimum time the offender must spend in prison before being considered by the Parole Board for Scotland for release into the community. It does not mean he will be released at that time. Only if he is considered to be safe to serve the rest of his sentence in the community, will he be released under the intensive supervision of a criminal justice social worker. If he commits another crime, he can be sent back to prison.

On sentencing, Lord Beckett made the following statement in court:

"I take account of everything said in mitigation and the content of the reports now available to the Court. I have reflected on the evidence led in the trial, including all of the evidence about your condition and the implications which follow. I recognise that you have only minor previous convictions in the context of this case. I accept that you have shown remorse, visibly so during the trial. I take account of the episodes of mental illness and an enduring personality disorder which has afflicted you throughout your life and I note the adverse childhood experiences described in the reports.

I proceed on the basis that you were convicted not of murder, as alleged, but of culpable homicide by reason of diminished responsibility. You offered to plead guilty to culpable homicide at the start of your trial for murder and some account will be taken of that.

However, you killed your brother using ferocious violence. At a time when I infer that he was lying asleep in your house you struck him on the head at least three times with a hammer, using considerable force causing serious injury from which he died shortly afterwards. It was a matter of hours before you alerted the emergency services, and only at a time when he was dead. Both your immediate and wider family have suffered terrible loss with enduring implications which you can well understand.

For such a serious crime there is no alternative to a sentence of imprisonment and the issue is what form it should take.

The jury accepted that your responsibility was diminished by reason of an enduring personality disorder, characterised by an inability to control your impulses. My concern is that what you did, the circumstances in which you did it and the implications of other evidence led in the trial suggested that you are likely to continue to present a substantial risk of causing serious harm to others. Accordingly, your conviction even for culpable homicide raises a real question of how the public is to be protected from the danger which you present.

I should make it plain that Parliament has required courts to consider against risk criteria, how the public is to be protected from serious harm in certain kinds of cases.

I have now considered the terms of a detailed reasoned risk assessment report prepared by an experienced consultant forensic psychiatrist who has concluded that you suffer from aspects of a number of different personality disorders. He explains that there is a complex interplay of problems associated with your personality disorder and substance use which has been responsible for violence in the past and these factors continue to be the main risk factors for future violence. He anticipates that it will be necessary for criminal justice services as well as mental health services to monitor and respond to future problems in close relationships and fluctuation in your mental health including transient psychotic symptoms when under stress or in response to substance use. He considers that at present there is no evidence to suggest that you can respond to interventions focussed on distress tolerance, and other problems related to your personality disorder, so that long term monitoring and supervision will be necessary.

He further explains that possible future scenarios in which physical violence may occur include if you form a future intimate relationship or have serious problems in your relationship with your family or close friends. He considers it likely given your underlying personality structure that problems with pathological jealousy may arise and the use of alcohol and drugs are likely to exacerbate these problems. He identifies reasons to doubt your capacity to respond to treatments and programmes which may be available to you.

He concludes that you have an enduring propensity to cause serious harm to others and that there are few protective factors present in your case and he concludes that long-term supervision and monitoring of you will be necessary.

I find his conclusions to be carefully reasoned and persuasive and note that he assesses you as presenting a high risk.

I have to determine if it is probable that the nature of, or the circumstances of the commission of, the offence of which you have been found guilty either in themselves or as part of a pattern of behaviour are such as to demonstrate that there is a likelihood that you, if at liberty, will seriously endanger the lives, or physical or psychological well-being, of members of the public at large. I have to make that assessment by considering the position now but also looking into the future to consider what the position would be on your release from prison and the conclusion of your being subject to licence conditions, which in this case would be the termination of the extension period of an extended sentence.

Having regard to the evidence I heard in the trial, all of the information in the reports and having considered carefully the submissions made on your behalf, I consider that even with all of the measures which could be put in place during the whole currency of both parts of an extended sentence, it remains more likely than not, meaning probable, that you will commit crimes of serious violence again, seriously endangering the lives, or physical or psychological well-being, of members of the public at large. Having reached that conclusion I must make an Order for Lifelong Restriction.

Parliament prescribes how I should fix the punishment part which is the period of time which must pass before you can apply for parole. Taking account of all of the whole circumstances of this crime had I not been imposing an Order for Lifelong Restriction, I would have imposed a custodial term of 10 years as part of an extended sentence.

Parliament says I must ignore any period of imprisonment which may be necessary for the protection of the public and to determine the part of that period of imprisonment which would represent an appropriate period to satisfy requirements of punishment and deterrence. That period is 8 years.

I will follow the normal approach suggested in the legislation and reduce that period by one half to take account of the effects of early release. From that period of 4 years, because you offered to plead guilty at the start of the trial to the crime of which you were convicted, I will make an allowance of 10 months.

Accordingly the punishment part of your order for lifelong restriction will be 3 years and 7 months, backdated to 18 December 2018.

The sentence imposed is not a sentence of imprisonment for 3 years and 7 months, it is an Order for Lifelong Restriction which is a sentence of imprisonment for an indeterminate period, which shares some characteristics with a life sentence. You will not be eligible to apply for parole until the punishment part has run its course.

It does not follow that you will then be released. You will only be released from prison when the Parole Board considers that it is no longer necessary for the protection of the public that you continue to be held in prison.”

24 April 2020

<https://www.judiciary.scot/home/sentences-judgments/sentences-and-opinions/2020/04/24/hma-v-steven-loughton>