



JUDICIARY OF
ENGLAND AND WALES

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-v-

DRAVEN JEWELL

Sentencing remarks of the Honourable Mrs Justice Cutts DBE

At the Crown Court in Winchester

On the 17th day of April 2023

1. Draven Jewell I am to sentence you for four serious offences. For the manslaughter of Max Maguire; for wounding Luke Gray with intent to cause him serious bodily harm; for the unlawful wounding of Georgia Hole and for possession of an offensive weapon – a huusk knife with a 14 cm blade. You had no good reason to be carrying such a large and lethal weapon. I am quite satisfied that had you not unlawfully been carrying that knife on that fateful evening in October 2021 Mr Maguire would still be alive and Mr Gray and Ms Hole would not have been injured to the extent that they were. Your decision to carry a knife is thus substantially responsible for the serious offences you committed that evening. It was a short step from carrying it to using it and you have caused the death of one man, the serious injuries of another, injured a third and impacted the lives of many for ever.
2. You were convicted of these offences on 30th May 2022 following your trial here in Winchester Crown Court. Following that conviction, I imposed an interim hospital order upon you to better understand the mental disorder from which you undoubtedly suffer. That is the reason for the inevitable delay in this sentencing hearing. Such a delay was unavoidable, but I acknowledge the difficulty and pain this will have caused to the friends and family of Mr Maguire and to Mr Gray and Ms Hole who wanted and needed this matter to be resolved.
3. You are now aged 22 years. It is clear from the psychiatric reports that I have seen that you are autistic which causes you significant difficulties in understanding the emotions and perspectives of others and means that you lack reciprocal social interaction skills. You have a clear tendency to impulsive behaviour and are not usually concerned about the effect of your behaviour on others and you have

difficulty controlling your temper and a tendency to act without thinking. This disorder may to an extent explain your behaviour, but it does not erase or excuse your culpability.

4. Your mother told Dr O'Shea, a psychiatrist who first examined you to see whether the defence of diminished responsibility was open to you on the charge of murder you faced, that you owned many knives. You told him that you liked knives. You chose to carry that knife on the evening in question, as you told the author of the PSR, the police in interview and Dr Hill (a consultant psychiatrist), for your own protection. You told the police that you had the knife with you as it was dark and you took it for protection. You admitted to Dr Hill that you had done so on previous occasions as people in the past used to chase you with knives. You told the author of the PSR that you felt it necessary to carry a knife due to people in the community not liking you or your family. People who carry knives are quick to use them when an incident flares up and, as this case tragically shows, others are hurt and indeed killed in consequence.
5. On the evening of 22nd October 2021, you were out in Lymington with your youngest brother when your brother Garron contacted you and invited you to join him in the garden at the Royal British Legion where he was drinking with a new acquaintance. On the way there you found a cannister of nitrous oxide which you took with you and had when in the garden at the bar. I accept on the evidence, including the CCTV evidence, that you did little to cause any trouble in the early time you were in that garden.
6. Arguments however developed with others who were drinking in the garden that evening. It was clear from the CCTV evidence that Mr Maguire developed an interest in the cannister and wanted to buy it. You did not want to sell it. Tension between his group and yours developed. It was not entirely clear why but towards the end of the evening Mr Maguire left the premises and removed his shirt. I accept that that fact, together with the evidence of his friend Luke Maguire who went after him, showed that he was upset and at that point wanted to fight. However, Mr Gray was able to calm him and to persuade him to return in order to meet with their friends and carry on with their evening.
7. You remained in the garden at this point and had not seen Mr Maguire remove his shirt. Not long afterwards the manager of the RBL that evening asked you and your brothers to leave. Tensions were still high and insults were thrown at Ms Hole and her group as you left. I accept that there is no evidence that those came from you but notwithstanding your cognitive difficulties you must have been aware that there was a bad atmosphere and that there were problems between you and your brothers on the one hand and Ms Hole and her group on the other.
8. By chance as the three of you were ejected from the premises, Mr Maguire and Mr Gray were returning to the Bar. There is an enclosed narrow pathway leading in and out of the RBL and there you by chance came across the two of them and a scuffle quickly began. After only 20 seconds or so one man was fatally injured, another

seriously injured and Georgia Hole was wounded. You had pulled out your knife and used it with devastating effect.

9. The prosecution accepted in the trial that CCTV footage showed that your brother Garron was the first to be assaulted and they offered no evidence against him on the charges he faced on the basis that he was acting in lawful self-defence. The jury rejected however that you were acting in lawful self-defence or defence of another. It may be that your brother had been assaulted and that you were frightened and concerned but nothing that happened in a relatively minor incident justified you producing your large knife and using it in the way that you did.
10. You stabbed Max Maguire once to the right side of his chest and injured him to the extent that nothing could be done to save him. He staggered back into the Bar where, despite the efforts that were made to save his life, he was pronounced dead at the scene.
11. You were seen to swing your knife around in front of you like a wild animal. Whether at or before that time you stabbed Luke Gray twice to his back causing him serious injury to his kidney. He required extensive surgery and suffered complications which led to a stay in hospital for 2-3 weeks. At the time of the trial, he was still using crutches and was in significant discomfort. He continues to suffer with leg and back weakness and numbness. His recovery is unknown to the extent of his kidney. There remains a possibility that may still need his kidney removed. There is a high chance of extensive scarring in the kidney and he is still under review by the urologists. He suffers from PTSD and in the view of his doctor, is mentally a long way from recovery and will need to wait for psychological therapies in order to improve. I am of the view that he sustained, in my view, a particularly grave injury which has had and continues to have a substantial long term effect on his ability to carry out day to day activities.
12. Your actions additionally caused a 4 cm stab wound to Georgia Hole between her armpit and breast which required 3 stitches.
13. Thereafter you went home, leaving carnage, devastation and despair in your wake.
 - a. Max Maguire was a young man in his early 20s. He has had his life cut short by your reckless and impulsive actions following what can only be described as a relatively minor disagreement with another group of people. He was the father of a young daughter aged just 3 years. It is clear that he was a loving and devoted father. He was there for every moment that his daughter needed him; when she fell, he caught her and cuddled her each night. By your actions, she must now grow up without her father, without his protection, love and support. Her mother, Ms Douglas, speaks movingly of her attempts to explain what happened to a child who only knows that her father is not there.

His mother, sister and aunt speak of how his entire family and friends have

been devastated by the loss of their loved one. He was kind, sensitive, patient and generous. They will miss him always and their grief will be far reaching and lifelong. You must face the consequences of your actions in the sentence I impose today but they must forever live with his loss.

- b. Luke Gray, also in his early 20s has had his entire life turned upside down. Not only has he had to grieve for his friend he has also had to face the pain and long term consequences of the injuries you inflicted upon him. Before that fateful night he was a hard working and relaxed individual who enjoyed socialising and meeting his friends. He has since suffered from a crippling anxiety which has made him unable to go out, even fearing being in the park with his partner and her children for a picnic. His physical injuries caused him significant pain and the loss of movement in his leg which meant he was reliant on crutches for a significant period of time. He nearly lost a kidney and has had to undergo successive operations. Now, 18 months after the incident he still suffers from flashbacks. He has regular counselling sessions and is still undergoing medical treatment. He has a stent in his kidney which has to be changed every 3-6 months and which sometimes causes infection. He has many hospital appointments and can see no end to the physical and mental suffering he endures daily. He remains unable to work or even to ride a bike.
- c. I have seen no impact statement from Ms Hole but accept that this incident must have been terrifying. She herself sustained a wound but has also lost a close friend and seen another badly injured.

14. As I have already said, following your trial you have been subject to an interim hospital order under s.38 of the MHA 1983 and since September 2022 detained in Ashford Low Secure Unit under the care of Dr Forbes. Psychological assessment shows that you do not suffer from a learning disability. As I have said you have a diagnosis of autism which represents a mental disorder within the meaning of the Mental Health Act.

15. Both Dr Forbes, from whom I have heard today, and Dr Bain who has also assessed you, are of the view that your mental disorder is of a nature and degree to warrant detention under the Mental Health Act for medical treatment. Dr Bain says this is because you have difficulties primarily in the domains of social communication, rigidity, understanding social situations and a restricted repertoire of interests. Dr Forbes is of the opinion that the medical treatment required may initially include interventions tailored to meet the needs of individuals with autism; index offence focussed psychological therapies aimed at understanding your risk and developing insight and coping mechanisms in order to reduce future risk; developing life and vocational skills and ongoing assessment of mental state with treatment of anxiety or mood disorders if appropriate. As Dr Forbes said there is no cure for Autism, but he has identified treatment which will, if successful, significantly reduce your risk of re-offending.

16. You are currently an inpatient at the Ashford Unit, but it is hoped that if such an order is made you will shortly be transferred to Donnington Hospital, a specialist unit for those such as yourselves with autism.
17. Whilst both doctors agree that there is a need for your detention and treatment under the MHA, neither of them consider that a hospital order under s.37 of the Act is appropriate in your case. Instead both of them invite me to make a hybrid order under s.45A of the Act. If I were to make such an order it would mean that I would impose the appropriate sentence upon you to reflect the seriousness of the offences you committed, but direct that rather than you being removed and detained in prison you be removed and detained in hospital with a limitation direction.
18. Dr Forbes says that this is the most appropriate way of dealing with your case for the following reasons. First that it would allow for a period of time that is time limited in line with your sentence and gives the possibility of your being returned to prison should such treatment be completed. Second that your rigidity of thinking as a result of autism means that you would benefit from having a clear timeframe rather than being subject to a more open ended order which would facilitate your engagement in hospital treatment and thirdly that because of your autism it is unlikely that all risk can be categorically eliminated. An order under s.45A would allow the duration of restriction to be proportionate to the seriousness of the offence thereby avoiding the possibility of potentially indefinite restriction under other hospital orders.
19. Dr Bain puts it slightly differently. He points out that the offences for which you are to be sentenced are serious in nature and until you understand how your difficulties associated with your condition affect you there is likely to remain a degree of dangerousness associated with your condition. A restriction order and limitation direction would therefore be beneficial. An order under s.45A will allow a time limited restriction in line with your sentence. It also allows for the option of remission to prison if your treatment is completed or you are unable to engage in treatment in the future. I am told that there is a bed currently available for you at the Ashford Hospital until your transfer to Donnington.
20. I have considered the matter carefully and have concluded that the recommendation of the psychiatrists, after a lengthy period of assessment, is the appropriate sentence in your case. I find that you are suffering from a mental disorder, that it is of a nature and degree which makes it appropriate for you to be detained in a hospital for medical treatment and that appropriate medical treatment is available for you. For the reasons given by the psychiatrists I conclude that a hospital order under section 37 of the Mental Health Act is not appropriate in your case. Sentencing you by means of a hospital and limitation direction also allows for the penal element to your sentence that the seriousness of the offences demands.
21. It follows that I must determine the appropriate sentence for your offending in consideration of the sentencing guideline for each offence.

22. Each guideline requires me to assess your culpability at the time you committed the offences. In determining that question I have had regard to the overarching guideline concerning the sentencing of offenders with mental disorders. In so doing it is important to recognise that you did not have the defence of diminished responsibility open to you on your trial for murder. In a report dated 23rd February 2022, Dr O'Shea, who examined you at the request of your legal representatives, set out how your autism has led to you being a very isolated and socially incompetent individual who has difficulty understanding the perspectives and impulses of others but found that your disorder did not substantially impair your responsibility for your actions. He found it difficult in February 2022 to establish a link between your mental disorder and the offences in that it was not possible to ascertain that your underlying disorder meant that you were unable to appreciate the potential consequence of your actions in relation to inflicting harm on others or that you were unaware of the potential consequences of your actions. He left open the possibility that, on further assessment, a link may be found between your behaviour and underlying conditions which may have affected your responsibility for your actions at the material time.
23. That is not to say that your disorder is irrelevant to the sentences I must impose. Dr Forbes, who has had the opportunity to assess you over many months as an inpatient in his hospital, concludes that your symptoms of Autism had a significant impact on your actions at the time of the offences. This is because in his view you experience a lack of understanding of social norms, a lack of reciprocal social skills, a lack of understanding of the perspectives of others and a tendency to engage in rigid patterns of thought and behaviour. In evidence before me today he has said that in his view these features impacted on the choices you made on the night in question.
- a. Firstly, in your decision to carry a knife. In conversations with Dr Forbes, you have said that you were carrying a knife because it is the thing to do and for no other reason;
 - b. Second in the way the incident escalated. You lack the basic social skills and any understanding of the perspective of others so as to be unable to find means to de-escalate the situation.
 - c. Third that this lack of understanding may have led you to misinterpret and misunderstand the perspectives of others – why they appeared as they did and
 - d. Fourth that your concrete thinking meant you were unable to come up with a more realistic way of dealing with the situation you faced.
24. I accept that to a limited degree your disorder impaired your ability to exercise appropriate judgment and to make rational choices and that your culpability was to an extent reduced. It seems to me that when violence broke out in front of you, you were less able than others may have been to react appropriately. However, your culpability in my view can only be reduced by a limited extent as you were carrying that large knife in a public house and quickly had recourse to it. I do not accept that you told Dr

Forbes the truth when you said you were carrying the knife only because that was the thing to do. You have clearly stated otherwise to others and I find that you were carrying it offensively – that is to use it if necessary. You may, as Dr Forbes states, have been by reason of your disorder unable to fully appreciate the social taboos and possible negative implications of carrying a knife or the overall risk of doing so but I am satisfied that you knew it was wrong. This case is a stark example of what can happen when lethal knives are carried for self-protection. It is a short step from carrying the knife to using it. Those who carry knives bear a significant responsibility for the severe and devastating consequences of using them.

25. Turning to the guidelines and first to those for the offence of manslaughter. The prosecution suggest that this offence falls within category B as in their submission death was caused in the course of an unlawful act which carried a high risk of death or GBH which was or ought to have been obvious to you. Miss Jones KC, on your behalf, submits that the offence falls within category D as she says that death was caused in the course of an unlawful act which was in defence of another where not amounting to a defence and because your responsibility was substantially reduced by your mental disorder. Indeed, she has gone so far as to submit that were it not for your disorder the offences would not have occurred.
26. That final submission is not one I can accept and goes much further than any psychiatrist has suggested. As I have said, I do accept that your disorder did have some impact on your offending. In my judgment, this is not a case which sits precisely in any one category of the guideline. Having considered the circumstances of your offending and all I have read and heard about you from the psychiatrists, I have concluded that this offence falls towards the upper end of category C as it is a case which falls between higher and lower culpability. I accept that generally when a knife of the kind you were carrying is produced and is wielded in the way that you did, death would be 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 any offender. It seems to me it would have been obvious to you. However, I accept on the evidence of Dr Forbes that your disorder had some impact on your ability to understand what was happening and to act appropriately. I do not consider that your responsibility was substantially reduced by your mental disorder. Dr O'Shea did not consider it to have been in his report dated February 2022 (albeit that this was in the context of a possible defence of diminished responsibility which he did not find available to you) and this is not the word used by Dr Forbes.
27. I accept that part of the reason you did as you did was in defence of your brother. However, even taking your mental disorder into account, your reaction was so far beyond that which was necessary that this fact cannot significantly reduce the appropriate sentence. The offence is significantly aggravated by your use of the knife which you took to the scene and mitigated by the fact you have no previous convictions. Taking into account the circumstances of the offence and of your disorder, were I sentencing for this offence alone the sentence would be one of 9 years

imprisonment.

28. In relation to the wounding of Luke Gray with intent, the prosecution submits that this is a case which falls within category 1A of the guideline on the basis that you used a highly dangerous weapon and the offence has resulted in a permanent, irreversible injury and psychological condition which has a substantial and long term effect on Mr Gray's ability to carry out his normal day to day activities and his ability to work. Miss Jones on your behalf submits that the offence falls within category 3C. She submits that given the loss of his friend Mr Gray's psychological condition is impacted by his admission in evidence that he started the violence in the alley. She relies on the same submissions as she made for the manslaughter offence in relation to your culpability – that you acted in excessive self defence and your mental disorder is linked to the commission of the offence.
29. I agree with the prosecution that this is a case which falls within category 1 harm. You caused a grave injury to Mr Gray resulting in permanent irreversible injury which has had a substantial and long term effect on his ability to carry out his day to day activities. Serious though that undoubtedly is he is not fortunately in the position of lifelong dependency. In terms of culpability, for the same reasons I have given for my conclusions on the manslaughter offence, I conclude that the offence falls within category B although to the higher end of the range. You used a highly dangerous weapon. I accept there was an element of defence of your brother, but it was highly excessive. For the reasons I have already given I accept that your mental disorder was to an extent linked to the offence. The offence is mitigated by your lack of previous convictions. Were I sentencing you for this offence alone the appropriate sentence would be one of 8 years imprisonment.
30. In relation to the wounding of Georgia Hole, the prosecution submit that this offence falls within category 3A of the relevant guideline as you used a highly dangerous weapon but the harm was not grave. Miss Jones on your behalf submits that the offence falls within category 3C for the same reasons that she advances for the offence of wounding with intent.
31. In my view this offence falls within category 3B of the relevant guideline. You used a highly dangerous weapon which would place the offence within culpability A, but I take into account both the element of defence of your brother, albeit that it was highly excessive and that your mental disorder was to an extent linked to the commission of the offence. You have the same mitigation. If I were sentencing you for this offence alone the appropriate sentence would be one of 18 months imprisonment.
32. The offence of possession of an offensive weapon falls within category 1A of the guideline as you had a bladed article and the offence was committed in circumstances where there was a risk of serious disorder. You also caused serious alarm and distress. The offence is mitigated by the fact you have no previous convictions. The appropriate sentence for this offence alone before credit for plea would be one of 18 months imprisonment. I take into account your guilty plea at the first opportunity

when this count was added to the indictment and affording you full credit reach a sentence of 12 months imprisonment.

33. By reason of your convictions for the offences of manslaughter, wounding with intent and unlawful wounding I must also consider whether you are dangerous within the meaning of the Sentencing Act 2020 that is do you pose a significant risk of serious harm to members of the public occasioned by the commission of further specified offences.
34. I have come to the conclusion on the evidence of both psychiatrists and on the view of the author of the pre-sentence report that you do currently pose such a risk.
35. As Dr Bain said until you understand how your difficulties associated with your condition affect you there is likely to remain a degree of dangerousness associated with it. Dr Forbes identifies a number of factors within your disorder that, if not successfully treated, are relevant to your risk of reoffending. These are:
 - a. Internal factors associated with Autism such as difficulty understanding the thoughts and feelings of others, difficulty in social reciprocation and a “black and white” way of seeing the world which may lead to an idiosyncratic sense of right and wrong and a misunderstanding of potential consequences. There may also be a lack of empathy with others that may lead to a disproportionate response to perceived injustice.
 - b. More external factors such as social situations and the influence of others.
 - c. Factors associated with other mental disorder such as anxiety and depression.
36. It may be and it is to be hoped that your treatment in hospital will reduce that risk but that cannot be known at the moment. I have considered whether your risk is such that a life sentence should be imposed upon you but have concluded that is not necessary in this case. I consider however that an extended sentence pursuant to s.279 of the Sentencing Act 2020 is required.
37. I consider there to be limited mitigation in your case. I have read the letters submitted on your behalf which set out you family’s understandable concern that you receive the treatment you need. I take into account that which your counsel has said:
 - a. You have no previous convictions.
 - b. There was no premeditation to this offence. You had not taken part in any of the unpleasantness in the garden or the bar during the evening and were not deliberately in the alley to confront Mr Maguire and Mr Gray. The fight which

ensued was not of your making. It is the way you reacted to it for which you are being sentenced today.

- c. I accept there was a deterioration in your mental health when remanded in custody and especially after the acquittal of your brother when you were there alone.

- 38. I take into account the principle of totality in the overall sentence which I impose. I approach your sentence by imposing a sentence on count 2 which reflects the entirety of your offending and passing concurrent sentences for the other offences.
- 39. Taking into account your mental disorder, I impose a total extended sentence upon you on count 2 to reflect the entirety of your offending of 20 years imprisonment. This will comprise a custodial term of 16 years and an extended licence period of 4 years. There will be concurrent sentences of 8 years imprisonment on count 4, 18 months' imprisonment on count 7 and 12 months' imprisonment on count 8. Were it not for your mental disorder the sentence would have been considerably longer.
- 40. However, you will not be removed to and detained in prison immediately. I find that a hospital and limitation order under s.45A Mental Health Act 1983 is the appropriate sentence in this case. I direct that rather than being taken to prison you are removed and detained in Ashford Low Secure Unit.
- 41. The effect of this sentence is that you will remain in hospital until either your treatment is complete, or you are unable to engage with treatment. Should either of those things occur during the currency of your sentence you will be transferred to prison.
- 42. If returned to prison, you will serve 2/3 of your sentence before you are eligible for parole. It will then be for the parole board to decide whether you remain a danger to the public and whether you should be released on licence at that stage. As part of that consideration the parole board will need to consider what arrangements can be put in place for your disorder to be managed within the community. If you are released on licence and reoffend you will be sent back to prison to finish your sentence.