



**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**IN THE CROWN COURT AT MINSHULL STREET**

**Date: 8<sup>th</sup> December 2020**

**Case No: T20207417**

**MR JUSTICE WALL**

**REGINA**

**- V -**

**ELTIONA SKAN**

**SENTENCING REMARKS**

- 1 Eltiona Skana, you have pleaded guilty to manslaughter by reason of diminished responsibility. The prosecution, having considered the medical evidence presented at your trial for murder, decided that it would not be right to ask a jury to convict you of that offence and offered no further evidence against you on that count.
- 2 The facts of this case are chilling. On Mother's Day this year you went to a shop in Oldham town centre and acquired a packet of three craft knives. You told Dr Whitworth, the psychiatrist, that you acquired them in order to kill someone. You took them to the local park where you sat or relaxed on a bench. In the park

that day was Emily Jones, a beautiful young girl aged 7. She was there with her father to ride her scooter and meet her mother who was jogging nearby. When she saw her mother in the distance, she asked her father if she could scoot over to where her mother was. Her father agreed. Her route took her past the bench that you were using. As she scooted past you, you got off the bench, pulled up the hood on the garment you were wearing, took hold of Emily and slit her throat with one of the craft knives you had bought earlier. You must already have taken it out of the packaging it came in to prepare for what you did. You then ran away as she lay dying on the ground. She was attended to by her father, some passers-by, paramedics and finally doctors in hospital but the injury which you inflicted was so severe that nothing could be done to save her and she was pronounced dead that afternoon.

- 3 Mr Cantley, who was at the time in the park with his own family, chased after you as you ran off and caught you. He tackled you to the ground and sat on you until the police arrived. He had the presence of mind to call 999 and take a photograph of you on his mobile telephone so that you could be identified by the police should you escape before they arrived. When he first went after you, he did not know exactly what you had done or that you were in possession of a knife. His wife warned him that you had a knife while he was part-way through detaining you but that did not deter him. He is to be commended for his swift and brave response in the face of obvious danger. He could not save Emily, but his actions ensured that you were caught and detained promptly.
- 4 The devastating effects of what you did will live with Emily's parents (and doubtless others who knew Emily) forever. The impact statement written by her father is powerful and eloquent testimony to how loved she by so many people was and how devastating is the impact of your actions. It is obvious that nothing I can say or do can restore Emily to her family or offer any real comfort to them in their immense loss.
- 5 There was no obvious reason for you doing what you did. You did not know Emily or her family and she had done nothing to you.
- 6 The background to the killing is your enduring mental health condition. Your mental health history was presented to the jury at your trial and is set out in a number of medical reports from Dr Barry, Dr Whitworth and Dr Afghan. In summary, you came to this country from Albania about 7 years ago and since that time have been treated for paranoid schizophrenia. You have spent time as an in-patient in psychiatric units and other times being treated in the community under a Community Treatment Order or by way of supervision by a mental health nurse. It is a condition of which you cannot be cured. You have been prescribed various drugs which, when you take them, serve to ameliorate your symptoms. On the day you committed this offence you were in a state of relapse and had either stopped taking your oral medication or had unilaterally reduced the amount you were taking to a level at which its effectiveness was materially reduced. You had told nobody that you had done this.
- 7 You are 30 years old and have no previous convictions recorded against you but that does not paint the full picture. You have previously attacked your mother with a number of weapons including an iron and a knife. On one occasion you

went to the house of a neighbour who had a teenage daughter and, for no obvious reason, demanded to see the daughter. Dr Whitworth's report suggests that you were in possession of a knife from a restaurant when you did this. The mother had the presence of mind to refuse you entry. This history means that I cannot treat you as someone for whom this outburst of serious violence was an isolated incident. Rather, it is part of a pattern of behaviour set over a number of years.

- 8 In determining the correct sentence to pass on you I have regard to two applicable guidelines; that relating to Manslaughter by Reason of Diminished Responsibility and that relating to Sentencing Offenders with Mental Disorders. I also bear in mind guidance given by the Court of Appeal (Criminal Division) in *R -v- Vowles [2015] EWCA Crim 45* and *R -v- Edwards [2018] EWCA Crim 598*.
- 9 In accordance with that guidance I firstly need to consider whether you qualify for a Hospital Order with or without restriction under sections 37 and 41 Mental Health Act 1983. On the evidence you clearly do. I am satisfied on the oral and written evidence of Dr Barry and Dr Afghan (from both of whom I heard at trial) and of Dr Whitworth (who gave evidence at this sentencing hearing) that you have a mental disorder, namely paranoid schizophrenia, and that it is of a nature and degree that warrants your detention in hospital. All three doctors are approved under s12 Mental Health Act. I have evidence that there is a bed available at Rampton Special Hospital from today.
- 10 Were I to impose a Hospital Order I am satisfied that it would be necessary for the protection of the public for a restriction under s41 to be attached to that order. The doctors agree on the level of danger you pose. For example, Dr Whitworth in her latest report wrote as follows: *"In the context of the acute stages of her mental illness, Eltiona Skana represents a very high risk of serious, potentially fatal, harm to others. I note with concern, Ms Skana's use of weapons, including episodes when she has armed herself with a knife in response to abnormal beliefs and experiences. On other occasions, Ms Skana has used improvised weapons, including an iron and has referred to an intention to "club" those she has incorporated into her delusional belief system"*.
- 11 Next, I must assess your residual culpability for your actions in the park that afternoon. That is, I must determine whether your mental health condition extinguishes your personal responsibility for what you did or whether you retain some responsibility and, if so, how much. In my judgment you retain a significant amount of responsibility. I do not assess it as full responsibility but I do not regard it as minimal either.
- 12 In making that assessment I look at the facts of the case. You went out to a shop before you had even met or seen Emily Jones. You there bought or acquired craft knives for which you had no obvious use other than to use as weapons. You told Dr Whitworth that you intended to use them to kill someone. You went to a park where you knew you would in close proximity to many people. You allowed a number of people to pass before you alighted on Emily as your victim. You had the presence of mind to pull your hood up before attacking her. There was no obvious reason for you to do so other than to disguise your appearance

to reduce the chance that you would be apprehended. You delivered a fatal blow and then made off. You knew that you had done something which would be regarded as seriously wrong and wanted to avoid facing the consequences for that. Although the reason for your offending is to be found in the paranoid schizophrenia, all of these factors lead me to conclude that you retained a real understanding of the nature of your actions and an ability to decide on a course of action that to you appeared to be rational but which you knew was wrong.

- 13 Having considered both your mental health condition and your residual responsibility for what you did I must consider whether there must be an element of punishment in the sentence that I impose on you. I have concluded that there must be such an element. Punishment is one of the key aims of sentencing, which aim should only be set aside in exceptional cases. In assessing whether this is one of those case I take into account both your residual culpability as I find it to be and the harm done by your offending, which, involving loss of life, is of the greatest type.
- 14 Having concluded that I must punish you but that you presently require treatment in hospital, I will pass a sentence on you under s45A Mental Health Act 2003. That is a sentence of imprisonment but an order that you are taken back to Rampton at present for treatment.
- 15 I come to this conclusion in the knowledge that there is a risk that if you became fit for release, the post release regime under s41 Mental Health Act might be more beneficial to your mental health than that applicable to a release under s45A for reasons set out in *R -v- Nelson [2020] EWCA Crim 1615* and supported by Dr Whitworth at court today. This factor, while important, cannot alone determine my sentence. In my judgment the factors in favour of a s45A order outweigh those factors favouring a purely Mental Health Act disposal in this case.
- 16 I have already indicated that I regard you as having a medium level of retained responsibility for your actions. The guideline fixes the starting point in such cases at 15 years. There are aggravating features. The age and consequent vulnerability of your victim. The fact that you killed Emily in front of her father (who did not see you wield the knife but saw the consequences of you having done so only seconds later). You also killed Emily in the presence of other people using the public park that afternoon. You have previously used serious violence on your mother and behaved in a way which might have put another teenage girl in danger. You deliberately acquired the knives and took them to the park as weapons for murder that day. All of these are significantly aggravating features to your offending.
- 17 There is little mitigation outside of your mental health condition that I have already taken into account in assessing your reduced level of retained responsibility.
- 18 The proper determinate sentence after trial in your case would be one of 24 years. You are entitled to full credit for pleading guilty which you did immediately on being found fit to plead. Thus, the determinate sentence in your case would be one of 16 years.

- 19 However, I further conclude that I must treat you as a dangerous offender. That is because I am sure that you pose a high risk of causing serious harm to people in the future by committing further specified offences. I reach this conclusion based on the facts of the case, your previous history of violence, the contents of the medical reports (such as that of Dr Whitworth from which I have quoted already) and on the basis that you will not recover from your condition which might easily again lead to your becoming violent. Any reduction in risk can only be due to your taking your medication which you have failed to do in the past. It is conceded by your counsel that I would be driven to this conclusion if I decided that I should punish you rather than make a Hospital Order.
- 20 That being so I am sure that the provisions of s285 Sentencing Act 2020 apply. This is a case which justifies the imposition of a life sentence. It is both justified on the facts of the case and necessary to protect the public into the future. Again, your counsel recognises that I would be driven to reach this conclusion based on the view of the case I have taken.
- 21 Eltiona Skana. For the offence of manslaughter I sentence you to Life imprisonment with a minimum term to serve of 8 years less the 196 days you have spent detained under the Mental Health Act awaiting trial and I direct, under the provisions of section 45A of the Mental Health Act 1983, that in the light of the psychiatric evidence of Dr Whitworth, Dr Barry and Dr Afghan the criteria for a hospital order are met; and so instead of being removed to and detained in a prison, you will be removed to and detained in Rampton Hospital. You will be subject to the special restrictions set out in section 41 of the Mental Health Act 1983 without limit of time.
- 22 I have set the minimum term as the law requires by taking half of the notional determinate sentence and then deducting the period spent by you in hospital awaiting trial.
- 23 What this means is that you will be detained in hospital for as long as necessary. If or when it is no longer necessary, you will be transferred to prison. Once in prison you will serve the remainder of the sentence which I have imposed.
- 24 You will only be released after you have served the minimum term of your sentence and thereafter have been assessed as no longer posing a risk to the public. If you are released you will have to abide by any conditions attached to your release. Failure to do so will result in your being recalled to prison. If you are never deemed fit for release, you will remain in hospital or prison for the remainder of your life.
- 25 If the surcharge applies, the order should be drawn appropriately.