



JUDICIARY OF
ENGLAND AND WALES

The Queen

-v-

James Fairweather

Central Criminal Court

Sentencing remarks of Mr Justice Spencer

29th April 2016

1. James Fairweather, you may remain seated for the time being. I have to sentence you for two brutal and sadistic murders committed when you were only 15 years old. You are now 17. Your 18th birthday is in 3 months time on 5th August. For murder there is only one sentence prescribed by law: life imprisonment. Because you were under 18 when you committed these murders your life sentence has to be expressed as detention at Her Majesty's Pleasure. That is the sentence I shall pass in due course, but I am also required to determine the minimum period you must serve in custody before you are even eligible to be considered for release on parole. Despite your young age that will be a very long period indeed.

2. You were convicted of these two offences of murder by the jury after a trial. You admitted the killings and had pleaded guilty to manslaughter on the grounds of diminished responsibility. The Crown did not accept those pleas. The issue for the jury was whether you were suffering from an abnormality of mental functioning which substantially impaired your responsibility for the killings. The four psychiatrists who gave evidence all agreed that you were and

are suffering from autistic spectrum disorder, but that would not in itself have afforded you a defence. Many people of all ages suffer from autism. It would be an unfair and unjustified slur on them to suggest that autism predisposes someone to commit acts of serious violence.

3. The three psychiatrists called on your behalf, Dr Hill, Dr Misch and Dr Ho, were of the opinion that it was highly probable that you were suffering from a psychotic episode at the time of each killing, experiencing auditory hallucinations commanding you to kill, so that you felt entirely under the control of voices telling you what to do. The psychiatrist called on behalf of the Crown, Dr Joseph, disagreed. He doubted the authenticity of the alleged hallucinations. It was his opinion that you were not psychotic at the time of the killings but were suffering from an emerging psychopathic personality disorder which did not substantially impair your responsibility for the killings. The jury had to consider all of the evidence, not just the expert evidence. In particular the jury had to assess the truthfulness of your claim to have been acting under the compulsion of voices you were hearing. The jury rejected your defence of diminished responsibility. It is plain that they preferred the evidence of Dr Joseph.

4. It follows, in my judgment, as Dr Joseph suggested, that in committing these murders you were acting out your violent sadistic fantasies which had been fuelled by your obsession with serial killers. You had immersed yourself in that obsession for several months at least, reading about serial killers on the internet and in books, and watching DVDs. From the materials found in your home and on your phone, and from what you told the psychiatrists at various times, it is plain that in carrying out these two murders you were seeking to emulate other serial killers, such as Peter Sutcliffe (the Yorkshire Ripper).

The first murder, James Attfield

5. Your first victim was James Attfield. He was 33 years old. You murdered him in the early hours of Saturday morning 29th March 2014 in cold blood. James Attfield, known as Jim to his family, was a pleasant, fun loving, jovial and harmless man, the father of four children. He had been badly injured in a

road traffic incident four years earlier which had left him with some brain damage and a significant disability. He was coming to terms with that profound change in his life. He was living in semi-sheltered accommodation in Colchester. He had gone out on the Friday night and had been drinking heavily. He found his way to Castle Park where he was sleeping off the effects of the drink. A witness came across him lying on the grass at around 1am. He asked if he was all right and the response was yes. He warned him "You want to be careful mate". The stabbing must have occurred between 1am and 5.45am because that is when the attack was reported to the police by a member of public.

6. When you were arrested over a year later you described to the police in graphic detail how you came across James Attfield and stabbed him repeatedly. The jury watched the video recording of your police interviews. As more than one of the psychiatrists observed, those interviews were chilling. You told the police you had sneaked out of the house through the living room window while your parents were in bed, so as not to disturb them by using the front door. You were looking for someone to attack and kill. You were armed with a large knife, which you described and drew for the police. You were wearing gloves, so as not to leave fingerprints. When you came across James Attfield, a mile or so from your home, he was lying on his back, apparently asleep and obviously drunk. You could smell the alcohol on him. You told the police you stabbed him first in the abdomen with all your strength, four or five times. You then stabbed him in the head several times. You went to stab him again in the side of the head but missed, and stabbed him in the eye instead. You said you went into a rage and when you came out of the rage you heard him gurgle and thought he was dead. You saw a light and fearing someone was coming you ran off home.

7. It was a brutal, relentless and cowardly attack on a man who was lying on the ground drunk and incapable of defending himself. There were 102 stab wounds. Many were to the head, some of them several centimetres deep. You stabbed him through the left eye, although I accept on the basis of the pathologist's evidence that in this first killing that may not have been a

targeted injury. You told the police that when you stabbed him in the eye he screamed loudly, the sort of scream that goes right through you. There were three or four stab wounds below the right ear which severed his jugular vein. James Attfield must have put up quite a struggle because there were numerous defensive wounds on his arms and hands. The pathologist observed that there were a large number of comparatively superficial wounds consistent with just the tip of the knife penetrating, which in his opinion might indicate deliberation. In my judgment those injuries demonstrate an element of control inconsistent with your description of going into a rage. It is significant that in some of the materials found at your home, notably a DVD called "Wrong Turn the Carnage Collection" and a DVD called "Serial Killers Real Life Hannibal Lecters" there were scenes and descriptions of repeated stabbings causing superficial wounds before the fatal injuries were inflicted.

8. You left James Attfield for dead. You told the police you got home at around 2.30am. He was still alive when the emergency services arrived at around 5.45am. His injuries were dreadful. He was pronounced dead at 6.31am. I have read the moving victim personal statement from James Attfield's mother. The impact on her life has been devastating. She sat through the trial and she is here today along with two of James' sisters. She and the rest of the family will never come to terms with his death.

9. You calmly covered your tracks after this first killing. You took the knife home and washed it. Next day you disposed of it in a fast flowing stream, confident that it would never be recovered. You put your blood stained clothing in a bin bag and left it to be collected with the rubbish, confident again that it would not be traced back to you.

10. This first killing had a profound effect on the community in Colchester. I have read the witness statement of Chief Inspector Phillibrown which describes the impact of the offence. Policing was increased with reinforcements from all over East Anglia and the Metropolitan Police. Around 3,000 personal attack alarms were handed out to people who felt vulnerable. The cost of all this was enormous. You were well aware of the publicity this

first murder had attracted. I have no doubt that you relished the sense of power and control that it gave you.

The second murder, Nahid Almanea

11. It was nearly 3 months later that you struck again. Your second victim was Nahid Almanea, a Saudi Arabian young woman studying at the University of Essex. You murdered her on the morning of Tuesday 17th June 2014. She was 31 years old. This time the attack was in broad daylight. Nahid Almanea was walking to college along the Salary Brook Trail at around 10.30am. She was in traditional Islamic clothing with her head covered. She was wearing sunglasses and carrying a bag. She was barely 5 foot tall. You were armed with a large bayonet knife, which you described and drew for the police. You were wearing gloves. You came up behind her silently and stabbed her in the lower back. From what you told the police you then spun her round, deliberately knocked off her sunglasses and stabbed her through the eye. She fell to the floor and you stabbed her through the other eye. In falling backwards onto the ground she suffered a fracture to the back of the skull. You told the police that you went into a rage again and when you came out of it you could see all the puncture holes. You knew she was dead. You left the scene and went home.

12. This time there were far fewer stab wounds but their effect was just as devastating and disturbing. The initial stab wound to the back caused significant damage to the liver. There was a stab wound above the left breast inflicted with force severe enough to fracture the rib beneath. The stab wounds through the eyes caused direct brain injury. They required severe force. You told the police in interview that you knocked off her glasses specifically so that you could stab her in the eye. This time it was quite deliberate. I have no doubt that the way in which James Attfield had screamed in pain when you stabbed him through the eye had remained with you and excited you. It is also significant that in the material found at your home, in a book entitled "The world's worst crimes", there was reference to Peter Sutcliffe stabbing one of his victims in the eye because it remained open after she had been killed.

13. It is also very significant in my judgment that there were eight superficial puncture wounds over the left side of the chest and upper abdomen, caused with the tip of the knife which, in the view of the pathologist, were likely to have been inflicted with a significant degree of control. Again, in my judgment, infliction of such injuries is inconsistent with your description of going into a rage. The superficial injuries are reminiscent of the description of injuries I have already mentioned in the material about serial killers found at your home.

14. Nahid Almanea's body, lying on the path, was spotted by a man living nearby who was searching for his missing cat. When he and his friend went to investigate, the sight which confronted them was appalling. His impression was that her face was all smashed to bits with one eye hanging out of the socket and the other badly swollen. Paramedics and police officers were soon on the scene. Nahid Almanea was pronounced dead at 11am.

15. I have read the moving victim personal statement from Nahid Almanea's younger brother, who was also studying at the University of Essex. He describes her as a role model in her sincerity and optimism for the future. To him and to their family in Saudi Arabia her death is incomprehensible. They feel crippled by sadness and grief. Their lives will never be the same again. Representatives of the Saudi Embassy were present throughout the trial and are here today.

16. Once again you calmly covered your tracks. You disposed of the knife in the same way as before in the fast flowing stream. You put your blood stained clothing in a bin bag as before and left it to be collected with the rubbish. You were spoken to by the police two weeks later in the presence of your mother, not as a suspect but as part of routine police enquiries. You denied any knowledge of the murder asserting that you had been at home when it happened.

17. The impact of this second murder on the community in Colchester was to heighten the level of fear and tension even further. There was concern, for

example, that the killing might have been racially or religiously motivated. I make it clear that the prosecution have not suggested that your motivation in killing Nahid Almanea was racial or religious. I am sure it was not. She simply had the misfortune to be walking alone in this area on the morning when you had decided to kill again.

18. The terror which you had created lasted for almost another year until you were eventually arrested on 26th May 2015. You told one of the psychiatrists, Dr Joseph, that during that period of 11 months you spent your time thinking of killing and raping and watching pornography every day. You thought about keeping your head down so as to avoid arrest. The voices wanted you to keep on killing but you could not kill anyone else because the police were everywhere.

The arrest

19. On 26th May 2015 you were arrested not far from the scene of the stabbing of Nahid Almanea on the Salary Brook Trail. From what you told the police you were intending to carry out another killing that day. It was only through the vigilance and courage of Michelle Sadler that you were arrested. She lived nearby and was taking her dog for a walk. At around 10.30am she saw you standing on the small wooden footbridge over the brook and felt intimidated by your presence. It was almost a year since the last killing. It was almost the same time of day, and this was a Tuesday too. Having initially turned round and headed back along the path she met another lady whom she recognised and between them they decided to go back and see if you were still there. You were no longer on the bridge but standing under a tree. She called the police. You were arrested soon afterwards.

20. You had a fearsome lock knife in your pocket. You were wearing gloves. The lock knife was an offensive weapon. You have pleaded guilty to count 3 alleging possession of that offensive weapon. Given the purpose for which you had the knife, it is a particularly serious offence in itself. The offence carries a maximum sentence of 4 years imprisonment. Because of your age the only custodial sentence I could pass would be a concurrent term of custody under a

detention and training order. That would not be appropriate. Instead I propose to reflect the additional criminality of this offence in fixing the minimum term you must serve for the two counts of murder.

21. At the police station you were extremely frank in your admissions. The police still had no inkling that you were the killer they had been searching for over the last 14 months. You readily admitted that you were the killer. It was part of your case to the jury that no psychopath would have volunteered admissions to his killings because it would prevent him killing again. In my judgment that is too simplistic. You must have realised when you were arrested that the police were likely now to make the connection. But more importantly you were, in my judgment, still relishing the fact that you had been responsible for these two killings with all the police and media attention they had attracted.

22. The fact that you made full admissions at that stage and described what you had done with such chilling frankness goes, to some extent, to your credit. However, within a matter of two weeks or so, having been remanded to a Young Offender Institution, you were denying responsibility for the killings and blaming the voices for tricking you into making a false confession. That remained the position until January this year when, confronted by DNA evidence linking you to the second murder, you finally acknowledged responsibility for the killings and entered your guilty pleas to manslaughter at a hearing on 22nd January.

23. You now claim not to remember the details of the killings. I have no doubt that the jury found this as unconvincing as your claim to have experienced auditory hallucinations which compelled you to carry out the killings. Your case was that you had begun to hear these voices long before the murders, and before you carried out a knife point robbery at a convenience store on 20th January 2014. You claimed to the psychiatrists that the voices compelled you to carry out that offence too, as a test of your mettle. But it was striking that you said nothing about hearing any such voices when you were interviewed for your pre-sentence report in respect of that offence. Nor did you mention it to

the experienced psychologists who examined and assessed you at the time. The very first time you told anyone about hearing voices was after your arrest on 26th May 2015.

The statutory provisions

24. I turn to the provisions of Schedule 21 to the Criminal Justice Act 2003 which sets out the approach I must follow in deciding what minimum term you must serve. Because you were under 18 years of age when you committed these two murders the prescribed starting point is 12 years. There is a single starting point of 12 years for any murder or murders committed by someone under 18, however serious. But although parliament has prescribed 12 years as the starting point, it by no means follows that 12 years is the finishing point. I must have regard to all the aggravating and mitigating factors, including those specifically set out in the schedule. I must also have regard to what the sentence for these offences might have been had you been over 18 at the time.

25. It is necessary to approach this task in stages. It should first be noted that had you been 18 or over at the time of the offences the starting point for each murder would have been 25 years, because you took a knife to the scene with the intention of committing the offence and used it to do so. Had you been 18 or over the starting point for a case involving the murder of two or more persons is 30 years, that being an example of a case where the seriousness of the offences is “particularly high”. The starting point of 30 years also applies where a murder involves sadistic conduct. Had you been aged 21 or over at the time of the offences it is even be arguable that a whole life order might have been considered. That applies where the seriousness of the offences is “exceptionally high”. Cases normally falling within that category include the murder of two or more persons where each murder involves a substantial degree of premeditation or planning, the abduction of the victim, or sexual or sadistic conduct.

26. I am not persuaded that this would have been a whole life case, had you been over 21. But in my judgment, had you been 18 years old at the time of these offences, the appropriate overall starting point for these two murders

would undoubtedly have been 30 years. The sentence would, however, have been substantially higher than that because of the serious aggravating factors.

27. There are the following aggravating factors, by reference to paragraph 10 of the schedule. First, there was a significant degree of planning or premeditation in respect of each of the killings. You may not have identified your victims in advance but you went out intending to find a victim. You had armed yourself with a knife and you were wearing gloves, knowing your fingerprints were on the police database. You knew exactly what you were intending to do, and you achieved it.

28. Second, whilst neither victim was “particularly vulnerable because of age or disability”, within the meaning of paragraph 10(b), you took advantage of a more general vulnerability in each case. You did not know that James Attfield was disabled but he was lying on the ground evidently drunk and probably asleep when the attack began. Nahid Almanea was small in stature, and a lone female making her way along the Salary Brook Trail at a time when there was a pervasive climate of fear in the area as you well knew. Indeed you told one of the psychiatrists on 3rd June 2015, a week after your arrest, that she should not have been walking there alone as she should have known there was a murderer in town.

29. The third statutory aggravating factor is that you inflicted mental or physical suffering before death. In the case of James Attfield there must have been a prolonged attack for there to have been so many stab wounds inflicted. He put up considerable resistance, as the defence injuries demonstrate. You told the police about his shouts and screams during the attack, particularly when you stabbed him in the eye. Mercifully it is unlikely that Nahid Almanea would have survived for long after the fatal stab wounds through the eyes which entered her brain.

30. There are three further aggravating factors. The first is that there was an element of sadism in each of the murders. On both occasions I am sure on the evidence that you deliberately inflicted multiple superficial knife tip wounds,

emulating the serial killers you idolised in what you had read about and watched on film. The deliberate stabbing of Nahid Almanea through both eyes was in itself horrific sadistic conduct.

31. The second is that you murdered James Attfield only three days after you had appeared in the Youth Court and been dealt with by a referral order for the offence of knife point robbery, already mentioned, which you had committed on 20th January 2014. I have read the pre-sentence report from that case. There was nothing in your background to indicate that you were dangerous. You had misled the author of the pre-sentence report in claiming to have no recollection of the offence. It was your first finding of guilt. You came from a caring and supportive home. The magistrates had a straight choice between a detention and training order and a referral order. No other option was available. They adopted the strong recommendation in the pre-sentence report for an enhanced referral order. You abused their trust.

32. Third, these murders were committed in public and the impact of these murders on the community in Colchester is an aggravating factor. For a period of 14 months the town was in a state of fear and anxiety which had a very real impact on people's daily lives.

33. I turn to the mitigating factors. There are potentially two, by reference to paragraph 11 of the schedule. The first is that you suffered from a mental disorder or mental disability which, although not affording you a defence of diminished responsibility, lowered your degree of culpability. Dr Joseph accepted that the combination of autism and an emerging psychopathic personality disorder amounted to an abnormality of mental functioning. But the jury must have agreed with his opinion that this abnormality did not substantially impair your ability to understand the nature of your conduct, or your ability to form a rational judgment, or your ability to exercise self-control. As Dr Joseph put it, in acting out your violent and sadistic fantasies your judgment may be considered illegal, immoral and abhorrent, but it was based on a desire to kill and therefore rational within that framework. It follows that your culpability remains very high.

34. Your autism was not diagnosed until you had been transferred to the medium secure hospital where you have continued to remain a patient. I accept that your autism would have contributed to obsessive behaviour, which to an extent may have helped to feed your obsession with serial killers. Mr Spence QC goes further and submits on your behalf that the explanation you gave for the killings, namely that you were making sacrifices of your victims because you thought it was the right thing to do, is a clear reflection of the abnormality in your mental functioning which must reduce your culpability significantly. He accepts that two of the psychiatrists called by the defence, Dr Hill and Dr Misch, acknowledged that if they were wrong about psychosis, the only other explanation for such appalling killings was that you must be a psychopath. Dr Joseph was more guarded, emphasising that no firm diagnosis of psychopathic disorder can or should be made in someone as young as you still are. In my judgment, looking at the matter in the round, the combination of autism and the emerging psychopathic personality disorder from which you were suffering cannot be said to have reduced your culpability to any significant degree, although I take it into account as providing some mitigation justifying a modest reduction in the minimum term.

35. The second mitigating factor is your age. You were aged 15 years 7 months at the time of the first murder and 15 years 10 months at the time of the second. Your age is, of course, to an extent taken into account already in the starting point of 12 years. However, it can fairly be said that your age is in the lower end of the range between 14 and 18 years, 14 being the generally accepted age of criminal responsibility.

36. The third mitigating factor is that you initially made frank admissions to these two offences, and you admitted the killings formally by your pleas of guilty to manslaughter in advance of the trial. That entitles you to some credit, but not in my view very much, because the jury must have disbelieved the account you were giving to the psychiatrists of auditory hallucinations in rejecting your defence of diminished responsibility. Moreover, in the light of your admissions to the police the evidence that you were the killer was

overwhelming. Nevertheless, as Mr Spence pointed out, the consequence of your admissions was that you were thereafter detained in custody and subsequently in hospital, putting an end to the period of terror in Colchester.

37. I have considered such guidance as there is in the decided cases to which I have been referred by counsel, but each case turns on its facts. It is clearly established on the authorities that where a defendant under 18 has committed two murders, the court should fix a single overall minimum term. One approach is to assess what the minimum term would have been for each murder, aggregate the two, and make an appropriate reduction for totality: see R v Malasi [2009] 1 Cr App R (S) 51. In the authorities there are examples of cases where defendants aged only 15 at the time of the offence have received very substantial minimum terms for a single murder: e.g. R v Cornick [2015] EWCA Crim 110 (20 years on a guilty plea); R v Taylor and Thomas [2008] 1 Cr App R (S) 4 (18 years after a trial); Attorney General's Reference (No 126 of 2006) [2007] 2 Cr App R (S) 59 (15 years on a guilty plea).

38. I bear in mind that in sentencing someone as young as you it is necessary to take into account your maturity, or lack of it, at the time of the offences, and the capacity for change as you get older. You had difficulties at school, which in hindsight were probably the result in part of your autism. You were also dyslexic. You were badly affected by the death of your grandmother in 2012, to whom you were very close. You have responded well to the treatment and medication you have received whilst in hospital on remand. It is too early to say how your emerging psychopathic personality disorder will develop. You have the support of a loving and caring family. Your mother was present throughout the trial. Both she and your father are here in court today. For your family too, this case is a tragedy.

39. Weighing and balancing all the aggravating and mitigating factors I have identified, and taking into account the additional criminality in count 3, possession of the offensive weapon when you were arrested, the appropriate minimum term for each of these murders individually could not have been less than 16 years, making an aggregate of 32 years. But that figure has to be

reduced for totality. In my judgment the appropriate minimum term you must serve is 27 years. On count 3 there will be no separate penalty.

40. Stand up please. James Fairweather, for each of these two offences of murder you will be detained at Her Majesty's Pleasure. That is the same as a sentence of life imprisonment. You will serve a minimum term of 27 years, less the 339 days you have spent on remand. Thereafter it will be for the Parole Board to decide when, if ever, you should be released. If you are ever released, you will remain on licence for the rest of your life.

-ENDS-