



JUDICIARY OF
ENGLAND AND WALES

In the Crown Court at Luton

The Crown

-v-

Jason Paul Jay

**Sentencing Remarks of H.H. Judge Richard Foster
(Honorary Recorder of Luton)**

16th May 2014

1. On 4th November 2013 you were a serving prisoner at HMP Woodhill in Milton Keynes – you were serving two life sentences for murder and attempted murder respectively. Kevin McCarthy was another inmate in the same prison. You have now pleaded guilty to the attempted murder of Kevin McCarthy.
2. During association time you enticed Kevin McCarthy into a side room on the pretext of needing help with ordering some CD's. In fact your specific intention was to attack him in order to kill him with an improvised weapon which you were carrying and which you had previously made. That weapon was a toothbrush with the plastic melted at one end so as to attach a blade. You slashed at his neck and then tried to attack him again as he left the room. He was treated by prison medical staff and did not suffer life-threatening injuries This was entirely fortuitous and as you said in your police interview you hoped to get a better shot but you missed – you said your plan was to immobilise him and then get round the table to complete the attack. The injury was 3 centimetres deep and went across the main artery. Any deeper and it would have proved fatal. You said when interviewed that it was your intention to sever the main artery.
3. Immediately after the attack and whilst still armed Prison Officer Lee Thomas spoke to you. He showed considerable bravery in persuading you to give up the weapon. You told him that you intended to kill Kevin McCarthy because he was “getting needy” and because you wanted to let people know what you were capable of. You also discussed with him your desire to attack another inmate.

4. You were serving a life sentence with a minimum term of 28 years for the murder of Roger Denslow in 2006. The victim suffered a massive fracture of the skull. The sentencing judge on that occasion described you as “an extremely dangerous man who presented a serious risk to the public”. On 13th August 2011 whilst serving that sentence at HMP Long Lartin in Worcestershire you launched a vicious attack on another inmate who you believed had killed a child. Again you used an improvised weapon this time to slash at his throat and eyes. After this attack you held another prisoner as a hostage for some hours. You were convicted of attempted murder (on your guilty plea) and sentenced to a further life sentence with a minimum term of 20 years.

5. You were born on 18th January 1966 so you are now 48 years of age. The minimum term for the 2006 murder will not be served until 2034 when you will be 68 years of age.

6. I have the benefit of a report from a psychiatrist, Dr Ian Yanson, dated 13th May 2014. He concludes that you do not suffer from a mental illness but rather have a personality disorder. He also states that you present “a very high risk to others” and that you require management in the prison Exceptional Risk Unit.

7. By virtue of your history this court must impose a sentence of life imprisonment by virtue of section 224A of the Criminal Justice Act 2003, unless there are particular circumstances relating to this offence, the previous offences or you which would make it unjust to do so. There are no such circumstances in this case and therefore the sentence of this court is imprisonment for life, to run concurrently with your existing life sentences. However I should make it clear that regardless of this provision I am of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences, and as such by virtue of section 225 of the Act a life sentence would be appropriate.

8. I must set the minimum term which you must serve on this sentence before the Parole Board can consider you for release on license. If you are ever released it will be on terms that you are on license for life and can be recalled to prison at any time upon the direction of the Parole Board or the Secretary of State. That minimum term is usually based upon the notional determinate term which would be passed if this were not a life sentence.

9. In setting that minimum term I am obliged by statute to follow any relevant sentencing guidelines unless I am satisfied that it would be contrary to the interests of justice to do so. The relevant guideline in this case would be level 1 of the Attempted Murder Guidelines of the former Sentencing Guidelines Council. If the charge had been murder this case would have fallen within paragraph 4 of schedule 21 to the Criminal Justice Act 2003 with a starting point of a whole life order, but the good fortune of no serious and long term harm to the victim places this case in the middle category with a starting point of 20 years and a sentencing range of 17 to 25 years. The guidelines are also based upon a defendant of previous good character.

10. However I am of the view that to follow those guidelines would be contrary to the interests of justice. Furthermore in my view the appropriate sentence will exceed those guidelines by a considerable margin. I am also mindful of the comments of the Court of Appeal in *R. v. Onyenaychi* [2012] EWCA Crim 1460, when on an attempted murder with very different facts a sentence substantially above the guidelines was upheld.

11. The aggravating features in this case are obvious: your criminal history, the pre-planning and premeditation (including testing the weapon for detection by the metal detectors prior to the commission of this offence), the manufacture and use of the weapon and the manner in which you enticed the victim into that side-room. You have instructed your counsel to offer no personal mitigation. The only mitigation is your early guilty plea and the fact that the injuries were not life threatening. The whole incident was recorded on CCTV and you had immediately admitted your murderous intent, which you repeated in the subsequent police interview. The evidence against you was overwhelming. As regards the victim's injuries it is only good fortune that these were not more serious – as you said you intended to immobilise him by the first strike and then move round the table to complete your task.

12. This case is exceptional and it demands an exceptional sentence. It is in the interests of justice that even those serving long prison sentences are punished for their crimes. Serving prisoners (as well as prison staff) are entitled to the protection of the courts. Those who commit this sort of crime on a fellow inmate must know that they cannot do so with immunity.

13. In calculating the sentence I am about to pass I am fully aware that it is, even after a guilty plea, the equivalent to a notional determinate term of 50 years. As I have said the earliest date when you can be considered by the Parole Board for release on license at present is in 2034 when you will be 68 years of age. I make it clear that in my view you are so dangerous that it would be unsafe for you to live in the community. The minimum term I impose is one of 25 years. For the avoidance of doubt as a serving prisoner no time served since this offence counts towards this sentence. The effect of this sentence is that you will not be eligible for being even considered for release by the Parole Board until 2039 when you will be 73 years of age. You must also pay the statutory victim surcharge. There will be forfeiture and destruction of the weapon.

14. Before I leave this case I must commend the bravery of Prison Officer Lee Thomas. Immediately after this horrific attack with the defendant in a small room still armed with his weapon he calmed him down and persuaded him to give up his weapon. He gained the defendant's trust and compliance at considerable risk to his own safety. I direct that these comments should be transcribed and sent to the Governor of HMP Woodhill.