



JUDICIARY OF
ENGLAND AND WALES

In the Crown Court at Kingston Upon Hull

T20137073

Regina

-v-

Rolands Brize

Sentencing Remarks of HHJ Bury

15 May 2014

Rolands Brize you may remain seated throughout.

On the 9th April 2013 you pleaded guilty at your first appearance at this court to the attempted rape of [the victim] on the 9th March 2013. It is a matter of great concern that it is now over 13 months later that you are being sentenced. I shall return to the delay that has occurred later as it has attracted national media interest and has adversely affected the victim's well-being and view of the criminal justice system. Suffice to say that the delay has not been your fault and you will obtain maximum credit for you early guilty plea.

At 2.30am on 9th March 2013 [the victim], 23 years old, left the Sugarmill nightclub in Hull after a night out with friends. She was planning to get a lift home with her boyfriend but could not contact him and so she started to walk. At about the same time you were refused admission to the nightclub probably because you were showing signs of intoxication. You noticed [the victim] and you followed her for about ¼ of a mile. You approached her from behind and tried to pick her up in your arms but she pushed you away. You tried to grab her and she again pushed you away. You then walked off. [the victim] continued walking onto Myton Bridge. She called the police when she could still not contact her boyfriend. She was by now clearly distressed and frightened. She was told by the call operator to remain where she was and await the arrival of the police. She was reluctant to do so but as you were not in her sight she agreed. However you returned to the scene by a different route and took her unawares. You grabbed her and dragged her along the pavement whilst she struggled violently with you screaming hysterically. She describes excruciating pain in her knees and legs as they scraped along the tarmacadam footpath. I have seen photographs of the injuries which have left significant scarring

for which she will need plastic surgery to remove them. You dragged her off the bridge down a stairway away from public view. You forced her to the ground and lifted her top up exposing her bra. You lifted her skirt exposing her underwear. You held her down and laid on top of her so she could not escape and by now she had no energy left. You undid your trousers and you were almost ready to rape her when the police arrived. They had spotted a handbag and a pair of shoes on the bridge footpath and followed the path from the bridge to your location.

The police found you on top of the victim and arrested you. You were intoxicated. [the victim] was totally distraught. She was laid in the foetal position with visible injuries which were bleeding. She could not communicate with the officers. She was rocking backwards and forwards, shaking and sobbing. It took a female officer ten minutes to calm her and take her to the police vehicle.

You answered no questions at police interview. There is evidence that you were sexually aroused by the questions asked.

The offence itself has had a profound effect upon [the victim]. The physical injuries were painful and she could not walk properly for a few weeks. She has suffered nightmares and disturbed sleep. She has had weeks off work. She suffers flashbacks and the memories of the attack intrude upon her daily life. She has been referred for counselling. She has no social life to speak of as she cannot bear being around strangers. In short, it has affected every aspect of her life and is likely to continue to do so for some time.

This was an extremely serious offence of its kind. The victim was a young woman of 23 and a stranger to you. You followed her and made a determined attempt to grab her before returning stealthily to the scene. You then used considerable violence to drag her to a quiet place where you could rape her unobserved and undetected. You were drunk. But for the arrival of the police you would have completed the act of rape at night in a public place. You have admitted to the author of the Pre-Sentence Report that you were intent on rape. It is highly likely that you would have used further violence upon your victim if she continued to put up a struggle. The offence has had a severely detrimental impact on the victim.

I have read a good deal about you in the Pre-Sentence Report and the various psychiatric reports submitted to the Court. You have previous convictions which show in-grained misogyny. You have been violent in the past to your mother and sister and have harassed them. You have no affection for your mother and claim that she ill-treated you as a child. You have abused a previous Offender Manager by following her and threatening violence to her husband. There are documented assaults on female prison staff. These other incidents, although some of them are minor by comparison, indicate that you are a danger to women. The author of the Pre-Sentence Report has concluded that you are sexually preoccupied. You also have a history of chronic alcohol abuse. You admit that you have set fire to a house in your native Latvia.

You are a dangerous offender. You pose a significant risk of causing serious harm to the public by the commission of further specified offences. There is no reliable estimate of the length of time that you will remain a danger. The provisions of s225 of the Criminal Justice Act 2003 are engaged. The offence of attempted rape carries a sentence of life imprisonment. The seriousness of the offence is such as to justify such a sentence. I have considered the case of Burinskas [2014] EWCA Crim 334 particularly paragraphs 9-23.

However, that is not the complete picture. You have a protracted history of mental disorder which may stem from a serious road accident you suffered about 10 years ago. You have received psychiatric in-patient treatment in Latvia and in this country when you resided in the Spalding area. Before your transfer to hospital on the 27th January 2014 you had spent time on the hospital wing at HMP Hull and have been assessed by three psychiatrists all of whose reports I have read with care. In addition I have received a report and oral evidence from Dr Omar Khan at Chadwick Lodge medium secure unit where you have been assessed and treated since your arrival.

Professor Mortimer assessed you in May 2013 and found that you required urgent mental health treatment. You presented with schizophrenia which needed compulsory treatment as you had no intention of engaging voluntarily with psychiatric professionals. She noted that you had disengaged in the past, were non compliant with medication in the community and had no intention of going to hospital again. She supports an order under section 37 MHA 1983 together with s 41 restrictions and anticipates your treatment being lifelong.

Dr Vandenamele assessed you in July 2013 and concluded that you were suffering from paranoid schizophrenia and presented as acutely thought disordered. He noted that you were a loner with no close associates, you had a tendency to abuse alcohol and that you lacked insight into your offending. You were a serious risk to the public which in his view is linked to your mental condition. For those reasons he, too, recommended a Hospital Order with restrictions.

In October 2013, you were assessed by Dr Furtado for the purposes of a “gate-keeping” exercise for the Nottinghamshire Healthcare Trust. Dr Furtado was more circumspect as to your mental condition. He did not find evidence of thought disorder. You had been on normal wing location since 16th August 2013 as your mental state had stabilised. He concluded that it is probable that you suffer from paranoid schizophrenia which is of a nature but not degree that makes it appropriate for you to be detained in hospital. Dr Furtado was only prepared to recommend an interim hospital order at that stage in order to clarify whether a hospital order is appropriate through further assessment.

Since 27th January 2014 you have been a patient at Chadwick Lodge medium secure unit under the care of Dr Omar Khan. I have read his comprehensive report dated 13th May 2014. You have a history of both substance and alcohol abuse. There was an absence of remorse which had been observed by others too. Dr Khan believes you are suffering from paranoid schizophrenia. Your insight into your illness is poor and

you have said that you would not take medication if discharged. Your condition has been exacerbated by ongoing frequent substance and alcohol abuse. Dr Khan believes that your symptoms have been consistent and repeated enough to suggest a functional psychosis rather than a drug induced psychotic illness. You also have a Dissocial personality disorder which may be organic in nature with features such as low tolerance to frustration, violence towards others, numerous anti-social behaviours, a lack of remorse and empathy, denial of responsibility and minimisation of violence. You also have an alcohol dependence disorder. Dr Khan is firmly of the view that you would be suitable for a hospital order with restrictions in conditions of medium security and a bed is available for you at Chadwick Lodge.

I must pay proper regard to your need for treatment. I must also take account of the interests of justice generally and for [the victim] in particular and the need to protect the public from serious harm. You bear criminal responsibility for the offence of attempted rape as you have pleaded guilty to it. Furthermore you appear to exhibit signs of dangerousness which is separate and distinct from your psychotic illness. In his oral evidence to the Court, Dr Khan has confirmed this. I bear in mind that under a hospital order with or without restrictions you would be entitled to release when the medical conditions justifying your original admission cease to be met and you would be liable to recall solely on medical grounds. In my judgement, this is a case where the mutually exclusive operation of a hospital order on the one hand and a sentence of imprisonment on the other is unsatisfactory. You require both treatment and punishment and the public must be protected from the dangerous individual that you are.

The sentence of the Court is one of imprisonment for life. The notional determinate sentence by reference to the Sentencing Council definitive guideline and giving you full credit for your plea of guilty is one of 8 years imprisonment. The period that you must serve before you can be considered for parole is 4 years minus the time on remand which is 429 days. In your case I am satisfied that you are suffering from a mental disorder, namely paranoid schizophrenia which is of a nature and degree which makes it appropriate for you to be detained in hospital for medical treatment. Accordingly, I make a direction under s45A(3)(a) MHA1983 that you be taken today to, and detained at, Chadwick Lodge medium secure unit under the care of Dr Khan your responsible clinician where there is a bed immediately available. I make a further direction under s45A(3)(b) MHA1983 that you be subject to the special restrictions set out in s41 MHA 1983.

The practical effect of this sentence is that you will receive treatment in hospital for as long as it is appropriate. Your discharge will be to prison when your release into the community will only be authorised by the Parole Board when it decides that you no longer pose a danger to the public. If and when you are released you will be on life licence and liable to recall if you breach the terms of your licence or reoffend.

You will remain subject to the sex offender notification requirements for the remainder of your life.

Rolands Brize you may now stand down

I now wish to return to the issue of delay in this case. This is the 11th occasion that the case has been listed. The number of adjournments has added to the victim's distress and the objectives of an early guilty plea have not been achieved. Dealing with mentally disordered defendants often raises complex issues that take time to resolve and therefore it is not uncommon for such cases to take longer to complete than those cases without such issues. That said I consider that in this case there has been a period of delay which is unjustifiable. Up to the 29th July 2013 the case proceeded in an entirely normal fashion with necessary adjournments to obtain further psychiatric reports to comply with the provisions of the MHA 1983. Thereafter, until the Defendant's transfer to hospital on 27th January 2014, the case has encountered problems which should not have occurred. Firstly, there was an issue as to funding. Whilst the psychiatrists were ready at the end of July there was no suitable bed available and before funding could be obtained for such a bed a gate-keeping exercise had to be commenced. The Defendant was not assessed under this exercise until 24th October 2013 and even then there was still no bed available until a bed at Chadwick Lodge became free on 20th January 2014. It is not entirely clear why the assessment was not carried out until October although part of the reason was the unavailability of a Latvian interpreter. Another factor was the issue of which NHS Trust would be responsible for the Defendant's treatment. Although the offence took place in Hull and at the time the Defendant was temporarily resident in a hostel in the city, his last permanent address was in Spalding which is governed by a different NHS Trust.

Since 27th January, Dr Khan and his team at Chadwick Lodge have done their best to deal in a timely manner with Mr Brize who has, on any view, complex mental health issues.

I do not know whether the delays encountered in this case are common. I hope that they are not and do not become so. It must be remembered that in cases like this the court is dealing with a victim already traumatised by a serious offence and an offender who requires urgent psychiatric care. There is a clear public interest in ensuring sufficient resources are available in good time in order to maintain public confidence in the treatment of mentally disordered defendants so that they and the victims of the crimes they commit are not further damaged by the court process.

15th May 2014.