

IN THE CROWN COURT AT SOUTHWARK

REGINA

-v-

**PHILIP SPENCE
THOMAS EFREMI
and
JAMES MOSS**

SENTENCE

1. Philip Spence: you have been convicted by a jury of three counts of attempted murder which you carried out in the early hours of 6th April 2014. You were responsible for a sustained attack with a hammer on three women visiting this country from the UAE who were staying at the Cumberland Hotel.
2. The ferocity of that attack was such that you left one of the women, Ahoud Al-Najjar so badly injured that she will never walk again unaided and it is unlikely that she will ever get back more than limited movement in her left hand sufficient to direct a motorised wheelchair. She is blind in one eye; she will never have proper brain function and her power of expressive speech will be severely limited.
3. Her sisters will also suffer long term consequences of your attack on them. Fatima has deafness in one ear and suffers from severe vertigo and dizziness, facial and skull pain, reduction in nerve and cognitive function, problems with her back and spine, and difficulties in sleeping. Khuloud has a drooping right eyebrow and mid-face droop, a deviation on opening her mouth, reduced power in one leg, weakness to one arm, dizziness, double-vision and loss of facial sensation.
4. Whilst the evidence was not entirely clear, you seemed to suggest that it was Ahoud Al-Najjar who you attacked last. It is clear from the evidence that she was lying down on the bed when you attacked her. I can only assume, as the jury's verdicts reflect, that you intended to kill her and her sisters so that there would be no adult

left to identify you as the burglar. Further, it is a relevant factor that these attacks were carried out in the presence of Khuloud's 7, 10 and 12 year old children. Hardened police officers and paramedics who attended the scene described what they saw as horrendous and the worst they had come across in their careers. The short term effects on the children who had to witness these attacks are set out in the victim impact statements which I have read; it is, however, impossible to say what long term effects this incident may have on the children.

5. Both you and Thomas Efremi have been convicted of conspiracy to commit aggravated burglary. It became only too clear during the trial how the two of you relied on each other to get money to fund your shared drug habit. Spence was the one who would go out and steal; you, Efremi, are not physically up to that due to your reduced mobility.
6. As you admitted to the police, you knew that Spence was a "hotel creeper" a description of exactly the activity he was up to on 6th April – going from room to room at the hotel trying to find an open door and something to steal. You also told the jury that you knew that Spence has stolen recently from the Cumberland Hotel and that he had a tendency to become aggressive.
7. The evidence confirmed that in the past you, Spence, had gone out stealing and brought things back to Efremi who would get a good price for them. It seems that you used others if they were capable of giving you a better price than Efremi offered. The evening of 5th to 6th April was just another example of the way you operated. You, Efremi, provided Spence with the hammer knowing perfectly well that he would use it if the need arose to cause injury to, or to incapacitate, anyone who got in the way of him stealing. You also provided some of the clothes that he wore as well as an address at which to live.
8. After Spence had successfully carried out the burglary and was on his way back to your address, he telephoned you, Efremi, to tell you to get ready for his return. Within minutes of his arrival you left with two of the stolen cards and the necessary PIN numbers. Over the course of an hour you managed to

obtain £5,000 in cash. You both realised how important it was to use the cards before any block was put on them.

9. Later that day the two of you went about London trying to find the right person to sell the jewellery and the electrical items to. By 9.17am that same morning you, Spence, had taken a suitcase of stolen items to, you, James Moss. There is evidence that shows that you, Moss, tested the stolen mobile phones that evening to see if they were in a condition to be sold on. Clearly by then you knew that you were dealing in stolen property and at some time thereafter you realised that it came from the Cumberland Hotel burglary.
10. On Tuesday 8th April you, Moss, received a text message from Spence which set out that he wanted his money because he was going to have to get out of the area.
11. Handbags, some jewellery and Blackberry phones taken during the burglary together with the suitcase were subsequently found at your address, Moss.

SENTENCE: PHILIP SPENCE

12. I start from the position that it is nothing short of a miracle combined with the finest medical attention that has led to Ohoud Al-Najjar surviving the attack. The attacks on Khuloud and Fatima Al-Najjar were equally brutal but, fortunately, the effects were less traumatic. Whatever sentence I impose cannot in the view of the family satisfactorily compensate for or reflect sufficiently the injuries you inflicted on those three women. That said I have read the statements which have been made by Fatima and Khuloud Al-Najjar.
13. Had any of them died, and had you been convicted of murder, then taking account of the fact that:-
 - (a) You took a hammer with you to the hotel to use as a weapon if needed,
 - (b) You used that weapon in committing the offences,

- (c) To the extent that you planned the trip to the hotel to commit burglary and were ready to use the hammer if necessary, there was a significant degree of premeditation,
- (d) There were three victims, and
- (e) You committed these offences for financial gain

Schedule 21 of the Criminal Justice Act 2003, on convictions for murder, would have led me to a starting point of 30 years and a minimum term above that starting point.

14. I have to consider the guidelines on Attempted Murder. It is accepted that you fall within Level 1 of the guidelines which is reserved for the most serious offences including those which, if the charge had been murder, would come within paragraphs 4 or 5 of Schedule 21 of the Criminal Justice Act 2003. Further you come into the top bracket within that range because your offending has caused long term physical and psychological harm to Ohoud Al-Najjar. For a first time offender, which you are not, for a single offence, which this is not, the starting point would be 30 years' imprisonment with a range between 27-35 years.
15. The guidelines set out what might be considered as matters that aggravate the offending. Many apply to you and are as follows:-
- (a) There were three victims of your attack
 - (b) The attack was witnessed by young children
 - (c) You used deliberate and gratuitous violence, over and above what was needed to carry out the robbery. Ohoud was hit with the hammer an absolute minimum of four times and more likely as many as seven whilst, according to the evidence of the experts, she was lying prone on the bed with her head on her pillow. The strong likelihood is that she was asleep or possibly just waking up when you attacked her and posed no threat to you.
 - (d) You did this for financial gain
 - (e) You were under the influence of drugs at the time you did it.
 - (f) The attack took place at night and in a hotel room.
 - (g) You have previous convictions for violence

- (h) You have failed to respond to previous sentences
 - (i) You got rid of the hammer at the hotel in an effort to conceal or dispose of the evidence
 - (j) You sought until a late stage to blame Efremi for the attack whilst you watched him carry it out.
16. I find there to be no mitigating features present. Your late admission to carrying out the attack only came about because you were faced with overwhelming evidence which showed that Efremi was not there and that you alone were responsible for carrying out the attack.
17. I take into account the following personal mitigation:-
- (a) You have expressed through your advocate as best you can the remorse you feel for the injuries which you inflicted.
 - (b) The lack of support you had when you were a child and teenager.
18. Taking the facts of this attack on three women together with your previous convictions, I would be entitled to go outside the range set down in the guidelines. If I was to pass a determinate sentence the sentence would be one in excess of 35 years.
19. I have to consider the dangerousness provisions. I have to decide whether there is a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences.
20. I have no doubt that you had a difficult and disturbing childhood which you told the jury about and which is reflected in the psychiatric report I have read. Whilst Dr Reid, the psychiatrist, finds that you suffer from a personality disorder, it is not of a nature that makes you liable to be detained in hospital for medical treatment. Looking at your background I find that:-
- (a) At the age of 8 you were permanently excluded from school for behavioural problems. You attended a residential school in Northampton but left with no qualifications. When you left there, your parents decided it was best if you lived in a hostel rather than with them.

- (b) You began using cannabis when you were 11 and by the age of 18 were addicted to crack cocaine and heroin. You funded that habit by stealing. In June 2005 you stopped using drugs and kept clear of them for 6 years but relapsed in 2011/12.
 - (c) You have 37 convictions for 62 offences. They include numerous violent offences. Dr Reid is of the opinion that the acts of violence are not related to symptoms of psychotic illness but occurred impulsively. He suggests that you suffer from a propensity to attribute paranoid explanations on other people's behaviour. The nature of those previous incidents are as follows:-
 - (d) In 2007 you punched a woman at the council offices because she would not deal with your request.
 - (e) In November 2007 you chased your landlord with a hammer when he walked off without having repaired something which you had been waiting for him to do.
 - (f) In 2010 you threatened to kill a man by stabbing him when you refused to meet him.
 - (g) In April 2011 you attacked a passer by, kicking a box at him, spitting at him, punching him and biting him on the shoulder.
 - (h) In May 2011 you threw a glass across the room and told a member of staff at the hostel not mess around with you.
 - (i) When you were arrested for these offences you made several threats of violence towards the police.
21. You accepted when you gave evidence that, lying behind those convictions, is the fact that you have a temper and tend to be over-explosive and react completely out of proportion to what has caused the loss of temper. When you spoke to Dr Larsen and Dr Marriot in August 2014 you said that you had difficulty in controlling your anger.
22. In his report Dr Reid set out that, when you described these incidents to him, although you recognized that you were wrong to have acted as you did you also expressed a sense that you felt your actions were justified.

23. When you gave evidence in the trial you were given a rolled up magazine to represent the hammer you had with you on the night so that you might use it to show the jury what you did with it. You then threw it towards prosecuting counsel acknowledging that you wanted, in effect, to throw a hammer at counsel.
24. You have been found guilty of committing specified offences under the Act. Having considered all that I know about you and all that I have seen of you during the trial, I am sure that you represent a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences and it follows that the dangerousness provisions apply.
25. The offences of attempted murder are punishable with life imprisonment and in my judgment the seriousness of the three offences of attempted murder taken together is such as to justify a sentence of life imprisonment, and that is the sentence I pass.
26. Having considered recent guidance from the Court of Appeal together with the relevant Practice Direction and having regard to other background matters, your offending does not come within the very exceptional class of cases where you should serve the rest of your life in custody.
27. I shall pass identical sentences for each count of attempted murder, each one reflecting the totality of your conduct. On the charges of attempted murder, Counts 1-3 on the indictment, I sentence you to life imprisonment on each concurrently. I have to set the minimum period which you should spend in custody before you are considered by the Parole Board which has to be half the length of any determinate sentence I would have imposed. It does not mean that you will be released at that point, only that you will be eligible for release subject to the Parole Board's recommendations. If I had not passed a sentence of life imprisonment I would have imposed a sentence of 36 years. Half of that is 18 years, and that is the period which you will serve before being considered for parole.
28. I impose no separate penalty on counts 4 and 5, and counts 8 to 10.

29. The days which you have spent on remand in custody will automatically count towards your sentence.
30. The surcharge provisions apply to this case and the order will be drawn up accordingly.
31. I direct that a copy of Dr Reid's report accompany Spence to prison where he will serve his sentence and that particular regard be had to the observations in §10 of his conclusions on the last page of the report.

SENTENCE: THOMAS EFREMI

32. I have to consider the dangerousness provisions, the offence of aggravated burglary being a serious specified offence for the purposes of the legislation. I have to decide whether there is a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences.
33. You, Efremi, have 19 previous convictions for 27 offences for possession of drugs, handling stolen goods, theft and deception; the only offence involving any violence is reflected in your first conviction, when you were aged just 17 which was for assault occasioning actual bodily harm. Leaving aside the responsibility you share for what happened on the night of 6th April 2014, there is nothing known about you which could lead me to conclude that you pose a significant risk and I will not apply the dangerousness provisions in your case.
34. I turn to the Sentencing Guidelines. It is accepted that your offending falls into Category 1 of the Guidelines, features implying greater harm and higher culpability being present, which gives me a starting point of 10 years' imprisonment and a range of 9 to 13 years.
35. I consider that the following factors increase seriousness

- (a) Your previous convictions for offences of dishonesty which I must balance against the fact that you have no previous conviction for aggravated burglary,
 - (b) The presence of children when the offence was committed,
 - (c) It took place at night,
 - (d) You were under the influence of drugs, and
 - (e) The reputational effect on London as a centre for tourism
36. Your counsel has suggested that I should not have regard to the presence of children or the effect on London as a tourist destination. I reject that submission because I judge that you knew that Spence was going to a hotel that night and it follows that you took the risk that children would be present in any room he decided to burgle and that the victims of the attack would have come from abroad.
37. I take as factors which indicate a lower culpability that you played a subordinate rôle in the offence and your determination to address your addiction.
38. It is submitted on your behalf that you could not have anticipated the level of violence that was in fact used by Spence that night. I judge that you knew that Spence was also under the influence of drugs when he left your address that night; you knew Spence was armed with a hammer and, in accordance with the jury's verdict, that he intended to use it to cause injury to, or to incapacitate, a person in those rooms if the need arose. Serious injury must have been contemplated by you although I accept that you may not have contemplated the precise nature of the acts that were in fact committed by Spence. That I will take into account.
39. The maximum sentence for this offence is one of life imprisonment and I judge that the serious nature of this offence and your understanding of the potential consequences of what Spence might do together with your previous convictions takes the sentence in your case above the range set out in the guidelines.

40. I must also sentence you for fraud to which you pleaded guilty on 3rd July 2014. It is in reality part and parcel of the offence of aggravated burglary of which you have been convicted. Going out to obtain money on the cards stolen during the aggravated robbery just reflects your active involvement in turning the proceeds of the burglary into cash. I take that into account in assessing the appropriate sentence for the conspiracy to commit aggravated burglary and the sentence on count 6 will have regard to the Sentencing Guidelines but will run concurrently with your sentence on Count 4.
41. I take into account the following personal mitigation:-
- (a) Your domestic background.
 - (b) You have managed to tackle your drug problem whilst in prison and have expressed a desire to remain off drugs for ever. That is a substantial achievement.
 - (c) That you have been a model prisoner and have now obtained the status of a pier supporter.
 - (d) Your medical condition.
 - (e) The horror you have expressed at the full measure of the injuries which Spence caused that night.
42. The offence is so serious that only a custodial sentence can be justified and the least possible sentence I can impose having regard to the aggravating and mitigating factors of the case which I have set out together with everything that your counsel has said on your behalf and everything I know about you, is as follows:-
43. You will go to prison for 14 years on Count 4 and for 2 years 3 months on Count 6 concurrently making a total of 14 years.
44. You will serve up to one half of your sentence in custody before you are released on licence; you must abide by the terms of the licence and commit no further offence or you will be liable to be recalled and you will then serve the remainder of the sentence in custody.

45. The days which you have spent on remand in custody will automatically count towards your sentence.
46. The surcharge provisions apply to this case and the order will be drawn up accordingly.

SENTENCE: JAMES MOSS

47. On 1st October you pleaded guilty to handling stolen goods. Although it is suggested that you had indicated a plea at an earlier stage, no plea was entered and, it seems to me, was a conditional plea in any event. The appropriate discount for your plea is one of 10%.
48. You have 19 convictions for 22 offences stretching back to 1993 for theft, other offences of dishonesty including robbery and burglary, criminal damage and possession of a firearm without a certificate. You have been out of trouble since 2004. That offence was one of burglary which you committed in company with Spence and for which you received a community rehabilitation order.
49. There are no Sentencing Guidelines in respect of an offence of handling stolen goods but I have considered the guidance in R. v. Webbe [2002] 1 Cr. App. R.(S) 22. The following aggravating factors are present:
 - (a) You received the goods within hours of the burglary.
 - (b) The particular seriousness of the primary offence of burglary.
 - (c) You kept them after you knew where they had come from and in what circumstances they had been taken.
50. I take into account the following personal mitigation:-
 - (a) You have worked hard during your life and have taken opportunities to improve your education and, therefore, the circumstances for your family. That culminated in obtaining a B.A. in 2008 in Arts and Design.
 - (b) You remained out of trouble from 2004 until this matter

- (c) You have a son who was born in 2001 and you assist in his care and upbringing.
 - (d) The character references which I have read which set out your skills and abilities in particular with computer aided design.
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- 51. I accept that you have been unfortunate in the company you have kept and I accept that you have made significant efforts to keep away from Spence and to remain out of trouble.
 - 52. In my opinion, your offence is so serious that neither a fine alone nor a community sentence can be justified for it.
 - 53. I am therefore going to pass a sentence of imprisonment. This will be the shortest which in my opinion matches the seriousness of your offence and takes into account the mitigating factors in your case which I have set out and all that your counsel has said on your behalf.
 - 54. On Count 7 I sentence you to 21 months imprisonment
 - 55. The sentence of 21 months will be suspended for 2 years. This is the operational period of the sentence and if in the next 2 years you commit any offence you will be brought back to court and you will be liable to serve the sentence.
 - 56. In addition I attach a curfew requirement to the order. For the next four months you will remain at 28A Hanley Road between the hours of 8pm and 6am. This will be electronically monitored.
 - 57. The surcharge provisions apply to this case and the order will be drawn up accordingly.