JUDICIARY OF
ENGLAND AND WALES

R v Brusthom Ziamani

Sentencing remarks of HHJ Pontius

Central Criminal Court

20th March 2015

A realistic and sensible assessment of the whole of the relevant evidence that the jury and I heard leads inescapably to the conclusion that this defendant, had he not - by sheer good fortune - been spotted and stopped by the police in a street in East London during the afternoon of Tuesday 19th. August last year, would have carried out the intention he had so graphically expressed to his ex-girlfriend only a few hours before. She was an impressive witness, truthful, articulate and confident, and her evidence was clear and convincing. If it required any support at all that support came in the equally compelling evidence of PAUL MORRIS, who spoke to the defendant on 28th. August at Wandsworth Prison and to whom the defendant made an admission, in equally graphic terms, in a manner described by Mr. MORRIS as "calm and matter-of-fact".

The evidence of those two transparently honest and totally reliable witnesses established a formidable and unassailable prosecution case against this defendant but of course, in addition, the extensive body of downloaded material and the defendant's Facebook postings and texts, much of that material of a vile and deeply disturbing nature, made plain the degree to which the defendant had adopted and totally absorbed the twisted interpretation of the Holy Quran that is the hallmark of the fanatical Islamic terrorist.

That perversion of the Prophet's teachings of tolerance and mutual respect is a cruel insult to the overwhelming majority of devout Muslims throughout the world who espouse what is one of the three great Abrahamic faiths.
All that material dispels any doubt there can be that, had the defendant not been arrested on 19th. August, then within hours - at most - he would have used the hammer and knife to carry out the intention he had so clearly expressed and for which he had so determinedly prepared, with the result that an act of horrifying savagery would again have been perpetrated on the streets

of London, in imitation of MICHAEL ADEBOLAJO and MICHAEL ADEBOWALE, whose crime this defendant had so explicitly and repeatedly applauded.

It is, therefore, an unavoidable and entirely justifiable conclusion that the defendant was looking for another Drummer Rigby but, if he couldn't find a soldier, I have little doubt that a police officer or other figure of authority would have suited his purpose just as well.

The Islamic flag also found in his rucksack would then, I am sure, have been held aloft in one hand after the defendant had carried out his intended atrocity, ideally a beheading, so that a picture could be taken of him holding his trophy in the other hand.

He made all too plain, in the texts, Facebook postings and downloaded material, that his hatred was focussed not simply upon figures of authority but also, with equal vehemence, upon Shia muslims, gays, lesbians, bisexuals, Christians, Jews and, indeed, anyone who does not embrace his own perverted interpretation of Islam.

The letters he wrote, which form Exhibit 1, perhaps better described as fanatical diatribes, made his views abundantly clear: "You's going to the hell-fire, brothers pick up your swords, guns, bombs, take off their limbs, we should do a 9/11 and 7/7 and Woolwich all in one, every day for 8 years... shoot them all in the face and the chest, burn the pubs with the people in dere, do not fear them at all, be strong, do not mix with Christians and Jews and non-believers kill them all, no pity, but do not kill the women and children...I plan to die a martyr and leave this world and enter the next..."

In approaching sentence I have had assistance from prosecuting and defence counsel and, in addition, from a reading of the judgments in the leading cases in the Court of Appeal, Criminal Division, in particular those of DART & Ors., delivered on 31 October 2014, KHAN & Ors., on 16 April 2013, QURESHI on 22 April 2008, PARVIS KHAN on 20 May 2009 and BAROT on 16 May 2007. Further, I have derived considerable help from the sentencing remarks of JEREMY BAKER, J. in the very recent case of KHAWAJA & ors., at Southwark Crown Court on 6 February this year.

Thus I bear very much in mind that I must sentence the defendant not for a specific act of actual violence but, rather, for an inchoate offence, that of having made up his mind to commit a terrorist act, having completed his preparations to do so, then being caught in the act of searching out a victim. The starting point, therefore, must be the notional sentence that would have been imposed if the defendant had achieved his intention.

I am also acutely aware of the danger of allowing myself, when considering the appropriate sentence, to be unduly influenced by the shocking events of recent weeks and months - not only in Woolwich in 2013 but also last year, and this, in Europe and beyond. Whilst giving due weight to the obvious need adequately to punish an offender with appropriate severity and effectively to

deter others from acts of terrorism, no court can allow itself to become the vehicle for disproportionate and ill-considered over-reaction.
Of course, I must also bear in mind the defendant's age - 18 at the time and still only 19 - but that must be balanced with the facts of this case and the cold-blooded deliberation with which he planned and expressed his intentions. I have little doubt that, like ADEBOLAJO and ADEBOWALE before him, he fell under the malign influence of Al Muhajiroun fanatics who were considerably older, and had been immersed in extremist ideology far longer, than him but he was, nevertheless, a willing student and all too ready to absorb and adopt their teaching.

To that extent, there is in this case a factor common to most, if not all, the cases which have been considered by the Court of Appeal in recent years, in that defendants have tended to be impressionable young men, normally in their teens or twenties, often intellectually immature and thus more likely to provide fertile ground for hardened extremists to sow their evil seed.
That said, the jury and I had the opportunity to watch and to listen to this defendant at length when he gave evidence, from which advantage I formed the view that he is far from being a naïve adolescent. Rather, albeit having no academic qualifications, he is an intelligent and articulate young man with an independence of mind, thought and opinion.

So far as any other similarity with previous cases is concerned the facts of each are, unsurprisingly, distinct and usually unique to the specific offence. Hence the Court of Appeal, understandably, has not provided guidelines to be followed in Section 5 cases, given the enormous breadth of potential offences encompassed in that section of the Terrorism Act.

It is, therefore, equally unsurprising that there is no other case which is factually on all fours with this, although the case of PARVIZ KHAN, as with this case, concerned an intention to behead a serving soldier on camera, albeit he had not advanced that intention to anything like the extent achieved by this defendant. KHAN, unlike this defendant, however, pleaded guilty. He was described by the prosecution as a leader, recruiting others to his cause. He received a sentence of Life Imprisonment with a specified minimum term of fourteen years. In upholding the sentence the Court of Appeal remarked that, had the intention been carried out, the offence of murder would have called for the imposition of a 'whole life' sentence.

This defendant's age, of course, would have precluded such a sentence had he committed the intended murder but in those circumstances a minimum term would inevitably have been determined from the starting point prescribed by paragraph 5 of Schedule 21 to the 2003 Criminal Justice Act.

I have had, first, to make a careful determination of the extent to which the defendant presents a threat of serious harm to the public. Given the evidence in this case no one could doubt that he does present such a risk, to a high degree. I cannot, therefore, accept the view expressed by the author of the Pre-Sentence Report that the defendant does not meet the 'Dangerousness' criteria.

Further, it is impossible for me to judge when, if at all, that risk will no longer exist given, not least, that he told PAUL MORRIS at Wandsworth Prison on 28th. August that his ideology wouldn't be changed by anyone, rejecting Mr. MORRIS's offer of mentoring by the 'Prevent' team and intervention by the two visiting imams attached to the prison.

The previous month he had said to one of the 'Prevent' officers, P.C. GRANT BONES, "too late" when it was explained that the team's purpose was to prevent radicalisation.

For those reasons it is as inevitable as it is imperative that I impose a sentence which provides the degree of protection that the facts of the case and the welfare and safety of the public demand.

In the light of the age of the defendant and his lack of any previous convictions, I am not of the view that a sentence of detention for life is required but, that being so, there can be no avoiding an extended sentence which, upon the defendant's eventual release from custody, will provide a sufficiently lengthy licence period to ensure, as far as is possible, that his behaviour and activity do not present a danger to the public.

As I have already said, I must consider what sentence would have been imposed if the defendant had achieved his clearly stated objective. Balancing the shocking facts of the case with his age on 19th. August last year - perhaps the only mitigating factor of any real significance - and comparing this case with that of ADEBOLAJO and ADEBOWALE, both older men, I am sure that the court, in those circumstances, would have fixed the minimum period to be served of the mandatory life sentence for Murder at a figure above the statutory starting point of thirty years, perhaps thirty two or thirty three years. If an unsuccessful attempt to carry out his objective had been carried out, and if a discretionary life sentence had not been thought appropriate, the determinate sentence for the offence of Attempted Murder would have been a similar figure, with - undoubtedly - an extension to the licence period, thus requiring the defendant to serve more than twenty years before becoming eligible for release on the order of the Parole Board.

I do not regard the absence of previous convictions as a mitigating factor of any real weight - first, because of the defendant's own admission of involvement with others in offences of street robbery and credit card fraud, so he is plainly not 'of previous good character' and, secondly, because his radical views and continuing threat to public safety mean that I cannot treat this crime as representing an isolated offence which is unlikely to be repeated - quite the reverse, in fact, as my findings have already made clear.

BRUSTHOM ZIAMANI, in all the circumstances I am entirely satisfied that the gravity of this case demands an extended sentence with a custodial term of twenty two years, of which you are required to serve at least two thirds, that is fourteen years and eight months, before your case is considered by the Parole Board. It will be a matter for the Board alone, not for this court, to determine whether, at that stage, you still present a danger to the public or can safely be released.

Following your release, whenever that takes place, you will remain subject to the terms of your licence not only for the balance then remaining of the custodial term but also for an additional period of five years.

That means that, if released at the two thirds point of the custodial term, you will remain on licence for the following twelve years and four months.
I have no doubt that an extended licence period of that length is imperative, for the reasons I have already set out.

Formally expressed, therefore, I pass an extended sentence of twenty seven years, the custodial term of which is twenty two years, with a licence extension of five years.

In addition, this plainly being an offence with a terrorist connection, for the purposes of the Counter-Terrorism Act 2008 the appropriate statutory Notification Requirement applies automatically.

If a Victim Surcharge is appropriate in this case the relevant order will be drawn up and served on the defendant in due course.

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