JUDICIARY OF
ENGLAND AND WALES

R -v- KAMIL DANTES

NOTTINGHAM CROWN COURT

20 July 2015

SENTENCING REMARKS

OF

MR JUSTICE HADDON-CAVE

Kamil Dantes,

1. On 27th May 2015, you pleaded not guilty to the murder of your parents, Leszek and Malgorzata Dantes, but guilty to their manslaughter by reason of diminished responsibility. I will now sentence you for these offences and explain the reasons for my sentence.

The Facts

2. In the early hours of Monday 21st April 2014, you attacked your mother and father at your home in Worksop and stabbed them to death. At 6.55 am you phoned 999 and said: *"By knife I kill two people... I murdered two people and I need ambulance because my hands are broken."* When the police arrived you said *"There are two people upstairs dead. I did it in self-defence. They attacked me."* The police went upstairs and found your parents both dead. They had both been subjected to a particularly ferocious attack. You had stabbed your mother 25-30 times. You had stabbed your father in excess of 20 times. In the course of the attacks, you injured your hands on the blade of the knives. You subsequently said *"I was provoked and I made a very big mistake."* Two bags of cannabis were found in the house.

3. You were arrested and charged and remanded in custody. On 16th October 2014, you were admitted to Rampton Mental Hospital where you are currently held.

Background facts

4. You were born in Poland in 1985 and are now 29. You are not a British citizen and are liable to automatic deportation in the event of being sentenced or detained for a period of 12 months or more.

5. You came to the UK in 2007 when you were 22. You joined your mother, sister and her partner working in a sandwich factory in Nottingham. Your father arrived in 2010. He suffered a serious stroke in 2013 and had to stop work. Your mother starting working nights shifts to look after your father during the day who had become infirm. You worked day shifts in the same factory.

6. On 2nd June 2011 you presented yourself to Worksop Police Station stating that your parents had been murdered 25 years ago and that "*imposters*" had replaced them whilst wearing their faces as skin masks. You said that you wished to destroy these people. You mentioned the John Travolta film "*Face Off*" and said this was what had happened to your parents. You were sectioned under s.136 of the Mental Health Act 1983 and then placed under s.2 of the Act. You were admitted to Bassetlaw Hospital in Worksop. You were drug-screened and tested positive for cannabis and benzodiazepine. You later admitted to smoking cannabis daily. Your mother reported to staff that your behaviour had changed over the past year. You quickly denied that your parents were imposters and said you had been watching too many films. You were diagnosed as having had an 'acute transient episode' and advised to take anti-psychotic medication (*Risperidone*). Your mother wanted you home and you were discharged home on 14th June 2011.

7. Over the next two to three years, you were regularly monitored by the Early Intervention Team and the Community Psychiatric Services. You appeared to be getting on well at work and with your parents. You regularly attended your GP to obtain your prescriptions for your medication. You regularly attended your outpatient review sessions and generally presented as stable with no psychotic symptoms or problems. In December 2013, the *Risperidone* was phased out due to your raised *polactin* levels and your drugs regime switched to *Aripiprazole* which was continued until 25th March 2014.

8. On 14th April 2014, you attended a routine appointment with the Community Psychiatric Nurse ("CPN") and continued to deny any psychotic symptoms or suicidal feelings. You told her that you were sleeping well and in a stable mood. You presented with appropriate speech and behaviour and were well kempt. You even bought her a bar of chocolate for missing your appointment the previous week due to having flu. Your next appointment was arranged for 19th May 2014. There was nothing to suggest to the CPN what was to come.

Attack on 21st April 2014

9. On the early morning of Monday 21st April 2014, you attacked and killed your parents in the brutal, unprovoked manner I have described. The precise sequence of the terrible events of that Monday morning and your exact motivations may never be known. What is know is that you subjected each of your parents to the most ferocious attack and stabbed each of them repeatedly intending to kill them. They were both aged 54.

10. By your account, you went to bed on Sunday evening at around 10 pm but could not sleep because you had taken *Amphetamine*. So you then played games on the computer, including "*Heroes*". At some point in the early morning, your mother came home from night shift. You said you were still struggling to get to sleep. You went downstairs to the kitchen, got a large kitchen knife, concealed it under your T-shirt, went up to your parents' bedroom and knocked on the door. Your mother opened it and you then attacked her with the knife, repeatedly stabbing her. At some stage, the knife blade snapped. So you went downstairs and fetched another large knife from the kitchen and went back upstairs and stabbed your father to death. Due to his age and disability, he was quite unable to defend himself or his mother. You then called 999 and said what you had done. The police who arrived went upstairs and saw most terrible scene of death.

11. There is some forensic evidence which casts doubt on the order in which you say you killed your parents and suggests you may have attacked your father first. At all events, one can only imagine the horror that your mother and father must have felt at the realisation of being attacked with knives by their own son. Both had defensive wounds to their hands. The shock and loss to the family and your parent's friends –who are struggling to understand this unnatural act of matricide and patricide – must be enormous.

12. Your explanation to the police was that you had had a difficult childhood, that your parents had not treated you well, that they made you suicidal, that you had planned to kill them for some time and that when you had opened their bedroom door your mother had a "*terrible face*" and they had screamed at you. You said "*They show me terrible faces; they show me I didn't have chance to normal life; they destroy me like from child and that's why I killed them all.*" The extent to which these so-called explanations are delusional and a product of your drug taking is a matter for the experts to whose evidence I shall turn in a moment. But what is very clear is that your deteriorating mental health and actions have much to do your history of drug abuse, and in particular your cannabis habit. This is yet another example of the dangers of cannabis use and its ability to induce psychotic behaviour particularly in young men. In this case, the consequences were particularly terrible and tragic.

Psychiatric evidence

13. I have carefully studied the expert psychiatric reports prepared for the Court about you. There is considerable agreement between the experts.

Dr Kim Page

14. I had the benefit of written and oral evidence from Dr Kim Page, the Responsible Clinician for you at Rampton Hospital since your admission and detention on 16th October 2014. Dr Page's main conclusions in her helpful written report prepared for the Court dated 11th March 2015 can be summarised as follows:

    (1) The most likely diagnosis of your condition is paranoid schizophrenia. This diagnosis is supported by symptoms of third person auditory hallucinations, persecutory delusions, delusions of reference, and

incongruous affect and mannerisms in posture and speech (paragraph 15.13).

(2) There does not appear to be evidence of significant underlying personality dysfunction. However, an assessment is not appropriate in the presence of active mental illness and a further assessment may be required in due course (paragraph 15.14).

(3) There is a history of misuse of multiple illicit psychoactive substances which has an adverse affect on your mental health and was likely to have exacerbated your psychotic mental illness (paragraph 15.15).

(4) The prognosis is not clear at the moment. Your response to treatment so far is limited. Your mental illness appeared to be relapsing in nature. Misuse of substances would increase the risk of relapse in the future (paragraph 15.18).

(5) The insanity defence did not apply because there is no evidence to suggest that you did not know that what you was doing was wrong (paragraph 15.22) (see further below).

15. In her oral evidence, Dr Page confirmed the conclusions which she had reached in her report and acknowledged the differences in opinion she had with the prosecution expert, Dr Konappa. She explained that Dr Konappa leaned more towards personality disorder whereas she was more cautious. She said that they both agreed that it was too early to tell.

Dr Nagaraj Konappa

16. I also had the benefit of written and oral evidence from Dr Konappa, who was instructed by the CPS. Dr Konappa's main conclusions in his helpful written report prepared for the Court dated 15th April 2015 can be summarised as follows:

(1) You are suffering from a persistent delusion disorder and an assessment should be carried out to explore possible traits of paranoid personality disorder (paragraph 11.2-11.3); there are also indications of possible schizoid personality disorder and a fractured personality (paragraph 11.4).

(2) Delusional disorder occurring in tandem with personality disorder may prove particularly resistant to treatment, thus presenting a persistent high risk to others (paragraph 11.3).

(3) Your use of cannabis has caused damage to your mental health (paragraph 11.5).

(4) Your condition has a tendency dramatically to transform you from a docile individual into an explosively violent man, making risk management very difficult (paragraph 10.10).

(5) You represent a risk of potential risk of serious violence to your sister and brother-in-law who are also entrenched in your delusional system and you

are likely to use a weapon against them unless treated (paragraphs 10.10-10.11).

(6) The insanity defence did not apply because you admitted that you had made a "big mistake" and thereby clearly demonstrated an awareness of the nature and quality of your acts (paragraph 11.15) (see futher below).

Diminished responsibility

17. Dr Page stated in the conclusion to her report:

> *"15.23 The defence of diminished responsibility would apply in my opinion. It is very likely that Mr Dantes was suffering from an abnormality of mental functioning from a psychotic mental illness at the time of the alleged offences. The psychotic illness with abnormal mental state and delusional beliefs was likely to have been a significant contributory factor to his actions. Mr Dantes' mental disorder would have been very likely to have affected his conduct, judgement and his ability to exercise control. It may be considered to have substantially impaired his mental responsibility."*

18. Dr Konappa stated in the conclusion to his report:

> *"11.14 I have applied the definition of diminished responsibility as described in Section 52 of the Coroners and Justice Act 2009. In my opinion, Mr Dantes was suffering from an abnormality of mental functioning which arose from a recognised medical condition i.e. persistent delusional disorder. In my view this condition causes substantial impairment of Mr Dantes ability to form a rational judgement and to exercise self control. His persecutory belief provides an explanation for his acts which involved alleged killings of his parents. In my opinion a diminished responsibility defence is available to Mr Dantes."*

19. The experts are, therefore, agreed that the defence of diminished responsibility is appropriate in your case. It should be noted that Dr Page and Dr Konappa's views are supported by the earlier report of Dr Sanikop instructed by the Defence in his report dated 31st July 2014 (at para. 123). I accept their reports and conclusions.

20. I am satisfied that at the time you killed your parents you were suffering from *"an abnormality of mental functioning"* which arose from a recognised mental condition, which caused a substantial impairment of your ability to form a rational judgment and to exercise self control. Your persecutory belief also provides an explanation for your acts of killing your parents.

Insanity defence

21. Whilst the psychiatrists all support the conclusion that the legal defence of diminished responsibility is available to you, they are all agreed that the defence of "insanity" is not appropriate. The insanity defence is governed by the McNaughton Rules and has two limbs. A defendant is insane in law when he suffers (a) from a defect of reason attributable to a disease of the mind such that (b) he does do not know the nature and the quality of his act or do not know it is wrong. The psychiatrists are of the opinion that the requirements of the first limb

is met in this case, *i.e.* defect of reason attributable to a disease of the mind, but not the second limb. You were aware at the time of the nature and quality of what you were doing and was wrong and illegal.

Psychiatric evidence in detail

Issues between the experts

22. There are issues between the experts as to the true nature of your mental illness. Dr Page is of the opinion that you suffer primarily from 'paranoid schizophrenia'. Dr Konappa is of the opinion that you suffers primarily from a 'persistent delusional disorder'. The precise nature of your mental illness will affect not only the treatment given, but the extent to which your condition responds to treatment.

23. There is also an issue between Dr Konappa and Dr Page as to whether you display traits of a 'personality disorder'. Dr Konappa is of the opinion that you do and Dr Page is of the opinion that you do not. In *Vowles* [2015] EWCA Crim 45, Lord Thomas LCJ observed (at para 56(iv)):

> *"[I]t is very rare for a person to have solely a psychotic illness such as schizophrenia or solely a personality disorder. A person who suffers from schizophrenia alone is very rare. It is usual for a person suffering from psychosis also to have a personality disorder and/or drug and alcohol problems".*

24. It is not possible or appropriate for the court to resolve these issues at this stage. The significance of the dispute as to whether you have an underlying personality disorder is that it may make you more resistant to treatment. Difficulties in diagnosis and categorisation also make it more difficult to assess how long a person is likely to be detained in hospital for medical treatment. These are factors which serve to emphasise the importance of care in determining the release regime that should apply to you.

25. I am very grateful to both Dr Page and Dr Konappa for their written and oral evidence, all of which I accept.

Prosecution accept plea to manslaughter

26. Mr Burrows QC, Counsel for the Prosecution, indicated that, in view of the unanimous expert the evidence in this case, the Prosecution will accept a plea to manslaughter in this case on the grounds of diminished responsibility.

27. In my judgment, in the light of the facts and evidence which I have outlined, I am entirely satisfied it is right and appropriate that the Prosecution should do so and I sentence on that basis.

The Law

28. I direct myself in accordance with the authorities applicable to sentencing in cases of manslaughter by diminished responsibility, in particular, *R v. Leslie Susan Higgins* [1996] 1 Cr App R (S) 271, *R v Chambers*, 5 Cr. App. R. (S) 190, *Attorney General's Reference No.83 of 2009 (Patrick John Andrew Moore)* [2010] 2 Cr.App.R.(S.) 26 at 161, *R v Webb* [2011] 2 Cr. App. R. (S) 61, *R. v Beaver (Peter Richard)* [CACD 24 March 2015, unreported).

29. I summarised the principles to be derived from these authorities recently in *R v. Mann* (Crown Court at Lemington Spa, 13th April 2015). I repeat for convenience my summary of the relevant principles:

(1) The fundamental principle of the sanctity of human life is always to be respected and reflected in the sentence passed.

(2) The culpability of the defendant in diminished responsibility manslaughter cases may sometimes be reduced almost to extinction, while in others, it may remain very high. Each case will depend on its own particular facts.

(3) Subject to the specific element of reduced culpability inherent in the defence, the assessment of the seriousness of the instant offence of diminished responsibility manslaughter should have regard to the guidance in Schedule 21 to the Criminal Justice Act 2003.

(4) In assessing the seriousness of a killing consequent on manslaughter rather than murder, regard should be had to the criteria for determining the minimum term to be served in murder cases and then to reduce the sentence to allow for the extent to which the culpability of the offender was reduced by his mental condition.

(5) In diminished responsibility cases, there are various courses open to a judge. In cases where the evidence indicates that the responsibility of the accused for his acts was so grossly impaired that his degree of responsibility for them was minimal, a lenient course will be open to the judge. Provided that there is no danger of repetition of violence, it will usually be possible to make such an order as will give the accused his freedom, possibly with some supervision.

(6) It is of central importance that a court must not overlook the feelings of the family of the deceased. It is of the greatest importance that those feelings should be respected.

(7) In an appropriate case, the principle of the sanctity of human life would not be undermined if an immediate custodial sentence was not imposed.

Submissions

30. Mr Huston, Counsel for the Defendant, invited the court to impose a hospital order under s37 of the Mental Health Act 1983 ("the Act") with or without the special restrictions under s.41 of the Act. He realistically conceded: (i) you had an intention to kill; (ii) you used a weapon (knives); and (iii) you had some premeditation. I have listened carefully to all the points made by Mr Huston in mitigation on your behalf, in particular: (i) your age – you were 28 at the time; (ii) the fact that you have no previous convictions; (iii) your plea of guilty; and (iv) you mental condition.

31. Mr Burrows QC for the Prosecution submitted that the Court should first consider imposing an indeterminate or determinate sentence of imprisonment with a direction for admission to hospital under s.45A of the Act and drew attention to the guidance in the leading case is *R v. Vowles* [2015] EWCA Crim 45.

Guidance in *R v. Vowles* [2015] EWCA Crim 45

32. I direct myself in relation to the helpful general guidance given by Court of Appeal in *R v Vowles (supra)* as to the correct approach to a sentencing exercise such as the present. Lord Thomas LCJ emphasised in *R v Vowles (supra)* at para. 12:

> *"[T]he primary importance of the determination by the sentencing judge in a case where the option is either to impose an indeterminate sentence or to make a hospital order under s.37/s.41 is the release regime that will apply to the offender".*

33. As explained in *Vowles,* the effect of an order under ss.37/41 is that the decision to return the patient to the community is made by the Health, Education and Social Care Chamber (Mental Health) ("FTT") under the Act with focus on the prisoner's mental health. However, under s.45A, release of the prisoner is under the control of the Parole Board whose primary consideration is the protection of the public.

Parole Board

34. The Parole Board's duty in relation to life prisoners is laid down in section 28 of the Crime (Sentences) Act 1997, which provides that the Parole Board shall not direct the release of a life prisoner unless "*the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined*" (s.28(6)(b)). The Secretary of State's Directions to the Parole Board (August 2004) provide, *inter alia*, as follows:

> "6. The test to be applied by the Parole Board in satisfying itself that it is no longer necessary for the protection of the public that the prisoner should be confined, is whether the lifer's level of risk to the life and limb of others is considered to be more than minimal." (emphasis added)

35. The test which the Parole Board has to apply is, therefore, very strict (c.f. *R(Gary Allen) v. The Parole Board of England and Wales* [2012] EWHC 3496 (Admin)).

General guidance

36. The Court of Appeal in *Vowles* emphasised a number of other particular points. First, where, notwithstanding the offender's mental disorder, there was an element of culpability in the offence which merits punishment, the imposition of a prison sentence is capable of being a proper exercise of discretion (para. 46). Second, there was a need to examine the issues with great care and to take into account not merely the psychiatric evidence, but also broader issues such as culpability and the need to protect the public and the regime on release (para. 48). Third, a hospital and restriction order under ss.37/41 is more likely to be appropriate in a case where the mental disorder is a severe mental illness rather than a personality disorder because it is more likely that such an illness may have a direct bearing on the offender's culpability and because the illness is likely to be more responsive to treatment in hospital (para. 50).

Hospital order under ss.37/.41

37. As emphasised by the Court of Appeal in *Vowles (supra)* at para. 46 (citing Mustill LJ in *Birch* (1990) 90 Cr App R 78 with approval), a hospital order under s.37 of the Mental Health Act 1983 is not a punishment but simply "*to ensure that the offender receives the medical care and attention which you needs in the hope and expectation of course that the result will be to avoid the commission by the offender of further criminal acts*".

38. The Court in *Vowles* stated (in para. 54(iii)) that a hospital order under ss.37/41 was likely to be correct disposal if:

> "*(1) the mental disorder is treatable;*
> *(2) once treated there is no evidence [the offender] would in any way be dangerous;*
> *(3) the offending is entirely due to that mental disorder.*"

39. In my judgment, none of the three criteria are met in this case: (1) it is not clear from psychiatric evidence that the your condition will ever be entirely treatable; (2) it is clear from the psychiatric evidence that, even when treated you will still represent a danger to others, in particular your close family; and (3), as I explain below, your responsibility for these serious offences is diminished but not extinguished. In my view, an order under ss.37/41 would not be appropriate in this case.

Hospital order under s.45A

40. The Court of Appeal said in *Vowles* (para. 51) that the matters to which a sentencing court should have regard in a case when considering the appropriate disposal in a case such as the present should include the following:

> "*(1) the extent to which the offender needs treatment for the mental disorder from*
> *which the offender suffers;*

(2) the extent to which the offending is attributable to the mental disorder;
(3) the extent to which punishment is required;
(4) the protection of the public including the regime for deciding release and regime after release."

41. The Court of Appeal added: *"There must always be sound reasons for departing from the usual course of imposing a penal sentence and the judge must set these out"* (para. 51).

42. I turn to consider each of these general matters *seriatim*.

(1) The extent to which you needs treatment

43. It is common ground between the psychiatrists that, whatever the precise nature of your mental illness(es), you need treatment in hospital. Dr. Konappa stated that "*[KD] requires treatment for a prolonged period*" but Dr. Page was reluctant to give any timescale for the treatment.

(2) The extent to which the offending is attributable to the mental disorder

44. In my judgment, your responsibility for the killing your parents is diminished but far from extinguished.

45. It is important to highlight that you knew, or were aware of, three things. First, you knew from your previous admission to hospital in 2011 that, not only were you vulnerable to a mental illness, but your mental illness meant you posed a serious danger to other people, and in particular made you want to "destroy" your parents. Second, you knew that your mental condition was adversely affected by smoking cannabis and taking *amphetamines*. Your medical notes dated 18th June 2012 recorded: *"He has good insight into the triggers of his psychotic illness approx a year ago. [KD] believes that smoking cannabis x2 lead to his hospital admission"*. You admitted in interview that amphetamine made you *"aroused"* and your brain *"feel negative"*. Third, you knew that your mental condition was deteriorating over the six months before these offences; you admitted in interview that you were *"struggling"*.

46. However, notwithstanding these three insights, you continued to smoke cannabis over many months before you attacked your parents and took *amphetamines* the night of the killing. You deliberately concealed from the CPN with whom you had regular appointments both the fact that you was regularly taking drugs and that you was aware that your mental condition was deteriorating. You even sought to ingratiate yourself to her by buying her a bar of chocolate for missing your last but one appointment. You admitted in interview lying to your CPN the week before the killings about how you were feeling because you did not want her to find out that you was taking drugs.

47. In the circumstances, in my judgment, you bear significant responsibility and culpability for your murderous attack on your parents on the morning of 21st April

2014. You knew that taking cannabis was affecting your mental condition but deliberately deceived those monitoring you. There is no evidence that your deceptive behaviour was, or may have been, attributable to your mental illness. At best, as Dr. Konappa observed, your behaviour "*indicates towards some recklessness*".

(3) The extent to which punishment is required

48. You committed the most serious of offences. You attacked your parents at home in their bedroom. You killed one parent in the presence and sight of the other and then attacked and killed the other. Your father was disabled and was particularly vulnerable. You used lethal weapons, knives. When one knife broke you realised it and fetched another. You intended to kill and used brutal force. When interviewed you said you wanted to kill and you did kill two people.

49. Having regard to your significant responsibility for these most serious offences, it is clear that is real need for significant punishment.

(4) The protection of the public

50. There is also a clear need for the public to be protected from you. It is clear that even after treatment you will remain dangerous. In his evidence, Dr Konappa said that your risk of future violence was linked to your persecutory delusions. You were likely to use a weapon against your sister or brother-in-law and the degree of violence was "*highly probable to escalate to serious or life threatening levels*". In her evidence, Dr Page agreed your mental illness might recur even without you taking illicit drugs and that there was an increased risk it would recur if you took illicit drugs. She agreed there was a "*high risk of serious harm*" to others from you committing further offences of serious violence of the kind for which you is now before the court. Those particularly at risk include your sister, her husband and your former girlfriend.

51. As Mr Burrows QC submitted, one of the chilling aspects of this case is that you lived a relatively normal working life right up to the time of these offences. On the day before these offences you drove to work as normal and gave friends a lift home. Significantly, because you were adept at concealing your inner thoughts, not even the professionals monitoring your mental condition detected anything to alert them to the possibility that you were about to act as you did and kill your parents.

52. Your self-knowledge (*i.e.* being aware yourself of your deteriorating mental condition) and yet ability and willingness to conceal and lie about this for a long period it is a particularly troubling feature of this case. As long as there a risk of your mental condition recurring, there must always be the concern you may do the same again, *i.e.* behave normally, conceal, lie and then suddenly become violent. Dr. Konappa touched upon this most concerning aspect of your case as follows:

> "*[KD's] tendency to dramatically transform from a subdued, placid and docile individual into an explosively violent man within the context of*

paranoid/ persecutory beliefs…. makes the risk management particularly difficult" (para. 10.10)

Section 45A MHA order appropriate

53. For the reasons stated above, I am satisfied that an order under s.45A of the Mental Health Act 1983 is appropriate in your case. Under s.45A of the Mental Health Act 1983 (the Hospital and Limitation Directive), I have power to sentence you to imprisonment and simultaneously to order you be transferred to a suitable secure hospital for psychiatric treatment. Section 45A(4) provides that a hospital direction and limitation shall not be given unless at least one of the medical practitioners whose evidence has been taken into account by the court has given oral evidence. In this case, as stated above, I had the benefit of oral evidence from both Dr Page and Dr Konappa.

Dangerousness

54. Manslaughter is a serious offence under s.224 Criminal Justice Act 2003. Under s.225 of the CJA 2003, the court has to consider whether there is *"a significant risk to members of the public of serious harm occasioned by the commission by [KD] of further specified offences"*. As I have explained, there is clearly such a risk to the public in this case and the court must impose a sentence of imprisonment for life (under s.225(2) of the CJA 2003).

55. I am also satisfied that you will remain an ever-present serious threat to other members of your family, in particular your sister and brother-in-law, and that you remain likely to attack them because of your paranoid and persecutory beliefs. I highlight this important feature of the case to ensure that the authorities are aware of this for the future.

Life sentence - minimum term

56. If the court imposes a life sentence, the court should normally specify the minimum period for which the defendant will remain in prison before becoming eligible for consideration by the Parole Board with a view to release. The minimum term should consist of the "*period of detention imposed for punishment and deterrence, taking into account the seriousness of the offence*" (Criminal Practice Direction (Sentencing) L [2013] 1 WLR 3164, L.2).

57. It is important that you and the general public, should understand what a "*minimum term*" means in practice. Where the court specifies a minimum term, you cannot be released until that minimum term has expired. But even then you will not automatically be released. You will not be released unless and until the Parole Board are satisfied that it is safe to release you into the community. That time may never come. Even if you are released on licence, that is not the end of your sentence. You will remain subject to the conditions of your licence for the rest of your life. If you reoffend, the Secretary of State has the power to order that you be returned to prison to continue to serve your life sentence until it is thought safe to release you again.

Reduction for guilty plea

58. In determining the minimum term, I will give you credit for your guilty pleas. The approach for a dangerous offender is the same as for any determinate sentence (SGC Definitive Guideline - Reduction in Sentence for a Guilty Plea, paras. 5.2 and 7.3). You entered your plea at the first reasonable opportunity. However, you could not offer and the Crown could not accept the pleas until the psychiatric position was ascertained. The Guideline provides that, if a plea is entered at the first reasonable opportunity, the reduction should be one third, "*unless there are good reasons for a lower amount*".

59. The Guideline also provides (in para. 5.2-5.5) that, where the prosecution case is "*overwhelming*", it may not be appropriate to give the full one-third reduction. In my judgment, this is just such a case. When the police officers arrived at your house, following your call, you told them that you had killed two people and from the scene upstairs it was all too clear what you had done. There could be no doubt, whatsoever, that you were responsible for your parent's deaths. For these reasons, in my view, a lower reduction than normal is appropriate and the reduction I apply for your guilty plea is 20%.

Time served

60. I also will give you credit for the 449 you have served on remand, against the minimum term (in accordance with s.82A(3)(b) and s.240ZA CJA 2003).

Authorities

61. I have helpfully been directed to a number of similar cases by Mr Burrows QC which I have read and considered, in particular; *Attorney-General's Reference (No 34) of 2014 (John Jenkin*, [2014] EWCA Crim 1394, *R v Cooper* [2010] EWCA Crim 2335, *R v Fox* [2011] WL 6329615, *R v Quirk* [2014] EWCA Crim 1052.

62. The most pertinent case is *Attorney-General's Reference (No 34) of 2014 (John Jenkin)* where the defendant killed his mother and sister with an axe and pleaded guilty to manslaughter by diminished responsibility. The sentencing judge considered the defendant bore a"*significant residual responsibility"* based on his voluntary taking of drugs, including LSD and cannabis, which had triggered a vulnerability to psychosis and led to the killings. The judge imposed a life sentence with a minimum term of 12 years (which he then wrongly halved to 6 years, treating it as a notional determinate sentence) coupled with a limitation direction under s.45A. The Court of Appeal considered that the "*serious aggravating factor of more than one killing with an intention to kill … should have its own impact on sentence*". It considered that had the case been one of murder a starting point of 30 years was appropriate "*subject only to the question of guilty plea*". Given his significant degree of residual responsibility, it considered a minimum term of 20 years as appropriate for the diminished responsibility manslaughters. The Court of Appeal then gave the full one-third

credit for his guilty plea and so reduced the minimum term to one of 13 years and 4 months (less time spent on remand).

63. There are, however, significant distinguishing features between *John Jenkin* and the present case. First, he did not have a history of mental illness, whereas you were aware of your susceptibility to mental instability in the event of taking drugs (see above). Second, there was limited pre-meditation in that case (on 6th June 2013, he said he would kill his mother but tried to commit suicide with a drugs overdose including LSD; he was released from hospital on 7th June and on 8th June killed his mother and then his sister who he killed simply because she had had the misfortune of having witnessed the first attack).

64. I regard your offence and culpability as more serious than those of the defendant in *John Jenkins* and much more serious than the other cases referred to above.

Knife

65. Mr Burrows QC for the Prosecution accepts that this case do not fall within paragraph 4(1) or 5(1) of the Criminal Justice Act 2003 Schedule 21 and you had not "*taken a knife or other weapon to the scene*" within the meaning of s.5 A(1) of the Act (see *R v Kelly* [2011]EWCA Crim 1462 esp. [21]). However, as the cases show, knife murders vary greatly and care must be taken to examine the circumstances leading to them. As was pointed out by the Court of Appeal Criminal Division in *R v. Fielding* [2011] EWCA Crim 1942 at para.11 and 12:

> *"11. It is important to bear in mind that one cannot approach the exercise of passing sentence, including setting the minimum term to be served in custody when a life sentence is passed, in a mechanistic way. The circumstances and manner in which the offence was committed are usually of the greatest significance in determining the appropriate minimum period to be served.*
>
> *12 . The circumstances in which a knife is used to kill vary widely, but the use of knives causes particular concern, partly because carrying knives is all too common and partly because in a domestic context kitchen knives are often readily accessible and provide a convenient and deadly weapon. It may be a legitimate exercise of discretion in sentencing to discourage the use of such a weapon even in the context of a relatively spontaneous act."*

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<u>Schedule 21</u>

66. I direct myself in accordance with Schedule 21 of the Criminal Justice Act 2003 (as amended) in relation to the determination of minimum terms in relation to mandatory life sentences in this case.

67. The Court in *John Jenkins* (*supra*) explained (at para. 34) that "*a nuanced approach must be taken to schedule 21 so as to reflect the fact of diminished responsibility*" and that the greater the residual culpability, "*the greater the impact of the schedule 21 factors*". The Court stated, for instance, that the serious aggravating factor of more than one killing with an intention to kill should have

its own impact on sentence in order to achieve *"a just correlation"* between murder and manslaughter (para. 34).

68. I turn to the question of minimum term itself.

Minimum term - analysis

69. *Starting point.* Had this been a case of double murder (absent mental illness) the relevant starting point for determining the minimum term would have been at least 30 years.

70. *Aggravating features.* In my judgment, this case has the following serious aggravating features:

(1) a clear intention to kill both victims (your parents);
(2) a significant degree of pre-meditation: it is clear that you had been (intermittently) harbouring dark thoughts about killing your parents for some time;
(3) the use of a lethal weapon, knives (you kept a knife under your pillow);
(4) the savagery of the attack on both parents who were stabbed repeatedly and determinedly, one having to witness the death of the other;
(5) the particular vulnerability of your father who was disabled;
(6) significant culpability remaining, despite you suffering from an abnormality of mind as described.

71. *Mitigating factors.* In addition to your early guilty plea as described, I bear in mind the following mitigating factors:

(1) the absence of previous convictions;
(2) the fact that you phoned the police and effectively gave yourself in;
(3) your diminished responsibility for the killings by reason of your mental condition as described (although this feature is of course comprehended at least in part by the acceptance of the pleas to manslaughter;
(4) your age at the time (28).

72. *Culpability*. For the reasons explained above, I am satisfied that your responsibility and culpability for your actions is reduced because of your mental condition, but nevertheless remains high and substantial: principally because you knew that you should not take illicit drugs because you knew they were making your mental condition deteriorate but you deliberately concealed this and lied about all this is over many months.

SENTENCE

73. Taking all these matters into account, in the light of the facts and matters and principles which I have outlined, I will now explain how I calculate and arrive at the minimum tariff:

(1) First, the starting point I would have taken if this had been a plea to murder would have been 32 years.

(2) Second, from this figure of 32 years I deduct 25% to reflect your diminished responsibility to arrive at a figure of 24 years.

(3) Third, from this figure of 24 I deduct 20% to reflect credit for your plea of guilty to arrive at minimum term of 19 years 73 days (less time on remand).

(4) Fourth, from this figure of 18 years I deduct a further 449 days spent on remand prior to sentence, to arrive at a net minimum term of 17 years and 354 days.

74. Kamil Dantes, I sentence you to life imprisonment with a minimum term of 17 years and 354 days.

Hospital and Limitation directions under s.45A

75. I also make give two directions under s.45A of the Mental Health Act 1983, a hospital direction and a limitation direction:

(1) First, I direct that instead of being removed to and detained in prison, you be removed to and detained in Rampton Hospital.

(2) Second, I direct that you be subject to the special restrictions set out in section 41 of the Mental Health Act 1983.

76. Your counsel will explain the implications of these directions to you.

Please go with the officer.