



JUDICIARY OF  
ENGLAND AND WALES

**The Queen**

**-v-**

**Zakaria Bulhan**

**Central Criminal Court**

**7<sup>th</sup> February 2017**

**Sentencing remarks of Mr Justice Spencer**

1. Zakaria Bulhan, I have to sentence you for the unlawful killing of Darlene Horton and for the unlawful wounding of five further innocent members of the public with intent to do them grievous bodily harm. The offences took place in Russell Square, central London on the night of 3rd August 2016. Armed with a large kitchen knife, in the space of just a few minutes you attacked and stabbed these six victims indiscriminately and at random. Tragically, Darlene Horton died at the scene. One of the others sustained particularly serious injuries with long-term consequences. All were profoundly affected by this dreadful experience.

2. These were crimes which caused enormous public concern because, from their timing, it was feared initially that they might be the work of a terrorist fanatic. As it turned out they were not, although that is no consolation to your victims. You were charged, quite properly, with the murder of Darlene Horton and five counts of attempted murder. It is now clear, however, that at the time of these offences you were suffering from a severe mental illness, paranoid schizophrenia, which substantially diminished your responsibility for the killing. The medical evidence is all one way. It was entirely proper that the prosecution accepted your plea of guilty to manslaughter on the grounds of diminished responsibility, and your pleas of guilty to wounding with intent rather than attempted murder.

3. You have been receiving treatment at a secure mental hospital, Broadmoor, since 25<sup>th</sup> August, some three weeks after your arrest on the night of these offences. It is clear that you

will continue to require hospital treatment in conditions of maximum security for a very long time to come. I have to decide what form your sentence should take. The only realistic alternatives are a sentence of custody for life, or a hospital order with an indefinite restriction order.

4. You are 19 years of age, with no previous convictions. Your parents emigrated from Somalia to Norway in 1994, and that is where you were born in. In 2003, when you were 5 years old, your mother came to the United Kingdom and you have been living in this country with her ever since, with your brother and sister. Although your mother and father had separated you saw him regularly too. You left school at 16 but retook your GCSE examinations at college and did well in your studies. You became concerned yourself about your mental health and consulted your general practitioner from 2015 onwards. You were referred for assessment by psychiatric services and you were seen by your local early intervention service on 20<sup>th</sup> April 2016. You were diagnosed with an anxiety and depressive disorder but it was not thought at that time that you were presenting with any psychotic symptoms.

5. Sadly your mental state deteriorated sharply over the next few months. You started hearing voices frequently and became convinced that you were possessed by devils, that people were conspiring against you, and that that your life was in danger. At the end of July 2016 your mother and younger brother went to Holland to visit family members which meant that you were living alone at the family home in Tooting. You became convinced that your neighbours wanted to kill you. You went to stay with your father and he tried to look after you. He took you to the mosque on successive days up to the evening of 3<sup>rd</sup> August, hoping you might receive some form of counselling. When you were at evening prayers that day and a phone rang you got up and ran out of the mosque. Your father waited for you to come back and tried to find you, and tried to contact your mother in Holland for help, but all to no avail.

6. Your movements thereafter that evening have been traced to a degree. It is clear from the CCTV clips that you were moving around the streets in a distracted and bizarre way. At some stage you acquired a large kitchen knife. You probably took it from a shop counter. At about 10.20pm you entered Russell Square. It was busy with pedestrians heading home after an evening in London's West End. Among them were many visitors to London from overseas.

7. The eye witness evidence in Russell Square is that you were walking purposefully, skipping along and waving your arms about. The first person you stabbed was Bernard

Hepplewhite, aged 67 (count 10). He lived in London. He and his companion were walking back to their hotel from the theatre. Without saying anything you approached him and, as he thought, punched him in the abdomen with some force. In fact you had stabbed him. You were showing no signs of anger.

8. You skipped on and headed straight towards your second victim, Lillie Sellentin (count 9), a young Australian woman visiting this country. She and her friend were walking back to their hotel from the theatre. She tried to move out of your way but you jumped towards her and stabbed her in the right side of the chest. She too thought she had simply been punched. It was only when she approached Mr Hepplewhite and someone shouted “he’s got a knife” that they both realised they had been stabbed. You showed no emotion and carried on.

9. Some distance ahead Darlene Horton and her husband Richard Wagner were walking back to their hotel from a restaurant. She was 64 years old, an American citizen and a retired teacher. He is a professor. They had been in London for some time in connection with his work and were due to return to the United States the following day. As you rushed past them you stabbed Darlene Horton in the back inflicting a single fatal wound which penetrated her lung and heart. Only as you ran off did Mr Wagner see that you were holding a knife. He shouted to warn others and with considerable presence of mind chased after you trying to photograph you on his phone. He also alerted a passing cab driver. A striking feature of the whole sequence of events is the commendable way in which members of the public rallied to the aid of those who had been injured and attempted to pursue you.

10. Your next victim was another American citizen, Martin Hoenisch (count 7), aged 59, on holiday with his wife. This was their first night in London. They were walking back to their hotel from a restaurant. You ran directly at them. Mr Hoenish stepped forward and raised his right arm to protect himself. You zig-zagged towards him and with a fluid underarm movement you stabbed him in the chest, below the armpit.

11. Next you stabbed David Imber (count 8), an Australian, aged 40, on holiday in the UK. He too was walking back to his hotel after an evening at the theatre. He saw you heading towards him and tried to get out of your way but you changed direction and came straight at him. You stabbed him in the upper chest with force. He describes you as having a crazed smile on your face.

12. Your final victim was an 18 year old woman, Yovel Lewkowski (count 6). She was on a family holiday from Israel. She and her grandfather were walking back to their hotel after

dinner. You ran towards her and, as she thought, bumped into her right arm. In fact you had stabbed her in the bicep.

13. You were chased by members of the public. When you stopped in Bedford Place one witness described you as standing aggressively, holding the knife, uttering sounds in what appeared to be a form of incantation, although your voice and expression were not aggressive. An armed response unit attended very soon afterwards. You were told to stand still but instead you screamed and ran away. Eventually you were tasered and brought to the floor.

14. Despite the arrival within minutes of the helicopter emergency medical service, and despite emergency surgery, Darlene Horton died at the scene. It was a tragic waste of life. The court has heard and read the moving victim impact statements from her husband and from one of her two daughters. Ironically, as a special needs teacher Darlene Horton had devoted her working life to young people with disabilities and mental illness. She and her husband were in London because he was there teaching a course on cross-cultural perspectives on psychological disorders and impairments. London was one of her favourite places. Words cannot convey the family's sense of loss and bewilderment that such a thing could happen.

15. Bernard Hepplewhite suffered a large tear to the lower bowel which required surgery. He was in hospital for several days. He is left with a degree of physical disability. As he put it in his impact statement, for the rest of his life he will carry the physical and mental scars of what happened to him that night. His life has been changed for the worse and for ever.

16. Lillie Selentine received a stab wound to her right flank which has left a permanent scar. She had to take unpleasant anti-viral medication for a month and endured the fear that she might have been exposed to HIV or other infectious diseases. The experience took its toll on her psychologically. As she says in her impact statement, at the age of 23, and now a teacher, she did not think she would have to go through counselling for a traumatic event when she should be enjoying life and living it to the full.

17. Fortunately the wounds to the other three victims were not so serious, and each has made a full recovery although the experience, psychologically, will never leave them. In particular, Yovel Lewkowski has suffered in a similar way to Lillie Sellentine. The ant-viral medication she had to take weakened her immune system, and for several months she was frequently sick. She has flashbacks. She has had to seek psychological counselling.

18. It is quite clear that when you committed these dreadful crimes you were not in your right mind. You were in the grip of a psychotic illness, paranoid schizophrenia. I have considered carefully the medical evidence in the form of reports from your treating psychiatrists at Broadmoor hospital, Dr Jeanneret and Dr Bhattacharjee, and from Dr Catherine Durkin and Dr Philip Joseph, two very experienced consultant forensic psychiatrists. Dr Durkin and Dr Bhattacharjee have also given oral evidence before me.

19. I have had the advantage of very full and focussed written and oral submissions from Mr Heywood QC and Mr Emlyn Jones on behalf of the Crown, and from Mr John Jones QC and Miss Spenwyn on your behalf. The recommendation of all the doctors to whom I have referred is that there should be a hospital order under section 37 of the Mental Health Act 1983 with an indefinite restriction order under section 41 of the Act. However, the law is very clear that the court is not circumscribed by the psychiatric opinions. There must always be sound reasons for departing from the usual course of imposing a penal sentence, and if that is the course which is taken, the judge must set out those reasons.

20. The most relevant recent definitive guidance from the Court of Appeal is the decision in *R v Vowles* [2015] 2 Cr App R (S) 6. The first requirement for the making of a hospital order, as provided in section 37 (2) (a) of the Mental Health Act 1983, is that the court is satisfied, on the written or oral evidence of two appropriately qualified doctors, that the offender is suffering from a mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment, and that appropriate medical treatment is available for him. There is no doubt this requirement is satisfied in your case. There is the clearest evidence that you were and are suffering from paranoid schizophrenia, that you need to be detained in hospital to receive the necessary treatment, and that a bed is available for you at Broadmoor hospital where you have been a patient since the end of August 2016, following your transfer to hospital from prison under section 48 of the Mental Health Act 1983.

21. Where the conditions in section 37 (2) (a) are met, it does not automatically follow, of course, that a hospital order is the appropriate disposal. In considering that wider question the court must have regard to all the circumstances including in particular:

- (1) the extent to which the offender needs treatment for a mental disorder from which he 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 the regime after release.

22. To this end the court must consider all the factors encompassed within section 37 (2) (b) of the Act, which provides that the court must have regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him. Only if, after that analysis, the court is satisfied that the most suitable method of disposing of the case is by means of a hospital order under section 37 should such an order be made.

23. It is common ground that realistically the only alternative to a hospital order with an indefinite restriction order is a sentence of life imprisonment which, because you are under 21, would have to be expressed as custody for life. Such a sentence would require the court to determine the minimum period you had to serve before you could even be eligible to be considered for parole. That minimum term would reflect the overall criminality of your offending that night, the other five stabbings as well as the fatal stabbing. A sentence of imprisonment for life for an offence of manslaughter on the grounds of diminished responsibility would normally be reserved for a “particularly grave” case, where the offender’s responsibility for his actions, although diminished, remained high. It has been recognised, however, that where the mental illness is one such as schizophrenia there will be acute difficulty in assessing the degree of the offender’s responsibility. These principles emerge from the review of the relevant authorities by the Court of Appeal in *R v Fort* [2014] 2 Cr App (S) 24, at paragraph 53.

24. Against this background I return to the four questions identified in *R v Vowles*. First the extent to which you need treatment for a mental disorder from which you suffer. The answer is clear. It is essential that you should continue to receive such treatment, in your own interests and in the interests of public safety.

25. The second question is the extent to which your offending is attributable to your mental disorder. On this issue the psychiatrists speak almost with one voice but in the end it is for the court’s assessment not theirs. The very experienced consultant forensic psychiatrist instructed by the Crown, Dr Philip Joseph, says, at paragraph 41 of his report:

“I am of the opinion that the defendant’s mental illness provides a complete explanation for the violent offences and therefore his culpability is low. He is suffering from paranoid schizophrenia which is already responding to antipsychotic medication, and he does not present any risk of violence to others when he is not mentally ill.”

In her oral evidence, Dr Durkin expressed her agreement with Dr Joseph’s opinion that your mental disorder provided a complete explanation for your offending, expanding on the view she had expressed in her first report dated 15<sup>th</sup> December 2016, at paragraph 18.10, and in her second report dated 1<sup>st</sup> February 2017, at paragraph 4.1. Dr Bhattacharjee, one of the treating psychiatrists at Broadmoor who has had care of you over the past five months, also gave oral evidence that in his opinion this offending was almost wholly attributable to the mental disorder from which you were suffering. The reasoning of the doctors is based heavily on the absence of any history of violence and the fact that, in hindsight, it is clear that throughout the months leading up to these tragic events you were suffering from this severe mental illness and eventually became floridly psychotic.

26. I do not overlook the worrying feature that somehow and somewhere you acquired this large kitchen knife and armed yourself with it before the events in Russell Square unfolded that night, and that your accounts have not been consistent. Early on in the prison hospital wing on 10<sup>th</sup> August 2016 you told doctors that you had been too scared to stay at home as people were putting spells on you, and you had therefore started carrying a knife for protection. When interviewed by Dr Durkin at Broadmoor on 10<sup>th</sup> October 2016 you said you could not remember why you had the knife, although you did remember throwing away your phone and some of your clothes because you believed that the secret service were tracking you. Significantly, in my judgment it is correct that when you were arrested you had no phone, and it was evident that you had discarded some of your clothes during the course of the evening. That supports your credibility on this issue. You told Dr Joseph on 9<sup>th</sup> January 2017 that you had not bought the knife and thought you must have picked it up from a counter in order to protect yourself. Nor do I overlook the fact that you have never explained in detail or consistently what precisely it was that made you stab these strangers indiscriminately. Nevertheless I have no hesitation in concluding that this offending, which was completely out of character, was wholly or almost wholly attributable to your mental disorder. I bear in mind that as soon as you were arrested, and in your initial interviews, you were speaking of the voices which you had heard and which you felt were controlling you, and the very bizarreness of your behaviour and your movements in Russell Square that night

strongly support the inference that your actions were attributable to a severe psychotic episode.

27. The third question is the extent to which punishment is required. This is, in effect, the obverse of the previous question, and requires the court to assess, if it can, what has helpfully been described as your “residual culpability” for this very serious offending. By your pleas of guilty you accept that when you stabbed each of your victims you must have intended at least to cause really serious harm. You knew what you were doing and knew it was wrong. Your responsibility was diminished in the sense of being substantially impaired, but it was not extinguished. As already mentioned, Dr Joseph’s opinion is that your culpability is low, because your mental disorder provides a complete explanation for the offending. Dr Durkin said in her evidence that she preferred to regard the issue of culpability as a matter for the court’s assessment alone. From my conclusion that your offending was wholly or almost wholly attributable to your mental disorder, it follows that your residual culpability was comparatively low. Your responsibility for your actions certainly cannot be said to remain high, such that a sentence of imprisonment for life would necessarily be appropriate.

28. The fourth issue is the protection of the public, including the regime for deciding release and the regime after release. On this issue I heard particularly impressive and cogent evidence from Dr Durkin and from Dr Bhattacharjee. Dr Durkin had addressed this issue in her second report dated 1<sup>st</sup> February 2017, and Dr Joseph has expressed his complete agreement with her views. The first point to stress is that, although no precise period can be given, the strong likelihood is that you will remain at Broadmoor Hospital in conditions of maximum security for many years. Only if and when it is safe to do so, with the approval of the Ministry of Justice after the most careful medical advice, would you be moved to a medium secure hospital. If that happened, and the move were successful, it would be many more years before any further step down to placement in a supported forensic hostel in the community would be countenanced. Dr Durkin speaks from her own particular experience as a supervising clinician at just such a medium secure hospital. In other words there would be a carefully staged and controlled progression to rehabilitation in the community, if at all. You would be closely monitored and supervised and at any sign of a relapse you would be readmitted to hospital immediately.

29. Dr Durkin and Dr Bhattacharjee painted the contrast between the release regime for a hospital order within indefinite restriction, and the release regime for a sentence of life imprisonment. A prisoner released by the parole board from a life sentence would receive no automatic psychiatric follow up. Such a prisoner could be referred to his local psychiatric services but this would not necessarily be specialist services and there would be no legal compulsion for him to engage in treatment. In the event of a relapse it would be up to the probation service, at least under current arrangements, to take the necessary action, but they would not have the same mental health expertise and specialist advice available and, in Dr Durkin's experience, it might take weeks rather than days to return you to prison or hospital, exposing the public to risk in the interim.

30. The importance of the contrast between the release provisions for a hospital order and a life sentence has been emphasised by the Court of Appeal: see *R v Teasdale* [2012] EWCA Crim 2071, at paragraph 26 and *R v Ahmed* [2016] EWCA Crim 670 at paragraphs 29-33.

31. The practical reality is this. If the court were to impose a sentence of custody for life, with a minimum term of several years, you would inevitably remain at Broadmoor in any event following transfer under section 47 of the Mental Health Act 1983. When you had completed your minimum term, which would almost certainly be no more than the period you would be likely to spend in Broadmoor under a hospital order, it would fall to the parole board to decide whether it was safe to release you, if satisfied that it was no longer necessary for the protection of the public that you should be confined. That decision would involve an assessment of the medical evidence at that stage and would be unlikely to differ from the approach under a section 37/41 hospital order where a patient's release will only be ordered by the tribunal if he no longer presents any danger arising from his mental condition. It follows that it is the difference in the regimes after release that becomes critical. I am satisfied that the regime under a hospital order with an indefinite restriction order would afford the public greater protection than a life sentence.

32. I have also taken into account the guidance from the Court of Appeal in *R v Vowles*, at paragraph 50 iii) and iv), that where, as in your case, the mental disorder is a severe psychotic illness rather than a personality disorder, a hospital order is likely to be appropriate. There is no evidence that you are suffering from any personality disorder. To that extent this is an unusual case. 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. There is no such suggestion in your case.

33. Finally, the court is required to follow sequentially the steps laid down by the Court of Appeal in *Vowles*, at paragraph 54. In a case such as this where the court is considering a life sentence and where (1) the mental disorder is treatable (2) once treated there is no evidence that the offender would be in any way dangerous and (3) the offending is entirely due to that mental disorder, a hospital order under section 37/41 is likely to be the correct disposal. I am fortified in my conclusion by that guidance.

34. This is a very unusual and difficult case. Having reflected on all the circumstances, the medical evidence and the submissions of parties, I have reached the clear conclusion that, in the words of section 37 (2) (b) of the Mental Health Act 1983, the most suitable method of disposing of the case is to make a hospital order under section 37 of the Act, with a restriction order under section 41 without limitation of time. That is the order the court makes on each count.

Stand up please

35. Zakaria Bulhan. You know that what you did that night in Russell Square was very wrong. You took the life of an innocent member of the public. Her husband and her daughters will never come to terms with that loss. You stabbed five other people that night. Two of them in particular have been very badly affected by what you did to them. I accept that you are deeply sorry for what you did and at the time you were very unwell mentally. You have shown your remorse by pleading guilty to these offences as soon as the medical position had been confirmed.

36. My first concern is to protect the public. I am satisfied that the best way of achieving that is to make a hospital order under section 37 of the Mental Health Act 1983 coupled with a restriction order under section 41 of the Act without limitation of time. That means that you will remain at Broadmoor hospital in conditions of maximum security probably for a very long time indeed. If it is ever safe to move you to a medium secure hospital, you are likely to remain there for many years too. Only after that, if at all, would it be possible for you to live in the community again, and then only under the closest supervision and monitoring.

37. I direct that the oral evidence of Dr Durkin and Dr Bhattacharjee should be transcribed and kept with your medical records for future reference, together with these sentencing remarks.

**-ENDS-**