



JUDICIARY OF
ENGLAND AND WALES

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-v-

Phillip Simmons

The Crown Court at Kingston Upon Hull

28 February 2017

**Sentencing remarks of HHJ Jeremy Richardson QC, the Recorder
of Hull and East Riding**

You may remain seated. You must listen with care to what I am about to say.

Preamble

These sentencing remarks will be made available to the press and others approximately 10 minutes after the conclusion of this hearing. In the written version of these sentencing remarks there are headings for ease of reference.

These sentencing remarks must go with your file and be retained indefinitely – certainly until after a time when you are dead. It is crucial that those who have responsibility for you hereafter, are aware of the views of the court at the date of sentence. There must be no misunderstanding now or in the future.

It was unfortunate that I was unable to complete these sentencing remarks yesterday afternoon when I was interrupted by a disturbance in the public gallery. That was no fault of yours. Even though I was part of the way through, I shall recommence from the beginning.

Introduction

Philip Simmons, you are aged 38 years. You fall to be sentenced in respect of your guilty pleas to two counts of murder and a single count of robbery. All those crimes were committed in April 2016.

You have many previous convictions and among them are convictions for violence and robbery in respect of which you have served substantial terms of imprisonment. I cannot and will not ignore your criminal past.

You pleaded guilty to these crimes 10 days ago. I am aware of the history of this case and the fact there were, and remain, mental health issues warranting your admission to Rampton Hospital at one stage. In all the circumstances of this case, perhaps generously, I will take the view that you have pleaded guilty to this indictment at the first reasonable opportunity and, in consequence, will receive appropriate credit for that. It must be inevitably limited in respect of the minimum terms to be imposed for the two murders you perpetrated, but there will be full credit in relation to the robbery. I also observe you admitted these crimes to the police and had little alternative but to plead guilty.

I am obliged to impose the statutory charge. I do so.

The circumstances of this case are intensely horrific, and demonstrate you are an exceptionally dangerous and violent man. I am of the view that it is almost inevitable you will never be released from prison. I cannot foresee a time when it will ever be safe to release you.

The sentences I must pass upon you are those fixed by law in respect of the two convictions for murder. I shall pass upon you two concurrent sentences of Life Imprisonment. I shall also pass a concurrent determinative sentence of imprisonment for the crime of robbery.

The only issue for me to determine is whether this case warrants a whole-life term pursuant to the paragraph 4(1) and (2) of Schedule 21 of the Criminal Justice Act 2003 or whether the case appropriately falls under paragraph 5(1) and (2) of the same schedule. If the case falls within the latter category the starting point (and I emphasize a starting point) is a minimum term of 30 years, before which you are prevented from applying for release on licence.

Important Preliminary Observations

I make these observations for the avoidance of any doubt.

1. The purpose of the life sentences I must impose upon you is in order for the public to be protected from you for the remainder of your natural life.
2. A whole life term, whereby you would never be released and cannot ever be considered for release, has been seriously considered by me in this case. Cases warranting such an order are rare and imposed in circumstances referred to in paragraph 4 sub-paragraphs (1) and (2) of schedule 21. In the context of this case I would be justified in imposing such an order if I concluded your behaviour included sadistic conduct. It has to be emphasized the conduct must be sadistic in the proper definition of that word where a person derives a very high level of

pleasure by the infliction of pain and suffering. A whole-life term is really an order of last resort.

3. If I do not impose a whole-life term, it is my judgment that this case falls within paragraph 5 sub-paragraphs (1) and (2) (f) of schedule 21 with a starting point of 30 years. It must be understood that the minimum term is designed to reflect the concept of punishment and retribution for the crimes and to be the minimum period that must elapse before any consideration may be given to the question of release. Even at the expiry of that period, it will be for the appropriate authorities at that time to determine whether it is safe to consider you for release. It is only if you are deemed to be safe for release will such be considered.
4. In assessing the minimum term the court must not approach its task in a mechanistic or formulaic fashion whereby some form of mathematical matrix or arithmetical calculation is undertaken. Each case is distinctly fact sensitive. I am required to fix a minimum term that is appropriate in all the circumstances of the case – in other words it must meet the justice of the case.
5. A guilty plea in a murder case is governed by the guidance of the Sentencing Council in relation to the appropriate reduction in minimum terms for guilty pleas at section F and the approach I should take is set out at paragraph 6.6 sub-paragraph 2.

I have listened with care to the recitation of the personal statements of the families of both men whom you murdered. The brother of Mr Higgins read his to the court with commendable dignity. Both families appreciated the emotional and personal frailties of their loved ones. Both families have been devastated by the murder of their family member, and the manner of their deaths at your hands.

I now turn to the facts of this case.

The Facts

Backdrop

A charity called DISC manage a 5 bedroom terraced house at 7 May Street in Hull. DISC is a charity involved in providing assistance and support to those who are afflicted with substance addictions of one kind or another. In April 2016 you, Simmons, were resident at the house together Daniel Hatfield. There were other residents too. Matthew Higgins was a friend of Daniel Hatfield, but lived elsewhere.

Daniel Hatfield, who was aged 52 at the time of his death, had major addiction problems associated with alcohol and heroin. He was on a methadone programme. His brother described him as a timid man who was not in the least violent.

Matthew Higgins, who was aged 49 at the time of his death, has been described as leading a troubled life.

Both of these victims had little in life, but efforts were being made to help them improve their lot and recover them from the depths of drug and alcohol addiction. It was hoped that each of these men might reform and, with the help of a charity and others, would improve their personal circumstances. I have no doubt whatever that each victim was a vulnerable man.

You, Simmons, resided at 7 May Street as well. It appears you spent little time there. Indeed, it would seem you had not been present in the house for some time as the door locks were changed on 15th April 2016 and you never obtained the new keys. There is evidence to suggest you spent some time with your sister and it may be you spent time with a female associate.

The Two Murders

On 20th April 2016 Daniel Hatfield and Matthew Higgins were at the home of a friend until approximately 9pm. They returned to 7 May Street where it was agreed Matthew Higgins would stay as well.

I have little doubt that you were adversely affected by the consumption of illicit drugs, namely heroin and crack cocaine.

You arrived at 7 May Street in the early hours and, when you could not gain access, you entered the premises via a window.

At 2am on 21st April 2016, you were seen at 7 May Street. Your demeanour was observed as being “weird and panicky”. You were keen to leave in a hurry. It is clear to me that you had by this time gained access to the building. Whilst there you brutally and determinedly murdered the two victims. Their bodies lay undiscovered for a considerable time.

As a result of the findings of the pathologist and the forensic scientists it can be established what occurred. It is clear you attacked both men in the yard at the rear of the premises. It would seem that you dragged the men to that location whilst throttling them with a ligature. They suffered painful and far from immediate deaths.

1. Both bodies were found on the patio at the rear of the premises. They were each partially covered.
2. Daniel Hatfield had 49 separate injuries to his body. He suffered extensive blunt force trauma to his head face and body. He was stabbed in the back and had a ligature or gag around his face. The description of that is grotesque. It composed of a scarf, white material (possibly underpants) and the cord and base of an electric kettle all intruding the mouth of Mr Hatfield. It would cause asphyxiation by suffocation. The tongue was forced upwards as part of the ligature. The extensive and serious injuries were consistent with severe blows with either the fists

or feet. Severe force was applied to the chest which appear to be consistent with having been stamped upon or jumped upon. There were injuries to the neck consistent with repeated blows from a heavy object with a straight edge. It would also seem that after death stab wounds were inflicted. There were no defensive injuries.

3. Matthew Higgins had 44 separate injuries to his body. He too suffered significant blunt force trauma to his face and head as well as his upper back and neck. A ligature was placed around his neck. The upper body injuries were caused by you striking him with the spade very forcefully. It is clear he was strangled with a length of electrical flex connected to a computer socket.
4. It is also clear from the findings of the forensic scientist that the body of Mr Higgins was dragged across a rough surface.

The bodies lay covered and undiscovered throughout the day.

Following the murders, you went to the home of Trevor Sunman. After a conversation with him, you took him to 7 May Street, where the bodies were observed in the yard. Thereafter, you took steps to cover up what you had done. You were calculated enough to throw away your footwear in an industrial refuse bin at the rear of the flat of Trevor Sunman.

Additionally, you told Sunman that you killed the two men. You indicated that you did so because you wanted to do so. You graphically explained to Sunman that it took a long time to kill the first man (Mr Hatfield) and you started to stamp on him and then stabbed him. You also tried to decapitate him with the spade. You also explained how you ascertained the other man was present (Mr Higgins) and you then killed him in the same brutal way. You even contemplated killing the woman who observed you leaving, and with whom you had a brief conversation, at 7 May Street, as you left.

It is unclear where you went after that, save that you were seen at the home of Dean Elmi on 23rd April 2016 where there was a conversation about the murders. Mr Elmi made an excuse to get you to leave his home at about 8pm.

The Robbery

At 9pm on 23rd April 2016 – shortly after leaving the home of Mr Elmi at 134 Preston Road in Hull – you committed the robbery at a betting shop called *Betfred* at 292A Marfleet Lane in Hull.

You went into the betting shop where the deputy manager, Michael Taylor, was working behind the counter. You clambered over the counter carrying a broken bottle which you held towards Mr Taylor. You demanded money. He gave you about £50, whereupon you demanded more. He was then compelled to give you a larger sum amounting to £2800.

Mr Taylor was terrified you were going to seriously harm him with the broken bottle as you appeared intoxicated with either alcohol or drugs. You left the premises uttering further chilling threats.

You then returned to the home of Mr Elmi and fell asleep. He was aware you had a considerable amount of money about you. He called the police and when they arrived you were found asleep in a chair covered and surrounded by bank notes.

Arrest and Interviews

You were arrested and interviewed during which you admitted killing both Mr Hatfield and Mr Higgins. It is clear from what you told the police that having killed Mr Hatfield, you realised there was another man in his room and so you killed him too.

In relation to killing Mr Hatfield you told police that your head “just went” and that you “went mad”. It is clear from your confession you started to throttle and strangle him whilst you dragged him to the garden with the wire around his neck where you killed him and inflicted the truly appalling injuries I have already described including stabbing him and (to use your words) “wacked him over the head a few times”.

Whilst you were clearing up after killing Mr Hatfield, you became aware that his friend, Mr Higgins, was coming down the stairs. On the pretext that his friend was outside you lured Mr Higgins towards the yard and as he was going towards there, you attacked him with the wire and throttled him. You also hit him over the head with the shovel. You murdered him as well.

Thereafter, having collected your thoughts, you covered up both bodies to camouflage them in case anyone should look into the area of the yard.

Additionally, you admitted the robbery at the betting shop.

Having been remanded in custody, you confessed to the killings to prison officers.

Mental State

I have read the psychiatric report of Dr Vandenabeele. It is clear you suffer from a range of psychiatric abnormalities including a form of psychotic disorder where you appear to be delusional and have hallucinations on occasion. There can be no doubt that such a situation can be, and was, worsened by the voluntary consumption of illicit drugs.

The psychiatrist has also set out much of your past, which includes a physically abusive childhood, poor relationships, and the consumption of illicit drugs over several years.

It is important to make clear that you saw a community psychiatrist a few days before you committed these murders. You told him that you were worried you might harm someone. There was no indication you would kill anyone. It must be understood that no one seeks to blame that doctor nor should blame be attached to that doctor for any of the events following that consultation.

I will not ignore your mental state when assessing this case.

Submissions

The main thrust of the submissions of Mr Richard Wright QC, on your behalf, were to persuade me to forbear too impose a whole-life term. I have considered his written submissions about this and those of Miss Geraldine Kelly on behalf of the prosecution. Mr Wright accepted, that if I feel disposed not to impose a whole-life term, I would be justified in moving in an upwards direction from the minimum term given the gravity of the case and the circumstances of your conduct which he, rightly, described as wicked (in the true sense of that word).

It is accepted that there are, in reality, only two features that impact upon the question of reducing what might otherwise be the minimum term. Like Mr Wright, I eschew the notion of mitigation. The label to be attached to this is simply *Defence Submissions*.

Those two features are: (1) your guilty pleas; and, (2) your mental state both historically and at the time of the murders.

It is accepted there are a number of aggravating features to this case. It is also accepted that the robbery sentence has to be concurrent, but I am entitled to enhance the minimum term by a modest level to reflect the guilty plea to the additional count of robbery. I shall do so.

I have read the letter you have written to me.

I am very grateful to Mr Wright and Miss Kelly for their very helpful submissions upon the issues raised by this exceptionally serious case.

Conclusion

Over and above the conclusions I have reached in the earlier part of these sentencing remarks, my overarching conclusions are these:

1. At the time of the murders you were suffering from a psychotic disorder and that was undoubtedly worsened by your voluntary consumption of heroin and crack cocaine. You expressed the view you were worried about harming someone when you saw a community psychiatrist on 19th April 2016. This fact has a very limited impact to reduce the minimum term.

2. Both Mr Hatfield and Mr Higgins were vulnerable men at the time you killed them.
3. You managed to gain access to 7 May Street in Hull, and came across Mr Hatfield. You killed Mr Hatfield in a sustained and brutal attack during which you strangled him, you visited acute physical violence upon him and then tried to decapitate him with a spade. At this point you realised that Mr Higgins was nearby and in the same flat. You executed the killing of him with equal, calculated and brutal savagery.
4. I have formed the view that your conduct very closely borders the territory of sadism, but does not meet the true definition of that. However, you executed both murders with depraved brutality and acute violence. I have no doubt whatever, that each man suffered greatly during the process of you murdering them. Each killing must have taken some time to execute and you displayed not a shred of humanity nor a moment of mercy in your vile conduct. The second murder (of Mr Higgins) was plainly a calculated act – in that sense it was premeditated – as you thought he may have seen something of the first murder.
5. It is plain and obvious you intended to kill both men at the time you killed them both. You even contemplated killing the woman you encountered as you were leaving the building where you had just murdered two men.
6. You endeavoured to camouflage what you did by covering their bodies – albeit inadequately and incompetently.

In consequence of the above I have formed the view that this case does not fall within the provisions of a whole-life term. However, this case does fall within the starting point of a minimum term of 30 years. That point must be moved significantly upwards due to the sheer brutality of the murders, which borders the boundary of sadism, and the calculated nature of the second murder. I cannot ignore your criminal past and I shall not lose sight of your mental state which was much worsened by your voluntary consumption of heroin and crack cocaine.

I shall reduce the minimum term by no more than 5 years having regard to the guidance of the sentencing council and the fact you pleaded guilty at the first reasonable opportunity.

However, you have also pleaded guilty to a robbery which was perpetrated late at night at vulnerable premises whilst holding a weapon. It is of note you have a previous conviction for robbery. I cannot impose a consecutive sentence for robbery, given the sentences of life imprisonment, but I am able to increase the minimum term to reflect your guilty plea to robbery. I must, however, keep a sense of proportion and have in mind the principle of totality. I have little doubt that following a trial you would have been sentenced to at least 6 years for that crime; in all probability more given your criminal past and a like crime upon your criminal record. I note you pleaded guilty to this at the first

reasonable opportunity. I shall pass a concurrent sentence of 4 years for the robbery. Had it stood alone, it would almost certainly have been a longer sentence.

In the result I analyse the overall situation in this way: following a trial for the two murders I have no doubt the court would have determined the minimum term as 39 years given that this case so closely borders – but does not pass the threshold of sadism, but it is a case of two exceptionally brutal killings of vulnerable men. The mitigating feature of the mental illness is of limited effect given that much of the mental state was worsened by the voluntary consumption of illicit drugs. I would reduce that by 5 years due to the guilty plea, but add 2 years to reflect the guilty plea to robbery.

Consequently, the overall minimum term is one of 36 years.

I shall direct that the 309 days you have served on remand shall count towards that sentence and the formal sentence of the court will reflect that reduction.

That minimum term reflects the punishment and retribution demanded in this exceptionally serious case of breath-taking brutality and determination resulting in the murder of two vulnerable men in the home of one of them and where the other was a visitor.

Sentence

You will now stand.

The sentence I impose upon you is as follows:

I impose a sentence of Life Imprisonment for the murder of Mr Hatfield.

I impose a sentence of Life Imprisonment for the murder of Mr Higgins.

Those two sentences must be concurrent.

I impose a concurrent sentence of 4 years imprisonment for robbery.

I determine the minimum term to be served pursuant to the provisions of section 269 subsection (5) and schedule 21 of the Criminal Justice Act 2003 as being 36 years less 308 days.

I repeat what I stated earlier: It is impossible to conceive of a stage where it will ever be safe to contemplate your release from prison. I regard you to be a constitutionally dangerous individual who, if ever released, would pose immense dangers to the public.

I must impose the statutory charge.

Take him down.