

R v Mercer and others

Draft Sentencing Remarks

Sean Mercer

Rhys Jones died at your hands. His death was a tragedy for him and for his family, a waste of a promising, young life. His parents' dignity throughout this process has been deeply impressive to any of us who have seen it. The way they have behaved has been a standing reproach to those in the dock, and particularly to you Mercer, who killed their son. But it is clear that their composure conceals searing emotions, which we can guess at, but which those of us who have not lost a child can hardly grasp. The impact upon them and upon Rhys's brother is enormous.

There is only one sentence for murder, namely imprisonment for life, and that is the sentence I shall pass upon you

It is necessary for me to set a minimum period to be served, before you can be eligible for release on licence. As I think has now become well known, this period is not the period you will serve. It is the minimum period you will serve, before you may even be considered for release. The decision whether you may ever be released will be taken many years from now, and will reflect whether you are then thought to represent a risk to the public.

If you had committed this crime at the age of 18, the age you are today, the starting point set by statute for this minimum period would be 30 years. As it is, because you were just short of your 17th birthday at the time of the offence, the starting point is 12 years. It is to be emphasised that those

starting points are no more than that. The period I set can and will vary widely from that starting point, reflecting what you have done and what I judge to have been your role, your approach, to what happened.

This offence arose from the stupid, brutal gang conflict which has struck this part of Liverpool. You were caught up in that from a young age, but it is clear you gloried in it. It is wrong to let anyone glorify or romanticise this kind of gang conflict. You are not soldiers. You have no discipline, no training, no honour. You do not command respect. You may think you do, but that is because you cannot tell the difference between respect and fear. You are selfish, shallow criminals, remarkable only by the danger you pose to others.

You were told that Brady and the others from Norris Green had been seen on the Croxteth Park Estate, and you took that as an invasion of your territory, as if you had the right to territory, or to occupation of it. Or it may be you saw this as an opportunity. And so you armed yourself and set off. The CCTV evidence shows you hunting for your intended victims, first behind the Fir Tree Public House, and then coming back round the end of the pub, when you saw Davies and McCabe circling far off, on their bicycles. Then your aggression became alloyed with cowardice. You stopped by that wall, and fired at your intended victims from 70 yards across a pub car-park, with bystanders all round, and with cars moving across the car-park in the moments before you fired. Your first shot nearly struck your intended victims, hitting a metal container about a foot from one of them. They fled as fast as they could. You tracked them, and fired twice more, arms extended, aiming shots with murderous intent, as the jury have rightly found. Your second shot cut down Rhys Jones. He died because of your brutality and because you are a coward.

You gave no evidence in your trial. In my view it is absolutely clear that you had no answer to the case against you. You proved you were a coward again. You did not admit what you had done, and the witnesses and Rhys Jones's family had to go through a two-month trial. You cannot be punished more for that, but you have of course lost any of the mitigation you might have had, if you had admitted what you did. Instead you engaged in a conscious effort to destroy the evidence which might lead to your detection, an effort which sucked in your co-defendants.

You have a previous conviction for possessing a prohibited weapon earlier in 2007, but I do not hold that as a significant separate factor in sentencing you, since I have little doubt it arose from your gang involvement, which I certainly do take into account.

This killing involved the use of a firearm; involved a degree of planning, both in order to be ready for the continuing conflict by having firearms quickly available to you, and over a short time in relation to the incident itself. It is aggravated by the danger your actions represented to the public – you turned this ordinary car park into a dangerous place, something which produces huge public dismay. I am quite satisfied that you intended to kill one or both of the two young men from Norris Green, if you could do it without getting too close to them and putting yourself at any risk. You shot at them, intending to hit them with a large calibre bullet. You then set about a systematic attempt to avoid being arrested, destroying evidence and pressurising witnesses. Although you are not separately charged with such offences, the verdicts in relation to your co-defendants, and the probe evidence make clear that was what you were doing.

It is also true that your victim was young, and could be considered vulnerable, although anyone walking across that car park would have been vulnerable to what you did. Those are all aggravating features of this offence. So is the gang element to it, which means that the sentence must have a deterrent element.

There is one other factor which I bear in mind. This offence took place within a day of the first anniversary of another killing, a killing by other members of the Croxteth gang, of a young man from Norris Green. Liam Smith died on Wednesday 23rd August 2006, shot down when ambushed outside Altcourse prison. Rhys Jones died as the trial for that murder approached its close. I have no doubt you were well aware of all that. The fact that another young man had been killed a year before did not make you hold back. It may even have encouraged you.

Apart from your age, which I have already mentioned and which I do take into account, there are no mitigating factors here. Your age determines the starting point and has thus been strongly reflected already in the sentencing process I have gone through. I accept that you were not mature, although it appears to me it was your personality not your immaturity which was the key in this story. In relation to your age and your personality, it is relevant to mention that despite being only 16, you clearly took the lead in relation to the events of the day.

Rhys Jones's life is gone. We do not take a life for a life, although even if you are released, you will be under licence and supervised for as long as you live, liable to immediate recall to prison if you do anything wrong. However the proper punishment here will have the effect that you will not emerge

from prison, even at the earliest, for a long time. You are 18 now. Then you will be at least on the verge of being a middle-aged man.

The minimum period to be served here is one of 22 years. You have served 243 days on remand, and that period falls to be deducted from the minimum period to be served.

STAND UP

Accordingly, the punishment for this crime is that you are sentenced to life imprisonment. You must serve a minimum period of 21 years 122 days before you can be considered for release on licence.

Take him down.