



JUDICIARY OF
ENGLAND AND WALES

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-v-

Abdul Malik Adua

Rezwan Islam

Bilal Moosajee

Bristol Crown Court

24th May 2017

Sentencing remarks of Mr Justice Holroyde

The court has to sentence three young defendants for grave crimes including murder and manslaughter. The evidence which the jury heard during this trial has provided a grim illustration of the terrible harm caused by those who deal in class A controlled drugs, and of the extent of which those involved in such drug dealing can lose all sense of morality and common humanity.

At the age of just 16, Abdul Malik Adua was seduced by the prospect of easy money to become actively involved in the sale of heroin and crack cocaine. One of the many sad features of this case is that it is clear to me, both from my own observations during the trial and from a most thorough pre-sentence report prepared some months ago in relation to other proceedings, that he is intelligent, has a supportive family and shows promise of being able to make a better life for himself. He is however also naïve and foolish in some respects, and readily susceptible to the bad influence of

others. He was recruited by an older man from London to sell drugs in other towns and cities. A particularly cynical system of dealing was adopted: as Abdul Malik Adua told the jury, he would be sent by his boss to set up shop in the home of a drug addict, whose silence and co-operation could be bought for small quantities of drugs, and there he would deal in heroin and crack cocaine for a number of weeks, returning the profits to his boss and receiving substantial cash payments for himself. It is clear that Abdul Malik Adua was not himself addicted to drugs: he took up drug dealing purely for the money.

Paul Pass was in his late forties at the time of his death. Sadly, he was addicted to controlled drugs. Those who knew him have given evidence, which I readily accept, that he was a gentle soul who would not hurt anyone. His life was dominated by his need to acquire drugs each day, which he funded by busking in the centre of Gloucester, using the guitar which his family have described as “one of his few treasured possessions”. It is apparent from the CCTV footage seen during the trial that Paul Pass, like those of his regular companions who gave evidence, was physically damaged by his years of drug taking. The footage showed him to be a stooped and pathetic figure, no match at all for the fit young men who must now be sentenced.

Abdul Malik Adua moved into Paul Pass’ flat, and from there conducted a significant trade in selling heroin and crack cocaine over a period of several weeks. He was joined in this criminal activity by Rezwan Islam, then aged 18. There is no evidence that he had any previous involvement in drug dealing, and became involved because he and Abdul Malik Adua had been friends when they were young. I am satisfied on the evidence that Rezwan Islam was a subordinate of his co-accused, but was a willing and active participant in the drug dealing activities from the flat. In terms of the sentencing guidelines applicable to a substantive offence of supplying drugs, the offences charged in counts 1 and 2 – conspiracy to supply controlled drugs – would come within category 3. Abdul Malik Adua’s role was on the borderline between significant and leading. Rezwan Islam’s role was significant, but his older age balances out his lesser degree of involvement.

In October 2016 Paul Pass and others went to the flat in order to rob Adua and Islam of the stock of drugs and any available cash. Three of those involved were brandishing knives, and were successfully aiming to be as frightening as possible. It is not clear who first came up with this criminal plan, and it may be that Paul Pass was a reluctant participant. Part of the motivation may have been to try to recover possession of Paul Pass's flat from the drug dealers, but it is in my view clear that at least some of those involved were primarily motivated by the prospect of a haul of drugs and cash. They succeeded in that aim, but – predictably – could not successfully conceal their identities for long.

Equally predictably, Abdul Malik Adua – now indebted to his boss – was determined to recover the drugs and money if he possibly could. Rezwan Islam shared that determination. Within minutes, they were out on the streets looking for those involved. They saw one of the men involved, Gary Cole, and together chased him into an alleyway. Rezwan Islam punched Gary Cole so hard that he collapsed to the ground and was rendered unconscious. He subsequently was found to have suffered fractures of bones around the right eye and in the right cheek bone. This offence of inflicting grievous bodily harm was the subject of count 3A. In terms of the relevant sentencing guideline, this was in my judgment an offence meriting – in the case of an adult - a sentence at the top of the category 2 range.

The two defendants then saw and followed Clinton Thomas, another of those who had been involved. Rezwan Islam followed him onto the forecourt of a garage, punched him in the face and robbed him of his bag, which in fact contained nothing of any value. That robbery was the subject of count 4 against the defendant Rezwan Islam. It was a category 3 offence, aggravated by the fact that it was committed in an attempt to recover controlled drugs so that they could be sold to others.

It should be noted that the third defendant Bilal Moosajee, who was then aged 19 and is the oldest of the defendants, was in a car with the other two defendants when they were looking for the robbers. There is no evidence that he had been involved in the drug dealing, or that he played any part in the attacks on Gary Cole and Clinton Thomas, but I draw the clear inference that he was aware of the search for the

robbers and knew that his co-accused might use violence in their attempts to recover the drugs and money.

On the following day, further attempts were made by the defendants to recover the drugs and money. There was an aggressive incident in the city centre. That was followed by a telephone call which successfully lured Paul Pass and Mark Andrews, another of those who had been involved in the robbery, into a trap. They were kidnapped by Rezwan Islam and Bilal Moosajee. I am satisfied on the evidence that Bilal Moosajee had been brought in to lend added muscle, and that he played an active and enthusiastic part in the kidnapping of Paul Pass and Mark Andrews. Those two men were marched, against their will, to the flat. I am satisfied from Mark Andrews' evidence that they were both punched repeatedly and restrained when they tried to run away, and that the stage was quickly reached when they realised they could not escape. In addition, I am satisfied that Rezwan Islam stubbed a cigarette out on Mark Andrews' forehead, which has resulted in a permanent scar. As Mark Andrews told the jury, it was obvious that something very unpleasant awaited them at the flat. They were two pathetic figures, and must both have been terrified. Their terror, and the possibility that serious violence may be in store for them at the flat, must have been appreciated by Rezwan Islam and Bilal Moosajee. The kidnaps were the subject of counts 5 and 6 in the indictment. There are no sentencing guidelines for this type of offence.

Soon after their arrival at the flat, Abdul Malik Adua also arrived. They remained in the flat for about thirty five minutes. During that period, Paul Pass and Mark Andrews – who were in a most vulnerable position, and effectively at the mercy of their captors - were most cruelly treated. Abdul Mailk Adua and Rezwan Islam were actively involved in physical violence. There is no evidence that Bilal Moosajee personally used any violence in the flat, and it has been accepted by the prosecution that he did not intend the victims to suffer really serious injury; but I am satisfied on the evidence that he was present throughout, aware that others might cause at least some injury, and intentionally giving encouragement and support to his co-accused by his physical presence, and by his involvement in one of the acts of humiliation of the two victims. His presence contributed to Paul Pass and Mark Andrews being heavily outnumbered, with no realistic prospect either of escape or of self defence.

Rezwan Islam repeatedly punched Mark Andrews around the head, and made him drink a cup of liquid soap. Bilal Moosajee then made Mark Andrews drink a cup of urine. Whilst those events were happening, Abdul Malik Adua took the guitar which Paul Pass used for his busking and smashed it over Paul Pass's head.

The violence then progressed to the use of knives by Rezwan Islam and Abdul Malik Adua. I accept that the knives were already at the flat, and were not brought specifically for the purpose of what happened that afternoon. I also accept that there was no initial plan to use knives, and that they were taken up as matters escalated. I am however also satisfied that there were two knives, not just one. Rezwan Islam first used a knife to cut Mark Andrews' cheek. With chilling deliberation, he ordered Mark Andrews to put his hand on the side of the chair, and then stabbed the knife deep into the back of his hand with such force as to cause an undisplaced fracture at the head of a metacarpal bone. A cursory attempt was made by Rezwan Islam to bandage that wound, which was bleeding profusely.

Notwithstanding that obvious injury, Abdul Malik Adua then stabbed Mark Andrews in the leg. He then went on, in a similar manner, to stab Paul Pass in the leg.

Paul Pass had by this stage already suffered significant blunt force trauma, including blows to the head which were later found to have resulted in subdural haemorrhage. The stab wound to his leg proved fatal: it penetrated deeply, severing arteries and a vein. Abdul Malik Adua made a cursory attempt to tie a garment around the bleeding leg, but it was wholly ineffectual. No attempt was made by any of the defendants to call the emergency services. The defendants withdrew from the flat. Some minutes passed before Mark Andrews, beaten and confused, made his way to a telephone kiosk. By that time, he was unable to give a coherent or accurate address for the flat, and the emergency services took some time to locate it. Paul Pass sadly bled to death before the paramedics reached him.

The causing of grievous bodily harm to Mark Andrews, with intent, was the subject of count 9. The stab wound to his leg was inflicted by Abdul Malik Adua in a similar manner to the stabbing of Paul Pass's leg, and could have had similarly fatal

consequences. As it was, by reason of the particular vulnerability of Mark Andrews and the deliberate use of a knife, it was in my judgment an offence falling within category 1 of the sentencing guidelines. The court has heard a personal statement from Mark Andrews which states very clearly the effect upon him of what he suffered. He has physical scars, and his mental health – already fragile – has suffered. He has had to leave Gloucester, finding that he is now too frightened to walk the streets of that city.

The death of Paul Pass was the subject of count 7, murder, against the defendants Abdul Malik Adua and Rezwan Islam, and count 8, manslaughter, to which Bilal Moosajee pleaded guilty.

In assessing the seriousness of those crimes, it is important to keep in mind that the stabbings came at the end of a significant period of time during which Paul Pass and Mark Andrews had been imprisoned. As their ill treatment continued and escalated, they must have been utterly terrified. Their terror must have been obvious to those in the room. It did not deter Abdul Malik Adua or Rezwan Islam from proceeding to attack them with knives. It did not deter Bilal Moosajee from continuing to provide support and encouragement from close by. The evidence leads me to conclude that by the time the knives were used, it must have been clear to Abdul Malik Adua and Rezwan Islam that their victims had no further useful information to give, and that there was no realistic prospect of recovering all of the drugs and money. It follows that I am satisfied that the stabbings were not done in pursuit of gain, but were done in anger, and by way of punishment and/or revenge.

Abdul Malik Adua is still only 17 years old. His eighteenth birthday is more than a month away. He has previous convictions, about which he told the jury, arising from his drug dealing activities before he arrived in Gloucester. It was in connection with those earlier offences that the very helpful pre-sentence report, to which I have already referred, was prepared. No further report is necessary, the defendant having been in custody ever since it was written. It is however important to note that Abdul Malik Adua was on bail for those earlier offences when he committed these crimes.

Abdul Malik Adua pleaded guilty to counts 1 and 2. He also admitted the manslaughter of Paul Pass, and inflicting grievous bodily harm on Mark Andrews, though those pleas have been overtaken by his convictions on counts 7 and 9. The guilty pleas were entered on the day of the trial, and can attract only a ten percent reduction in what would otherwise have been the appropriate sentence for counts 1 and 2. I do however take into account in his favour, as significant personal mitigation, the fact that despite his youth he accepted criminal responsibility for killing Paul Pass. That was a substantial step for him to take, and an important one in the context of the trial as a whole.

Rezwan Islam is now 19. He has in his youth been convicted of an offence of common assault and an offence of battery. He denied all charges, and can therefore receive no credit for any guilty plea. No application has been made for the court to obtain a pre sentence report, and I am satisfied that none is necessary. I have had ample opportunity to assess him during the trial. I regret to say that I am satisfied by the evidence I heard as to his conduct last October that he has a vicious streak. He is however still young, and although he has attained his majority, I do not regard him as a mature adult.

Bilal Moosajee is now approaching his 20th birthday. He has no previous convictions. I have been provided with medical reports relating to serious physical ill health: a recent diagnosis of possible tuberculosis has not been confirmed, but there is a serious abnormality of one lung which requires surgery. I have also been provided with a detailed psychological report which assesses him as being of below average intelligence and susceptible to the influence of others. Those reports provide me with a good deal of information about him, and I am satisfied that no pre sentence report is necessary in his case.

Bilal Moosajee pleaded guilty to counts 5 and 6, and to count 8. In his case also, those pleas came on the day of the trial, and therefore only attract ten percent credit. I do however regard it as significant personal mitigation that he faced up to his guilt at a time when all of his co-accused were maintaining their not guilty pleas. It was a time when peer pressure, if nothing else, might have provided a strong incentive to withhold those pleas. Moreover, in the light of the psychological assessment, it must

have required a particular effort of will on his part to take a step which others did not. His willingness to plead guilty to offences including manslaughter can in my view be regarded as an encouraging sign of increasing maturity and a desire to lead a better life, and consistent with the remorse and shame which he now expresses. He initially sought to advance a basis of his plea to manslaughter which in my view significantly understated his true role. That attempt however was sensibly abandoned, and therefore does not significantly undermine his mitigation.

The sentencing exercise which the court must undertake is far from straight forward. It is necessary to have regard to the gravity of the offences, to the youth of the defendants and to the need to achieve a fair proportion between their respective total sentences. The youth of the defendants is a particularly important factor. The court must take into account that adolescents and young adults do not always think matters through in the same way as a mature adult could be expected to do: they may act precipitately, and may fail to appreciate the full consequences of their acts. I have already said that I regard Abdul Malik Adua as a youth who has promise of doing much better with his life in the future. I take the same view of the other two defendants. Moreover, I accept that in this case youth and inexperience caused Abdul Malik Adua and Rezwan Islam to be out of their depth when the drugs and money were stolen and the debt to a frightening and dangerous criminal was incurred.

Every crime of murder ends one life, but harms many others. Paul Pass has died a needless death, and his family and friends are left to grieve for him. His parents have lost their only child, a terrible loss to suffer, and one which is very clearly described in their personal statements. They have the sympathy of the court. No sentence of the court can compensate for that loss, and it should not be thought that the sentences I must shortly impose are in any sense an attempt to value Paul Pass's death.

The sentence for murder is fixed by law. It is a life sentence. In the case of Abdul Malik Adua who is still aged under 18, the sentence is one of detention at Her Majesty's pleasure. In the case of Rezwan Islam, aged over 18 but under 21, the sentence is one of custody for life. The effect in each case is the same. The court must

impose those life sentences, and must also specify the minimum term which must elapse in each case before either defendant can be considered for release on licence. It is important to emphasise, so that the defendants and the public can understand, that the minimum term specified by the court is no more than a minimum: there is no guarantee that a defendant will be released when the minimum term has expired, or indeed at anytime thereafter. Moreover, if and when he is released, he will remain subject to licence for the rest of his life, and may therefore be recalled to continue serving his life sentence if he re-offends. It is in those ways that a life sentence protects the public for the future.

In deciding the appropriate minimum term in each case, the court is required to follow the provisions of schedule 21 of the Criminal Justice Act 2003. That schedule establishes a starting point. It then sets out non-exhaustive lists of aggravating and mitigating factors which may cause the court either to increase or to reduce the minimum term from that starting point. The court must also reflect in the minimum term the seriousness of the other offences of which the defendant has been convicted, as the custodial sentences for those offences will run concurrently with the life sentence.

Because of their differing ages, the starting point is not the same in both cases. For Abdul Malik Adua it is 12 years. For Rezwan Islam it is 15 years. In a case such as this, where the difference in age is only eighteen months, the court must not apply those differing starting points in a mechanistic way if to do so would result in unjust disparity between the defendants. The court must if necessary move upwards or downwards from each starting point in order to reach a position where any difference in sentence is no more than a fair reflection of the difference in age. Abdul Malik Adua has not yet attained the age of majority. Rezwan Islam has, though as I have indicated, I do not regard him as yet being a fully mature adult. Youth is not such a powerful mitigating factor in his case as it is in the case of his co-accused. On the other hand, Abdul Malik Adua was much more seriously involved in the drug dealing which lies behind the offences of violence. It was he who was particularly desperate to recover the drugs and money, and it was he who inflicted the fatal wound on Paul Pass, having already stabbed Mark Andrews in a way which, but for good fortune, could have had similarly fatal consequences. In my judgment, a fair

balance of those competing considerations leads to the conclusion that the minimum term should be the same in each of their cases.

In the case of Abdul Malik Adua, the following serious aggravating features require the court to increase the minimum term above the statutory starting point:

1. The use of a knife, albeit one not taken to the scene.
2. The vulnerability of his victims: imprisoned, outnumbered, helpless and terrified.
3. The fact that all of the offences of violence, including the murder, were committed in the context of drug dealing and with the aim of being able to continue drug dealing.
4. The serious nature of the other offences, which would attract a substantial custodial sentence even if there had been no fatality.
5. His previous convictions, and the fact that he was on bail when he committed these offences.

I take into account in his favour the following substantial mitigating features:

1. Abdul Malik Adua's young age, immaturity and susceptibility to influence. These factors are particularly relevant to his involvement in the drug dealing and therefore to all that followed.
2. The absence of an intention to kill, coupled with the attempt made to tie a bandage or tourniquet around Paul Pass' leg.
3. The admission of criminal responsibility for Paul Pass' death.
4. His guilty pleas.

I have no doubt that the aggravating features substantially outweigh the mitigating factors. There must accordingly be a significant increase in the statutory starting point of 12 years. I bear very much in mind the principle of totality, and I emphasise that I give particular weight to the defendant's young age. If he were a mature adult, his minimum term would be significantly in excess of 20 years.

In the case of Rezwan Islam, there are the same aggravating features, to which must be added his involvement in the offences of robbery and kidnap. The mitigating features in his case are that he was less seriously involved in the drug dealing activity, the lack of any intention to kill, and the fact that he did not personally inflict the fatal wound to Paul Pass. Although he is in law an adult his youth remains a substantial mitigating feature. In his case also, the minimum term would be longer if I were sentencing him as a mature adult.

Bilal Moosajee is not liable to a mandatory life sentence. Although he played his willing part in the terrible events of the day on which Paul Pass died, and although he has committed the grave crime of manslaughter, I do not regard him as a dangerous offender in the particular sense in which that term is defined for sentencing purposes. The offences to which he has pleaded guilty can sufficiently be punished by the imposition of a substantial total term of detention in a young offender institution. I will set that term in sentencing him for his admitted manslaughter, and impose concurrent sentences for the other offences. He will be entitled to be released on licence after he has served one half of the total term, and will remain subject to the conditions of his licence until the end of the sentence.

There is at present no sentencing guideline for offences of manslaughter. The aggravating feature in Bilal Moosajee's case is that he was a willing recruit to what he knew must be an attempt to recover drugs and money from drug dealing. As he marched Paul Pass and Mark Andrews to the flat, he must have known that they were in for a hard time; and as the minutes in the flat passed by, it must have been perfectly obvious to him that both men faced serious violence, even though he did not intend it. The mitigating factors are that, though older than his co-accused, he is still young, is of previous good character, and showed the better side of his character by entering his guilty pleas. I take into account in his favour that he voluntarily surrendered himself to the police. I also take into account the evidence as to his physical and psychological ill health, the assessment made of him in a letter from his former teacher, and his own well-written letter in which he expresses his remorse and states his wish to better himself in future. I accept that for him and his parents this is a very difficult time, and that the prospect of having to undergo major surgery as a serving prisoner is a very worrying one.

In each defendant's case, the appropriate statutory surcharge will be imposed.

The sentences of the court are as follows.

Abdul Malik Adua: the sentence for murder is that you be detained at Her Majesty's pleasure. In your case I specify a minimum term of 16 years. On counts 1 and 2, giving you the limited credit for your guilty pleas to which I have referred, there will be concurrent sentences of 4 years six months' detention pursuant to s91 of the Powers of Criminal Court (Sentencing) Act 2000. On count 3A there will be a concurrent sentence of 18 months' detention and training order. On count 9 there will be a concurrent sentence of 8 years' detention under s91. There will be no separate penalty on counts 8 and 10.

Rezwan Islam: the sentence for murder is one of custody for life. In your case also I specify a minimum term of 16 years. There will be concurrent sentences of detention in a young offender institution for the other offences of which you have been convicted, as follows: counts 1 and 2: 4 years 6 months; count 3A: 2 years 6 months; count 4: 3 years; counts 5 and 6: 3years; and count 9: 8 years.

Bilal Moosajee: the sentences for each of your admitted offences are concurrent terms of detention in a young offender institution. I give you the limited credit for your guilty pleas to which I have referred. On counts 5 and 6 the sentences are 3 years. On Count 8 the sentence is 9 years. Thus the total term is one of 9 years' detention.