



JUDICIARY OF
ENGLAND AND WALES

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-v-

Matthew Moseley

Preston Crown Court
Sentencing Remarks of Mr Justice Bryan
8 May 2018

1. Matthew Moseley, on 4th May 2018 you were found guilty of the murder of Lee Holt. I must now sentence you for that murder.
2. On the evening of 25th October 2017 you were at your home 23 Barnard Close Oswaldtwistle with your wife Julia, your 14 year old son Thomas, and his younger brother and sister, when Kate Phelan, her 14 year old son Wesley and his friend Connor, and Kate's partner Lee Holt came for a confrontation with your family in the context of an ongoing dispute between Thomas and Wesley. Kate Phelan and Lee Holt had been at a funeral, and had been drinking earlier in the day.
3. There is no doubt that it was an ugly scene outside 23 Barnard Close. Kate Phelan was banging on the front windows, and Lee was kicking the front door. Abuse was being shouted at the occupants. You told your son to phone the police. He did so and that 999 call was played to the jury. Any responsible adult, and father of your age and maturity with his family in the house, would have locked the front door and awaited the arrival of the police. That was, after all, all that needed to be done to protect your family.
4. However, as the jury has found, that is not what you did. On the contrary you went into the hall, and either unlocked one of your four gun cabinets containing 23 guns (all lawfully held) and took out a left-handed semi-automatic Beretta shotgun, or picked up that Beretta shotgun which you say had been left propped up in the hallway pending cleaning. Either way that shotgun was unloaded at the time.
5. You made a decision, which can only have been a conscious decision, to load that shotgun, and load it you did with three shotgun cartridges. Such cartridges would have come from the extension behind the kitchen or under the stairs by the kitchen. Either way that required you to go and get those

cartridges and then load the gun. In the light of what followed, your loading of the gun can only have been on the basis that you intended to use that shotgun as an offensive weapon. There can have been no other reason for you to insert three shotgun cartridges (the full capacity of that shotgun) into the gun.

6. That, in itself, is astonishing enough from someone with 41 years' knowledge and experience of the use of shotguns and their potentially devastating effect, but having loaded that shotgun you proceeded to open the front door (another conscious decision), took aim at the person in front of you, and who was, on the forensic evidence, only 1 to 3 metres away from the barrel of your gun, and deliberately shot that person in the chest. That person was Lee Holt.
7. Lee Holt was dragged up your driveway by Wesley and Connor with a view to getting him to a place of safety. Tragically he had been fatally wounded, and all attempts at CPR failed. He was pronounced dead at the Royal Blackburn Hospital at 21.32hrs that evening.
8. There was no possible justification for your actions, nor was there any suggestion that you were acting in self-defence. But matters did not stop there. Far from unloading the gun and providing first aid to your victim, you passed the shotgun to your 14 year old son Thomas, itself an irresponsible act in the context of an ongoing volatile situation.
9. From that moment on, you falsely sought to blame your son for the shooting, How any father could do that to their son is difficult enough to comprehend, but what is truly incomprehensible is the cynical way in which you sought to manipulate, and pressurise, your son into accepting responsibility for the shooting and the death of Lee Holt, both on the night in question (when you said to him, *"tell them you've done it because you can't get done for it"*) and persisting in the ensuing months before your trial as evidenced by your conversations with him in a prison van, and on the telephone, conversations which were recorded and played at your trial. Your son's distress and anguish in the context of the situation you had placed him in was clear for all to hear.
10. Thomas initially accepted responsibility out of love and loyalty for you. You allowed your son to be arrested and questioned on suspicion of murder, when all along you knew you had shot Lee Holt. Thomas, however, did the right thing, recognising that he should tell the truth as to what actually happened, and your continual denial of guilt resulted in him having to give evidence against his own father, and members of Lee Holt's family having to relive the terrible events of the night in question.

11. From the start you were quick to put your plan into action and tell others, your brother James and your friend Dyleth (calling them even whilst the police were on scene) that Thomas had shot Lee Holt, repeating such lies the following day to a firearms enquiry officer, and two employees of the British Association for Shooting and Conservation. The constant theme of such contact seems to have been to lay a false trail of responsibility on your son, coupled with an inappropriate, and undue, concern on your part about the loss and possible destruction of your, and Dyleth's, gun collection.
12. Lee Holt was only 32 when you shot and killed him. He was a father with two young daughters, Alecia and Keira. As his mother says in her victim personal statement, which makes painful reading and shows the true devastation and loss that his family feel at his death, he will never see those daughters grow up, he will never walk his daughters down the aisle, he will never meet his own grandchildren. Whatever the rights or wrongs of the dispute between Wesley and Thomas or the actions of those on the drive of 23 Barnard Close that evening, nothing Lee Holt did that evening, which ultimately arose out of a desire to support his partner and her son, justified your criminal actions.
13. There is only one sentence that the law allows to be passed for the offence of murder, that is a mandatory sentence of imprisonment for life.
14. I am required to specify the minimum term, pursuant to Section 269 and Schedule 21 of the Criminal Justice Act 2003, which must elapse before you can be released on licence.
15. The first step is for me to assess the seriousness of your offending, and in that regard to consider whether the seriousness of the offence, in the context of murder, is particularly high. In that regard paragraph 5(2) of Schedule 21 identifies that cases that would normally fall within this category include a murder involving the use of a firearm. In my assessment I bear well in mind that every case is subject to its own specific individual features of mitigation and aggravation, that Schedule 21 did not create a stepped sentencing regime with fixed dividing lines between specific categories (see *R v Kelly* [2011] EWCA Crim 1462), and that ultimately what are to be assessed are the particular facts of the case before the court. I also bear well in mind that there may be cases where the seriousness of the offending where there is murder using a firearm will not be considered to be particularly high as illustrated by cases such as *R v West* [2007] EWCA Crim 701 and *R v Blackman* [2014] EWCA Crim 1029, so as to justify a lower starting point of 15 years.

16. It is submitted on your behalf that the facts of your case are “unique” and would justify a 15 year starting point, on the basis that this is an intent to cause at least really serious harm rather than an attempt to kill case, lack of premeditation, heat of the moment excessive reaction, provocation falling short of a loss of control defence, trouble came to your home at night with your family inside, there was significant trouble with kicking and banging preceded by verbal threats and group premeditation. I bear all such points well in mind at this point, and when considering the question of mitigating factors having identified the appropriate starting point.
17. However none of these matters result in this being either a unique case or there being special or unusual features, or indeed any features, which would render a lower starting point appropriate. What was unique about your offending is that someone with over forty years of firearms experience should have taken the conscious decision to go off and locate three shotgun cartridges, to have picked up and then loaded a lethal weapon, whose lethal effect you would have been well aware of from your vast experience of firearms, and then chosen to open the door and consciously and deliberately aimed at another’s chest only 1 to 3 meters away (with the almost inevitable loss of life that you must have realised would occur bar fortuity or exceptional medical intervention). It is those very factors that mean that the seriousness of your offending was particularly high and that lead to the conclusion that the starting point should be 30 years. You consciously and deliberately located, picked up and loaded a shotgun and then used it as an offensive, indeed lethal, weapon.
18. None of the factors identified on your behalf render the seriousness of your offending as being anything other than particularly high. The short answer to most of the points you make, in terms of the circumstances surrounding you offending, is that such verbal and physical threat as existed remained outside your property, and all you needed to do was lock the front door and await the arrival of the police who had already been called. That was the obvious thing to have done, and what any responsible father would have done. You, of all people, with your vast experience of firearms and their potentially devastating effects ought to have known better. Whilst it is true that events were developing rapidly it takes conscious intent to seek out ammunition and a shotgun, load that shotgun, open a door and deliberately aim at a man’s chest using that shotgun as an offensive weapon. Nothing in terms of the situation you faced, begins to reduce the seriousness of what you did when assessing the starting point.

19. I am satisfied having regard to all the circumstances of the case, including all the points made on your behalf, that the seriousness of your offence is particularly high and that the starting point I should adopt is one of 30 years.
20. Having chosen that starting point I am required then to take into account aggravating and mitigating factors in your case.
21. None of the aggravating factors set out in paragraph 10 of Schedule 21 apply in your case. The list in paragraph 10 is not, however, an exhaustive list. The use of a firearm is already taken into account in the adoption of a 30 year starting point (though it would have been a serious aggravating factor elevating matters far beyond the starting point had a 15 year starting point been appropriate). Aggravating features can include actions that occur after the event. As your counsel accepts, your actions in pressurising your 14 year old son wrongly to take responsibility for the killing and also in seeking to the blame your son for the commission of the crime (including taking steps to implicate him in the immediate aftermath of the crime) are aggravating factors in your case. As is maintaining such a stance at trial and putting him through the ordeal of cross-examination as your counsel also accepts. You have a previous conviction for criminal damage, but it was some time ago, and I do not consider it to be of relevance.
22. In terms of statutory mitigating factors, I sentence you on the basis that you had an intention to cause serious bodily harm rather than an intention to kill (albeit that you must have been aware of the possible fatal consequences of shooting someone in the chest at close range with a shotgun), and that there was not a significant degree of planning or premeditation (albeit that your actions involved a series of conscious acts which resulted in you deliberately shooting Lee Holt). I also take into account the circumstances identified on your behalf that I have already referred to in assessing seriousness including that you were to an extent provoked (falling short of a loss of control defence) and that significant trouble came to your house at night with your family inside (albeit, as I have noted, that there was an obvious response to the predicament that you faced, which was to lock the front door and await the police something that I would have expected someone of your age, maturity and experience, even faced with the stresses you were under, to have done).
23. Your age and lack of any recent previous conviction are also mitigating factors, however with age should also come maturity particularly so with someone of your vast experience in the handling and use of firearms and with that experience comes responsibility. You of all people as an experienced firearms user, should have been expected to have acted maturely and

responsibly, and recognised that the offensive use of a firearm was a wholly inappropriate response to the situation you faced notwithstanding the circumstances in which you found yourself.

Stand up Mr Matthew Moseley.

24. I sentence you to imprisonment for life. Whichever starting point is adopted (and I have adopted a starting point of 30 years), having regard to the aggravating and mitigating features in your case, I am satisfied that the appropriate minimum term is one of 26 years. From this must be deducted 194 days that you have spent on remand in custody for this offence. The minimum term is accordingly 25 years and 171 days.
25. It is important to emphasise, so that you and the public can understand the position, that the minimum term is just that - a minimum period which cannot be reduced in any way. After it is served, there is no guarantee that you will be released at that time, or at any particular time thereafter. It is then only if the Parole Board decides you are fit to be released that you will be released. Moreover if, and when, you are released you will remain subject to licence for the rest of your life, and may therefore be recalled to continue your life sentence. It is in these ways that a life sentence protects the public for the future.
26. I also order that the semi-automatic Beretta shotgun be forfeited under section 143(1) of the Powers of Criminal Courts (Sentencing) Act 2000. The victim surcharge must be paid.