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**-v-**

**PAUL PAGET & STEVEN APPLETON**

**Cardiff Crown Court**

**Sentencing Remarks of Mr Justice Picken**

**29 June 2018**

1. Paul Paget, you have been found guilty of Manslaughter in relation to the death of Anthony Bubbins, the jury having acquitted you of Murder. You have also pleaded guilty to an offence of burglary committed after you had killed Anthony Bubbins and which involved your taking items from his house which you then sold to make a profit for yourself.
2. Steven Appleton, you have pleaded guilty to the Burglary offence also – as well as to an offence of supplying cannabis to Paul Paget and to an earlier offence concerning the production of cannabis.
3. All of these offences were committed in January this year after, as I say, Anthony Bubbins had been killed in Paul Paget's flat on 9 January 2018.

**Paul Paget**

4. First, I deal with Paul Paget and the Manslaughter offence although, as I shall come on to explain, ultimately I intend to arrive at a sentence in respect of this offence which reflects Paul Paget's overall offending and so which takes into account the Burglary offence also.
5. In considering the Manslaughter offence, it needs to be acknowledged right away that the jury's verdict that Paul Paget was guilty of Manslaughter is a verdict which could have been arrived at either because they were unsure that he intended to kill Anthony Bubbins or to cause him really serious harm or because, having decided that there was such an intention on Paul Paget's part, they considered that this was a case in which the defence of loss of control operated so as to reduce what would otherwise have been a verdict of guilty to

Murder to a verdict of guilty to Manslaughter instead. As was made clear in the Route to Verdict with which the jury were provided, either of these routes led to a verdict of guilty to Manslaughter rather than to Murder.

6. In these circumstances, the correct approach when addressing the matter of sentence is as described in **R v King** [2017] EWCA Crim 128, 2 Cr App R (S) 6 by Sweeney J at [31]:

*“In our view the correct approach by the judge, after a trial, to the determination of the factual basis upon which to pass sentence, is clear. If there is only one possible interpretation of a jury’s verdict(s) then the judge must sentence on that basis. When there is more than one possible interpretation, then the judge must make up his own mind, to the criminal standard, as to the factual basis upon which to pass sentence. If there is more than one possible interpretation, and he is not sure of any of them, then (in accordance with basic fairness) he is obliged to pass sentence on the basis of the interpretation (whether in whole or in relevant part) most favourable to the defendant.”*

As Sweeney J explained at [32], there is “abundant authority” supporting this approach, including **R v Bertram** [2004] 1 Cr App R (S.) 27 in which Fulford J (as he then was) explained at [21] as follows:

*“...where a jury’s verdict is consistent with more than one version of the facts, it is for the judge, carefully applying the criminal standard of proof, to determine which version is correct. Accordingly, when the basis of the jury’s verdict is not clear, where there is uncertainty as to what the jury concluded, the judge is under a positive duty to decide the factual basis for the sentence ... . When discharging that duty, where there is genuine confusion or obscurity, such as to make it impossible for a judge to make a positive finding to the criminal standard, then the sentence should be on the basis most favourable to the defendant ... .”*

7. It is, accordingly, with this approach in mind that I deal with the matter of sentence in the present case – applying, I make it clear, the criminal burden and standard of proof.

8. Mr Elias QC invites the Court to sentence Paul Paget on the basis that the account given by him in evidence as to what happened in his flat on the night of 9 January 2018 is accepted - and so, too, the reasons given by Paul Paget in evidence as to why he acted in the way that he did. Specifically, Paul Paget maintained that at some point late last year he had learned from his friend, Jonathon Browning, that he had been sexually abused by an unnamed man, and that he had ascertained that the man concerned was Anthony Bubbins. Accordingly, Paul Paget explained, at some point in December 2017 he had gone to Anthony Bubbins's house at 67 Christchurch Road in Newport with the intention of raising the issue with Anthony Bubbins (notwithstanding that Jonathon Browning had asked him not to say anything), only instead to leave before Anthony Bubbins returned home taking with him a Samsung telephone and a tablet.
9. Subsequently, having learned that Jonathon Browning had died in unusual circumstances on 2 January 2018, according to Paul Paget, he decided to go to Anthony Bubbins's house on 9 January 2018 in order to tell him what had happened to Jonathon Browning and see what Anthony Bubbins's reaction was. This is what Paul Paget says he then did, eliciting a reaction from Anthony Bubbins which, in his mind at least, confirmed that what Jonathon Browning had told him about being sexually abused was true. Accordingly, Paul Paget insisted, he decided to invite Anthony Bubbins to his house that night in order to eat some Cottage Pie and, more importantly as far as Paul Paget was concerned, record Anthony Bubbins confessing to having sexually abused Jonathon Browning. This, Paul Paget went on to explain, is why he telephoned Anthony Bubbins more than once later that night, first to tell him that the dinner had gone into the oven and then to tell him that it was almost ready, and this was said by him to be why Anthony Bubbins came to Paul Paget's flat at about 9.40 pm.
10. It was Paul Paget's position that, once Anthony Bubbins had come into his flat and as he (Paul Paget) was standing in the doorway to the living room so that Anthony Bubbins went into that room, Anthony Bubbins brushed past him in a sexually suggestive way. This, Paul Paget stated, caused him to shudder and to say to Anthony Bubbins that he knew what Anthony Bubbins had done to

Jonathon Browning. Straight away, according to Paul Paget, Anthony Bubbins brought his hand out to Paul Paget's chest and said "*I'm not fucking scared of you*". Paul Paget said that he leant forward and pushed Anthony Bubbins's arms away, the two of them falling on to a mattress which was on the floor. Anthony Bubbins kicked out, Paul Paget explained, his foot catching against a chair, the top of which caught Paul Paget on his head. Anthony Bubbins was almost sneering, Paul Paget stated, saying that Jonathon Browning "*enjoyed what I was doing, he loved it, we had a thing together*" and doing this over and over again. According to Paul Paget, this was like every excuse he had ever heard as somebody who maintains that he had himself suffered sexual abuse as a child whilst in care in Sunderland. It was, in these circumstances, Paul Paget insisted, that he tied Anthony Bubbins's hands behind his back and secured the shoe laces which he used to do this to the belt loops in Anthony Bubbins's jeans. Paul Paget was telling Anthony Bubbins to shut up but he would not do so, and so Paul Paget's evidence was that he threatened to gag him if he did not do so. This is why, Paul Paget explained, he grabbed a sock which was nearby and which was in a ball, and put it in Anthony Bubbins's mouth. Shortly afterwards, Paul Paget realised that Anthony Bubbins had stopped breathing and was dead.

11. It was the defence case, in short, that Paul Paget had no intention to kill Anthony Bubbins or to cause him really serious harm, alternatively that what he did was in response to Anthony Bubbins telling him that Jonathon Browning "*knew what he was doing*" and that he "*loved it*" after he had told Anthony Bubbins that he knew what he had done to Jonathon Browning and that this caused him to lose control and do what he did.
12. I reject Paul Paget's evidence concerning what he says he was told by Jonathon Browning. I am sure, having listened to the evidence at trial, that this evidence was false and was fabricated in an effort to justify what happened the night that Anthony Bubbins met his death earlier this year. I am clear, in short, that Paul Paget was not told by Jonathon Browning that he had been sexually abused – not that, even on Paul Paget's own case, was it suggested that Jonathon Browning told Paul Paget that his abuser was Anthony Bubbins. I say this for a number of reasons.

13. First, as Miss Rees points out, there is no evidence that Anthony Bubbins ever had any contact with Jonathon Browning.
14. Secondly, again as Miss Rees points out, there is no evidence that Anthony Bubbins was sexually predatory towards men (or at all).
15. Thirdly, it is telling that Paul Paget never told anybody about what Jonathon Browning allegedly told him about being sexually abused. This, despite the fact that Paul Paget's own evidence was that he initially went to Anthony Bubbins's house, in December 2017, in order to tell Anthony Bubbins that he knew that he had been sexually abusing Jonathon Browning. This, despite the fact also that, after Jonathon Browning's death in early January 2018, there would seem to be no real reason why Paul Paget should not tell somebody in authority what he had been told by Jonathon Browning and how he believed that the abuser was Anthony Bubbins.
16. Fourthly, although this point is linked to the last, it is difficult to see why Paul Paget did not tell the police what he had been told by Jonathon Browning when he was asked in the interviews which took place after his arrest, in effect, whether there was any link between Anthony Bubbins's death and Jonathon Browning. His reaction to the topic being raised was to become upset yet he said nothing, preferring to take his solicitor's advice not to answer questions. I should just add in this respect that I completely reject Paul Paget's evidence that he told the custody nurse, Louise Price, about what Jonathon Browning had told him as he was being examined by her just before he went to Newport Magistrates' Court on 20 January 2018. Louise Price attended to give evidence on this issue, and she was adamant that she was told nothing at all. That is evidence which I accept without the slightest hesitation.
17. Fifthly, having listened to Paul Paget's description of the occasion in late November/early December 2017 when, according to him, Jonathon Browning told him about being sexually abused, I was wholly unconvinced that Paul Paget was telling the truth. In particular, his description of Jonathon Browning being on the floor with his head in his (Paul Paget's) lap lacked credibility.

18. Sixthly and most tellingly, there is the fact that a letter was found in Anthony Bubbins's house, after he had died, which Paul Paget accepted was written by him and yet which he insisted he had written not to Anthony Bubbins but to his drug dealer who, very conveniently, happened to be called Tony (the shortened name for Anthony). That letter, according to Paul Paget, was something which he had been carrying about with him since August/September last year with the intention that he would put it through the drug dealer's door. Paul Paget's evidence was, therefore, that the letter must have fallen out of his pocket when he went to Anthony Bubbins's house to burgle it a few hours after he had killed Anthony Bubbins.
19. This explanation, and Paul Paget's evidence more generally concerning the letter, was nothing short of fanciful. The letter was addressed to "*my dear friend*" which was a most peculiar way for a customer to refer to his drug dealer. Paul Paget's explanation that he regarded his drug dealer as a friend (indeed, a dear friend) was, quite simply, incredible. The fact that the letter, which was written by Paul Paget using an alias, referred to his really liking its recipient makes his evidence even more implausible.
20. Nor does Paul Paget's explanation as to why the letter came to be written hold water. According to him, the letter was written to apologise for stealing a scooter belonging to the drug dealer, yet there is no mention of a scooter in the letter. Similarly, it should be noted that the letter went on to refer to the writer (Paul Paget) being "*embarrassed and ashamed*" which is an odd way of putting things if the letter really was intended for a drug dealer – as opposed to somebody like Anthony Bubbins from whom it was common ground Paul Paget had stolen in the lead-up to Christmas.
21. Any doubt about the evidence given by Paul Paget concerning the letter is dispelled by the Further Agreed Facts which were put before the jury after Paul Paget had completed his evidence in order to deal with his evidence that the letter was written in August/September last year and not later. These Further Agreed Facts relate to a mobile phone whose number appears at the end of the letter. Whilst the number has a connection date of 3 December 2016, it was not used until 16 December 2017 – so, over a year later. A

connection date, it was agreed, is the date when SIM cards are provided to shops and, as such, does not indicate when the SIM card was purchased by a customer. In short, the letter must have been written after 16 December 2017, which is entirely consistent with it having been intended for Anthony Bubbins and not, as Paul Paget maintained, his drug dealer. The fact that Paul Paget was prepared to lie on this timing issue is reason, in and of itself, to reject his evidence concerning the letter and casts very considerable doubt on the veracity of Paul Paget's evidence concerning his involvement with Anthony Bubbins leading up to his death more generally.

22. The letter is, in truth, wholly inconsistent with the suggestion that Anthony Bubbins had sexually assaulted Jonathon Browning. I agree with Miss Rees that, on the contrary, the letter clearly indicates that it was Paul Paget who had somehow wronged Anthony Bubbins and was ashamed and sorry for his behaviour – not that Anthony Bubbins had wronged anybody. There is not the remotest suggestion in the letter about what Jonathon Browning had told Paul Paget about being sexually abused.
23. Whilst not conceding that Paul Paget's evidence concerning the letter should be rejected, Mr Elias nonetheless accepts that there is strong evidence to suggest that the letter was intended for Anthony Bubbins. He submits, however, that all that this does is to lead to the conclusion that Paul Paget wanted Anthony Bubbins to attend alone at his flat. Accordingly, Mr Elias submits, the letter takes matters no further since Paul Paget's own evidence at trial was that he wanted Anthony Bubbins to do precisely that – in order that he could record him confessing to sexually abusing Jonathon Browning.
24. The evidence does not support this submission and I reject it. I am satisfied, to the criminal standard, that the contents of the letter make it impossible to accept that what Paul Paget had to say about having learned that Anthony Bubbins had sexually abused Jonathon Browning was anything other than a lie. In consequence, I simply cannot accept Paul Paget's evidence as to what happened either in the lead-up to Anthony Bubbins going to his flat on the night of 9 January 2018 nor as to what happened once Anthony Bubbins had got there.

25. Mr Elias goes on to submit that, even if the Court does not accept all of the allegations made by Paul Paget in relation to Anthony Bubbins's conduct, the jury's verdict should nonetheless lead the Court to find that the binding and gagging of the deceased was done as a reaction to the behaviour of Anthony Bubbins once he had attended Paul Paget's flat. Mr Elias submits that there is no evidence upon which the Court could be sure that the binding and gagging was premeditated or pre-planned. He submits, in particular, in the circumstances, that the Court should approach the matter of sentence on the basis that: (i) the binding and gagging of Anthony Bubbins by Paul Paget was in no way pre-meditated or planned; (ii) there was a significant degree of provocation in the way that Anthony Bubbins behaved in Paul Paget's flat that led to Paul Paget's actions, there being evidence within the Agreed Facts as to how Anthony Bubbins tended to behave in the months leading up to his death; and (iii) Paul Paget's actions were not motivated by any desire to gain for himself, the burglary of Anthony Bubbins's home later the same night being an after-thought and resulting from a need to obtain funds as quickly as possible in order to leave the area.
26. I am satisfied to the criminal standard that Paul Paget did intentionally lure Anthony Bubbins to his flat in the knowledge that there were no other occupants present at the time (indeed, Mr Elias's own submission acknowledges this albeit that he suggests that it was so that he could get Anthony Bubbins to confess to sexually abusing Jonathon Browning), Paul Paget having exchanged texts shortly after 8.00 pm with the only other occupant of the house where his flat was, namely Matthew Wareham, from which he knew that he was alone. It was the prosecution's case at trial that this was in order to kill Anthony Bubbins so that Paul Paget could then go to his house and steal. That case was, however, rejected by the jury through their verdict, and I have rejected Paul Paget's explanation that he believed that Anthony Bubbins had sexually abused Jonathon Browning for the reasons which I have given. It follows that it may never be known what exactly was the reason why Anthony Bubbins came to Paul Paget's flat on the night of 9 January 2018. I am clear nonetheless that what Paul Paget did in terms of tying Anthony Bubbins up with shoe laces and putting a sock in his mouth



cannot have been pre-planned. I say this for a simple reason: if this had been Paul Paget's intention when Anthony Bubbins came into the flat, it is difficult to see why he would not have had laces available and so why he had to take the laces out of Anthony Bubbins's own shoe and, according to his evidence (which, in this respect, I accept), from two other shoes which happened to be nearby. Indeed, if Paul Paget had intended to tie Anthony Bubbins up, then, it might have been expected that he would have something other than merely laces ready to use for this purpose. Similarly, if his intention had been to shut Anthony Bubbins up, it is difficult to see why he would not have had a gag of some sort ready before he arrived in his flat rather than that he would have simply grabbed a sock which happened to be in the vicinity as the two of them struggled on the floor.

27. I have rejected Paul Paget's evidence concerning the sexual comments allegedly made by Anthony Bubbins. His evidence was not that Anthony Bubbins became aggressive in other circumstances, and so it is difficult to see why it should be assumed in his favour that that was the case. The fact that Anthony Bubbins had over the previous few months been behaving somewhat erratically nonetheless leads me to give Paul Paget the benefit of the doubt in line with the approach described in *King* and *Bertram*, at least to some degree, and so to approach the matter of sentence on the basis that Anthony Bubbins, whilst not the instigator of the violence which occurred, may have been aggressive.
28. In view of the jury's verdict, it would be wrong to approach the matter of sentence on the basis that Paul Paget's actions were wholly motivated by a desire to gain for himself. Irrespective of the precise reason why the violence between Paul Paget and Anthony Bubbins came about, I do not accept, however, that the burglary of Anthony Bubbins's home later the same night should be regarded purely as an after-thought. This is because the burglary followed an earlier burglary in December 2017 when Paul Paget took a Samsung telephone and tablet. This, in view of the contents of the letter to which I have referred, provides, I am satisfied to the requisite criminal standard at a minimum, the background and context to what happened on the night of 9 January 2018, even though precisely how is not possible to discern.

29. In summary, therefore, and applying the criminal standard of proof, I am sure that Paul Paget is properly to be regarded as being guilty of Manslaughter not because the loss of control defence has any application on the facts of this case but because Paul Paget did not intend to kill or cause Anthony Bubbins really serious harm. I am, in particular and furthermore, sure that:
- (1) Paul Paget did intentionally lure Anthony Bubbins to his flat in the knowledge that there were no other occupants present at the time;
  - (2) nonetheless the binding and gagging of Anthony Bubbins by Paul Paget was not pre-meditated or planned;
  - (3) the reason why Paul Paget did what he did to Anthony Bubbins had nothing to do with any belief on his part that Anthony Bubbins had sexually abused Jonathon Browning;
  - (4) nor, however, as just explained, were Paul Paget's actions wholly motivated by a desire to gain for himself even though I reject the suggestion that the subsequent burglary later the same night was purely an after-thought; and
  - (5) whilst not the instigator of the violence which occurred, Anthony Bubbins would not have been lacking in aggression when at Paul Paget's flat on the night of 9 January 2018 – although, I should add that I am not sure that Paul Paget was the instigator either.

It is on this basis, and taking into account the other factors which I come on to identify later, that I approach the matter of sentence in this case.

30. Having made these observations, I need to consider dangerousness. Manslaughter is a specified and serious offence under Schedule 15b of the Criminal Justice Act 2003. In order to find a defendant dangerous within the meaning of the 2003 Act, the Court must be satisfied that he or she poses a significant risk of serious harm to members of the public through the commission of further specified offences. If there is a finding of dangerousness, the Court has the options of imposing a discretionary life sentence under section 225 or an extended sentence of imprisonment under section 226, although the Court retains the option of imposing a determinate sentence.

31. Mr Elias submits that, in this case, the Court should not conclude that Paul Paget is dangerous – notwithstanding that he has, of course, been convicted of Manslaughter. Mr Elias submits, in particular, that the facts of the current case, taken together with Paul Paget’s relevant previous convictions (namely two convictions in 1987 for assault occasioning actual bodily harm, a conviction in 1991 for robbery and convictions for robbery and false imprisonment in 2000 arising out of the same incident) are not sufficient to establish that Paul Paget poses a significant risk of serious harm to members of the public through the commission of further specified offences.
32. Having considered this matter carefully, I have concluded that Paul Paget does not meet the necessary criteria for the purposes of sections 225 and 226 of the Act for a number of reasons.
33. First, as Mr Elias points out, there is a significant gap in time between the commission of the previous offences and the offence for which Paul Paget is now being sentenced. Specifically, the two offences of assault occasioning actual bodily harm pre-date the Manslaughter offence by as much as 31 years, the earlier robbery conviction in 1991 by more than 26 years and the convictions in 2000 by 18 years.
34. Secondly, although the point really follows from the first point, Paul Paget having been released for the last of these offences in 2002, there are no convictions for the use of violence after that date – until the present Manslaughter offence.
35. Thirdly, I take account of the evidence which was given at trial both from Fran Lewis, Paul Paget’s Probation Officer, and from Daniel Taylor, his Support Worker, that, since his release from prison in early 2017, Paul Paget had engaged extremely well with those supporting him. He had attended every probation appointment, involved himself in presentations organised by Daniel Taylor and shown an ability to manage his own affairs. He was, indeed, very shortly before the death of Anthony Bubbins, on the verge of moving into his own flat in Newport. This is evidence which was consistent with a man who had left behind offences involving violence (at least until the night of 9 January 2018), if not his practice of stealing from people.

36. Lastly, in view of the jury's verdict and the findings which I have already described in these sentencing remarks, it should be borne in mind that Paul Paget did not form an intent to kill or cause really serious harm when he killed Anthony Bubbins. He was, instead, as Mr Elias puts it, reacting to events which unfolded in his flat. Even though I do not accept that those events, certainly anyway in all respects, were as described by Paul Paget, the fact remains that he did not intend to kill or cause really serious harm when he did what he did.
37. For all these reasons, I approach the matter of sentence on the basis that the appropriate sentence is a determinate term of imprisonment for the offence of Manslaughter.
38. As to the appropriate length of sentence in this case, I must have regard to cases such as ***Attorney General's Reference No. 60 of 2009 (Appleby and others)*** [2009] EWCA Crim 2693, [2010] 2 Cr App R (S) 46, and ***Attorney General's Reference No. 36 of 2015 (Nicholles)*** [2015] EWCA Crim 1174. Thus, in ***Appleby*** the then Lord Chief Justice, Lord Judge, stated at [22] as follows:

*"... crimes which result in death should be treated more seriously, not so as to equate the sentencing in unlawful act manslaughter with the sentence levels suggested in schedule 21 of the 2003 Act, but so as to ensure that the increased focus on the fact that a victim has died in consequence of an unlawful act of violence, even where the conviction is for manslaughter, should, in accordance with the legislative intention, be given greater weight."*

In ***Nicholles*** Treacy LJ stated this at [16]:

*"It is abundantly clear by now that the decision of this court in [Appleby] signals a clear change to the approach to sentence in unlawful act manslaughter cases. There is to be an upward movement in sentences to reflect the new focus on harm under section 143 of the Criminal Justice Act 2003, the sentencing regime for offences of murder contained in Schedule 21 to the Act, and the sterner approach to sentencing in cases involving the carrying of knives and other weapons ... . In addition, since Appleby Parliament has introduced paragraph 5A to Schedule 21 in stipulating a*

*starting point by way of minimum term of 25 years, where a knife or other weapon is taken to the scene of a murder by an offender who intends to commit any offence or intends to have it available to use as a weapon. ...”.*

39. In short, sentences for Manslaughter are now longer than they once were. Mr Elias, indeed, agrees with Miss Rees as to how the Court should approach ‘unlawful act’ Manslaughter - in particular, as to the assistance that can be derived from an analysis of the aggravating and mitigating factors in Schedule 21 to the 2003 Act. I have borne those factors in mind in approaching the matter of sentence, although the particular factors which seem to me to be relevant are those which I now identify.
40. First, however it came about and for whatever reason, the fact is that Anthony Bubbins died after going to Paul Paget’s flat and as a result of what Paul Paget did to him. He died because he was unable to breathe after Paul Paget had put 22 cm of sock in his mouth and had tied his hands so as to mean that Anthony Bubbins could not take the sock out of his mouth. This was a truly horrible way in which to die. The fact that Paul Paget neither intended to kill nor cause Anthony Bubbins really serious harm does not change this simple fact.
41. Secondly, again whatever the reason for the struggle between Paul Paget and Anthony Bubbins, my having rejected Paul Paget’s evidence that Anthony Bubbins was taunting him with comments concerning what he had done to Jonathon Browning, it is difficult to see what justification there would have been for Paul Paget doing what he did in tying Anthony Bubbins up and putting a sock in his mouth with the result that he stopped breathing.
42. Thirdly, I agree with Miss Rees when she submits that tying up and gagging Anthony Bubbins was an act of degradation and humiliation.
43. Fourthly, not only did Paul Paget do nothing to summon help on the night of 9 January 2018 but he left Anthony Bubbins’s dead body *in situ* for as long as 5 days whilst he roved the roads in his car – a car bought with the proceeds of the burglary committed just a few hours after he had killed Anthony Bubbins – and ultimately drove from the area to the South West of England in order to evade arrest. Although Paul Paget sought to suggest in evidence that this was

the result of his inability to deal with the situation in any other way, I reject that explanation since any decent person would not have done what he did.

44. Fifthly, my having rejected Paul Paget's evidence about his believing Anthony Bubbins to have sexually abused Jonathon Browning, Paul Paget has chosen to make very serious allegations against a person who is not here to defend his name precisely because Paul Paget killed him. I am quite clear that Paul Paget only did this in order to enhance his defence in the knowledge that not only is Anthony Bubbins no longer in a position to dispute what was alleged against him but that Jonathon Browning, the alleged victim of sexual abuse, is also dead and so unable to be asked whether what Paul Paget had to say was right. Paul Paget's conduct in putting forward this version of events was callous in the extreme. It also reveals a complete lack of remorse which was evident, more generally, when Paul Paget gave his evidence at trial.
45. For Anthony Bubbins's family to have to have heard what was alleged about him by Paul Paget at trial must have been most difficult. I wish to record, indeed, that throughout the trial members of Anthony Bubbins's family have attended. In particular, his daughter, Emily, has attended everyday and she has prepared a moving statement explaining about the impact of her father's death on her. It must have been extremely harrowing for her and other family members to have to listen to such distressing evidence as was heard in this case. I commend their admirable restraint and considerable dignity.
46. Even leaving to one side the fact that, in order to steal items, Paul Paget went to Anthony Bubbins's house twice after he had killed him, the matters to which I have just referred are seriously aggravating features of the Manslaughter offence which it is obviously appropriate to take into account when arriving at an appropriate sentence in respect of the Manslaughter offence. I have reached the clear conclusion, therefore, that, were it being considered in isolation and not at the same time as the Burglary offence, and ignoring also the matter of credit for now, the appropriate sentence in respect of the Manslaughter offence would be 15 years' imprisonment.
47. It is, however, impossible to ignore the fact that, having only hours earlier killed Anthony Bubbins, Paul Paget went to his house at 67 Christchurch Road

in the early hours of the morning and ransacked it before the very next morning, having first sold some of what he had taken, using the money he received to buy a car which he spent the next 5 or 6 days driving up and down the motorway whilst Anthony Bubbins's body lay in his flat. Paul Paget did not stop there, however, since a day or two after he had killed Anthony Bubbins (this is the subject of Count 2) Paul Paget returned (this time with Steven Appleton) to steal yet more items from the house.

48. As Miss Rees puts it, even if the evidence does not establish that Anthony Bubbins was tied up and gagged for gain (and I have made it clear that I cannot be sure that that was the case), it is a significantly aggravating factor that Paul Paget set about burgling and ransacking Anthony Bubbins's home within hours of his death. It, again, displays a callous lack of remorse at causing the death of Anthony Bubbins, and the fact remains that, even if the motive was not gain, Paul Paget did make financial profit from killing Anthony Bubbins and subsequently burgling his home. This includes the stealing of personal items (e.g. items with Anthony Bubbins's daughter's name engraved on them). This is a seriously aggravating feature of the Manslaughter offence which should properly be reflected in the overall sentence for that offence.
49. Although it would be open to the Court to structure the sentences in respect of the Manslaughter offence and the Burglary offence in such a way as the two sentences are made consecutive to each other, I consider that the more appropriate course in a case such as this, involving as it does a tragic death, is instead to increase the sentence in respect of the Manslaughter offence to reflect the overall criminality, and so to treat the burglary committed just a few hours after he had killed Anthony Bubbins (in respect of which Paul Paget has not been separately charged) and the Burglary offence committed a day or so after that (in conjunction with Steven Appleton) as aggravating features of the Manslaughter offence, making the sentence in respect of the Burglary offence a concurrent (rather than a consecutive) sentence.
50. This will not increase the overall length of time which Paul Paget will spend in custody beyond that which would be the position were the sentence in respect of the Burglary offence to be made consecutive to the sentence in respect of

the Manslaughter offence. It will, however, as I have explained, properly reflect the fact that Paul Paget is responsible for the death of Anthony Bubbins.

51. As to that Burglary offence, it is acknowledged by Mr Elias that it is an offence to which section 111 of the Powers of Criminal Courts (Sentencing) Act 2000 applies. This is because, amongst the large number of theft-related convictions which he has accumulated over the years, Paul Paget has relevant convictions for the purposes of section 111, namely convictions for dwelling house burglary on 14 January 2004 and 29 July 2005. He is, as such, liable to be sentenced to a 3-year minimum term (less credit for his guilty plea).
52. It is Mr Elias's submission that the sentence should be no more than 3 years. Miss Rees makes the point, however, that the 3-year minimum term is merely a *minimum* term and that such a sentence would not adequately reflect the circumstances in which the Burglary offence came to be committed in this case. She reminds me, in this respect, that the Burglary Offences Definitive Guideline refers to factors as indicating 'greater harm' as including "*Soiling, ransacking or vandalism of property*", "*Theft of/damage to property causing a significant degree of loss to the victim (whether economic, sentimental or personal value)*" and "*Trauma to the victim, beyond the normal inevitable consequence of intrusion and theft*". It seems to me that this is a case where these factors apply, bearing in mind the ransacking to which I have referred and which is apparent from the photographs in evidence which show Anthony Bubbins's property in the aftermath and bearing in mind also the trauma caused to Anthony Bubbins's family as a result of his home being burgled and personal items being taken and sold. I also consider that this is a case where there are factors indicating 'higher culpability', namely (again as listed in the Definitive Guideline) "*A significant degree of planning or organisation*" and "*Equipped for burglary (for example, implements carried and/or use of vehicle)*". There was a significant degree of planning and organisation, and also a vehicle was involved in the removal of items. There were also two people involved, arguably making a "*Member of a group or gang*" case.



53. The starting point, in line with the Definitive Guideline for such a (Greater Harm/Higher Culpability) case is 3 years' custody with a sentencing range of between 2 and 6 years' custody. However, the Burglary offence (Count 2 – as committed with Steven Appleton) is clearly aggravated by the circumstances in which it came to be committed in that not only was it committed only a day or two after Paul Paget had been to Anthony Bubbins's house to take items in the early hours of 10 January 2018 (a burglary for which, as I have observed, Paul Paget has not been separately charged) but, crucially, both these burglaries were committed when Paul Paget knew that he had killed the occupier of the house, Anthony Bubbins, who all the while was lying dead in Paul Paget's flat. I am in no doubt that, in these circumstances, were the Burglary offence to be considered separately from the Manslaughter offence, the appropriate sentence would be towards the upper end of the 2 to 6-year sentencing range, and not merely the 3-year statutory minimum.
54. I have concluded that the appropriate sentence in respect of the Burglary offence (prior to any credit in respect of guilty plea) is 5 years' imprisonment, so increasing the 15 years to which I have previously referred to 20 years' imprisonment.
55. There is, then, the issue of what (if any) credit should be given to reflect Paul Paget's acceptance in advance of trial that he was responsible for Anthony Bubbins's death. Mr Elias submits that Paul Paget should be given full one third credit since he explains that it was indicated at a hearing which took place in April this year that he accepted that he was responsible for Anthony Bubbins's death. Alternatively, Mr Elias submits that, if he is not entitled to full credit, then, nonetheless Paul Paget is entitled to significant credit and should receive a reduction in sentence of at least 25%.
56. Mr Elias explains that on 20 January 2018 Paul Paget, who had not replied to questions during his various police interviews, appeared before Newport Magistrates Court and was sent for trial to the Crown Court. An issue of fitness to plead was at that stage, however, raised. Two days later, on 22 January 2018, Paul Paget appeared before Jefford J for a preliminary hearing. This was followed on 16 April 2018 by a PTPH before HHJ Bidder QC which

was ineffective and had to be adjourned for two weeks. At that subsequent hearing, on 30 April 2018, again before HHJ Bidder QC, Paul Paget was arraigned on a two-count indictment charging Murder (Count 1) and Burglary (Count 2). This was the first arraignment. Up until that point the issue of fitness to plead was being investigated. In relation to Count 1 the Defendant entered a 'not guilty' plea but the defence indicated that Paul Paget accepted causing the death of Anthony Bubbins, HHJ Bidder QC apparently indicating that that admission was significant in terms of sentence. In relation to Count 2, a 'guilty' plea was entered.

57. It was Mr Elias's submission that, in these circumstances, since at trial the only issue was whether Paul Paget's actions amounted to Murder or to Manslaughter, he should be given substantial credit - a third or a quarter - notwithstanding that he did not formally plead 'guilty' to Manslaughter.

58. I am not wholly convinced by this submission. I have regard in this respect to the Reduction in Sentence for a Guilty Plea Definitive Guideline which came into force on 1 June 2017. This states at page 7, under the heading "EXCEPTIONS", as follows, under the sub-heading "*Offender convicted of a lesser or different offence*":

*"If an offender is convicted of a lesser or different offence from that originally charged, and has earlier made an unequivocal indication of a guilty plea to this lesser or different offence to the prosecution and the court, the court should give the level of reduction that is appropriate to the stage in the proceedings at which this indication of plea (to the lesser or different offence) was made taking into account any other of these exceptions that apply. In the Crown Court where the offered plea is a permissible alternative on the indictment as charged, the offender will not be treated as having made an unequivocal indication unless the offender has entered that plea."*

59. In the present case, there was never at any stage any formal entry of a plea of 'guilty' to Manslaughter. There was, therefore, no unequivocal indication that Paul Paget accepted that he was guilty of Manslaughter. True it is that by the time of trial, as reflected indeed in the Route to Verdict with which the jury were supplied, the jury were told that he accepted that they should, at a

minimum, find him guilty of that offence, but Paul Paget has never pleaded guilty to Manslaughter.

60. Indeed, based even on Mr Elias's description of what happened at the PTPH on 30 April 2018, it does not appear that what HHJ Bidder QC was told amounted to the necessary unequivocal indication that there would be a guilty plea. On the contrary, it appears from the relevant PTPH form on the DCS that, although Paul Paget accepted responsibility for the killing, at that stage a potential defence of self-defence had not yet been ruled out. Mr Elias explains that, in fact, no such defence was ever contemplated. In any event, it was not until the Defence Statement was produced on 9 May 2018 that it became clear that self-defence was not a live issue. That document began by stating as follows:

*“The Defendant denies forming the intent to kill or cause serious harm to Anthony Bubbins. The Defence is also investigating whether the defendant suffered a loss of control during the incident.”*

The document continued by setting out the version of events which Paul Paget ultimately came to give at trial in support of his lack of intent and/or loss of control defences.

61. In these circumstances, although Miss Rees was inclined to suggest that credit should be afforded to Paul Paget, amounting to no more than 20% and based on the defence position only becoming clear once the Defence Statement had been served, I remain sceptical that any credit is appropriate at all. This is because, as I have explained, Paul Paget never offered to plead guilty to the offence of Manslaughter. However, bearing in mind the position adopted by the prosecution and what I have been told concerning what happened at the PTPHs on 16 and 30 April 2018, as well as taking account of the fact, as Mr Elias explains, that it was not until late in the day that a fitness to plead issue had ceased to be an issue, I am prepared to proceed on the basis that some, albeit limited, credit is appropriate. Having regard to Appendix 3 to the Definitive Guideline and the 'flow chart' which it contains showing that a guilty plea at a PTPH should usually attract a discount of 25% and that this reduces to 10% credit on the day of trial, I propose to give credit amounting to

20% as the prosecution suggest. Applying 20% to the 15 years to which I have previously referred, results in a 3 years' reduction and so reduces the 15 years to 12 years' imprisonment.

62. As to the Burglary offence, under section 144(2) of the 2003 Act the maximum amount of credit which is due where the 3-year minimum sentence is applicable by virtue of section 111 of the 2000 Act is 20%. Since, however, for reasons which I have explained, I consider that the 3-year minimum term would amount to too low a sentence in Paul Paget's case, it is open to the Court to give greater credit than 20% and instead to award Paul Paget 25% in accordance with the Definitive Guideline sliding scale, bearing in mind that he pleaded guilty to the Burglary offence at the PTPH since applying such credit does not bring the resulting sentence down below 80% of three years. Applying 25% to the 5 years to which I have previously referred, results in 3 years' and 9 months' imprisonment.
63. I, then, ask myself whether a combined sentence of 15 years' and 9 months' imprisonment takes adequate account of the totality principle, asking myself whether "*the overall sentence*" is "*just and proportionate*" as required by the Offences Taken Into Consideration and Totality Definitive Guideline at page 5. I am in little doubt that such a sentence is, indeed, just and proportionate having regard to the overall criminality of Paul Paget in this case and in view of the fact that it was a result of that criminality that Anthony Bubbins lost his life. However, I consider that some modest further reduction is warranted applying this approach, and that the appropriate sentence is, accordingly, 15 years' and 6 months' imprisonment.

**[Stand up Mr Paget]**

64. I sentence you in respect of the Manslaughter of Anthony Bubbins (Count 1) to 15 years' and 6 months' imprisonment. From this must be deducted the 170 days that you have spent on remand in custody for this offence. As regards Count 2, the Burglary offence, the sentence is 3 years' and 9 months' imprisonment but this will be concurrent to the sentence in respect of Count 1.
65. These are the least possible sentences I can impose, having regard to the seriousness of the offences.

66. You will serve up to one half of your sentence in custody. You will serve the remainder on licence. You must keep to the terms of your licence and commit no further offence or you will be liable to be recalled and you may then serve the rest of your sentence in custody.
67. The victim surcharge must also be paid.

### **Appleton**

68. I need, next, to sentence Steven Appleton for the three offences to which he has pleaded guilty.
69. The first, Count 2, is the Burglary offence to which I have previously referred. This is the offence which is charged as having been committed jointly with Paul Paget between 9 and 15 January but which it is known was, in fact, committed a couple of days after Paul Paget had killed Anthony Bubbins and after Paul Paget had gone to 67 Christchurch Road a few hours later in order to take items which he then sold to make money.
70. I have explained that, as far as Paul Paget is concerned, I regard this as an offence which is a Greater Harm/Higher Culpability offence for the purposes of the Definitive Guideline and so as attracting a starting point of 3 years' custody with a sentencing range of between 2 and 6 years' custody.
71. Mr Scott Bowen, representing Steven Appleton, concedes that this is a 'higher culpability' case but seeks to argue that it is not a 'greater harm' case as far as Steven Appleton is concerned. The difficulty with this, however, is that in assessing the degree of harm the focus is on the effect of the offence rather than on the role played by the particular offender. It is as regards culpability that the latter falls to be considered and yet Mr Bowen accepts that this is a 'higher culpability' case as far as Steven Appleton is concerned.
72. Mr Bowen nonetheless makes the point, first, that, whilst Count 2 is a joint count, Steven Appleton's involvement was less than of Paul Paget for a number of reasons. Most significantly, Steven Appleton had no involvement in the death of Anthony Bubbins – as Paul Paget himself confirmed in his evidence at trial. He had no idea that Anthony Bubbins was dead and that this was because Paul Paget had killed him. On the contrary, as far as Steven

Appleton was concerned, the reason why the house was empty was that the occupier was away on holiday.

73. Secondly, Steven Appleton did not know Mr Bubbins and nor was he aware of his vulnerabilities.
74. Thirdly, whilst Steven Appleton accepts that he was aware that Paul Paget planned on carrying out the burglary and further accepts that he actively encouraged it, unlike Paul Paget, as far as Steven Appleton was concerned it was a one-off since he only attended the property on one occasion - as it happens, remaining outside the property and assisting Paul Paget with loading items into the car.
75. Lastly, as Mr Bowen points out, the prosecution accepts that Steven Appleton supplied cannabis to Paul Paget in exchange for the items which were taken, which points to Steven Appleton not being on an equal footing with Paul Paget as regards Count 2 since, if Steven Appleton had been on an equal footing with Paul Paget, it might be expected that he would have simply shared the spoils of the burglary rather than having to purchase them.
76. It seems to me that these aspects point to Steven Appleton appropriately being regarded as having less culpability than Paul Paget, putting his case either towards the bottom end of Category 1 (with its sentencing range of 2 to 6 years' custody) or at the top of Category 2 (with its sentencing range of between a High Level Community Order and 2 years' custody and a starting point of one year's custody).
77. I have regard to Steven Appleton's previous convictions but, in doing so, note that it includes a single previous conviction for burglary committed in 2004 and involving a non-dwelling. His other convictions are for different types of offences and he has not appeared before the Court since 2011. I have regard also to what I read in the psychiatric report prepared by Dr Aung Tint and dated 25 May 2018 concerning his mental health difficulties – together with the Pre-Sentence Report which has been prepared.

78. Taking these various matters into account, I am satisfied that the appropriate sentence in respect of Count 2 in Steven Appleton's case, leaving aside the issue of credit for guilty plea, would be 20 months' imprisonment.
79. This needs to be reduced, however, in order to take account of the fact that, albeit somewhat late in the day, Steven Appleton pleaded guilty to Count 2 on 29 May 2018. Mr Bowen highlights the fact that this was the day after Dr Tint's psychiatric report and explains that it was at that point that further advice was given to Steven Appleton and he changed his plea at a hearing that day before the Recorder of Cardiff. This was some six weeks or so after the first PTPH which took place before HHJ Bidder QC on 16 April 2018. Mr Bowen submits that there should be slightly more than the usual credit in these circumstances.
80. I tend to agree with Mr Bowen about this. I consider that the appropriate level of credit is 20% which means that the sentence of 20 months' imprisonment is reduced, accordingly, to 16 months' imprisonment.
81. This brings me to Count 3 and Steven Appleton's supply of cannabis to Paul Paget in return for some of what was taken from Anthony Bubbins's house.
82. Mr Bowen submits that, for the purposes of the Drug Offences Definitive Guideline, this offence is properly categorised as a Category 3 offence in which Steven Appleton played a significant role. I agree with him about that. As a result, the starting point is 12 months' custody with a sentencing range of between 26 weeks and 3 years.
83. As Mr Bowen goes on to explain, the case against Steven Appleton is in this respect based on the admissions which he himself made in interview. He told the police that he is a user of cannabis and that he exchanged a relatively small amount of that drug with Paul Paget in return for items which he knew had been stolen.
84. Steven Appleton's position is that he supplied a small amount of cannabis to Paul Paget for financial gain – in order to obtain the items at a lower price. He denies that he is a supplier of cannabis in the ordinary sense.

85. There are no other factors which would increase the seriousness as identified in the Definitive Guideline applicable. There are, however, certain mitigating factors as listed in the Definitive Guideline which are applicable, namely: *“Supply only of the drug to which offender addicted”*; *“Isolated incident”*; and *“No previous convictions or no relevant or recent convictions”*. In addition, I take account of the contents of the psychiatric report.
86. In the circumstances, I agree with Mr Bowen that Count 3 comes at the lower end of the sentencing range, namely 6 months’ custody. After giving 25% credit for Steven Appleton’s guilty plea at the PTPH, this is reduced to 4½ months’ imprisonment which, bearing in mind that the offence was committed at the same time as Count 2, is appropriately made concurrent to the sentence in respect of Count 2.
87. I need also to sentence Steven Appleton in respect of a different indictment which relates to the police searching a property in Newport where he was living on 4 January 2018 and finding a cannabis cultivation in the small cupboard within the entrance hallway and also a small tent in the bedroom containing baby cannabis plants. The tent was found to contain 32 baby cannabis plants whilst the search of the cupboard located 10 mature cannabis plants.
88. Steven Appleton subsequently explained in interview, in a prepared statement, that he had started growing his own cannabis about 2 or 3 months earlier. Steven Appleton said that he was tired of paying for small deals and so he went online and learned how to grow cannabis himself. He maintained that he had no intention of selling or giving any of what he grew to anybody.
89. Mr Bowen submits that the offence is a Category 3 offence for the purposes of the Definitive Guideline. He is right about that.
90. Mr Bowen states also, however, that Steven Appleton should be sentenced on the basis that his role was ‘significant’. It appears that this is on the basis that, as demonstrated by the fact that Steven Appleton supplied cannabis to Paul Paget a week or so later (hence Count 3), it cannot confidently be thought that this is a ‘lesser’ role case by virtue of the Definitive Guideline stating *“if own operation, solely for own use (considering reasonableness of account in all*



*the circumstances)*” when describing lesser role. Whilst I agree about that, it nonetheless seems to me that the case is properly to be regarded as coming at the lower end of the sentencing range for ‘significant’ role which is between 26 weeks’ and 3 years’ custody.

91. Steven Appleton pleaded guilty to this offence at the PTPH, having earlier indicated that he would be pleading guilty in the Magistrates Court. In the circumstances, I am prepared to give him full (one third) credit for that guilty plea.
92. On that basis, taking a 26-week starting point and giving one third credit for the guilty plea, the appropriate sentence is 4 months’ imprisonment.
93. The sentence will, however, need to be consecutive given that it was committed independently of the other sentences for which he is today being sentenced.

**[Stand up Mr Appleton]**

94. I sentence you in respect of Count 2, the Burglary offence committed with Paul Paget, to 16 months’ imprisonment. From this must be deducted the 167 days that you have spent on remand in custody for this offence.
95. As to Count 3, the sentence is 4½ months’ imprisonment concurrent.
96. In respect of the other indictment and the offence of cannabis cultivation, the sentence is 4 months’ imprisonment consecutive.
97. These are the least possible sentences I can impose, having regard to the seriousness of the offences.
98. You will serve up to one half of your sentence in custody. You will serve the remainder on licence. You must keep to the terms of your licence and commit no further offence or you will be liable to be recalled and you may then serve the rest of your sentence in custody.
99. The victim surcharge must also be paid.