



JUDICIARY OF
ENGLAND AND WALES

R

- v -

Hawkar Hassan

Aram Kurd

and

Arkan Ali

Leicester Combined Court

18th January 2019

Sentencing remarks of Mr Justice Holgate

1. The Jury convicted the defendants Hawkar Hassan, Aram Kurd and Arkan Ali of the murder of Viktorija Ijevleva, Mary Ragoobeeer, her two sons Shane and Sean, and Shane's girlfriend Leah Reek and of a conspiracy to commit fraud by misrepresentation. The facts of this case are somewhat unusual.
2. In January 2018 Kurd became the lessee of a convenience store, Zabka at 253 Hinckley Road. He and his co-defendants along with Ms Ijevleva agreed to obtain insurance for the shops, business and contents against standard perils and to set fire to the building so that a fraudulent insurance claim could be made. The value of that claim, if it had been established, is estimated to have been around £300,000.
3. Ali and Ms Ijevleva had been in a relationship for about 5 years. They also lived together over a substantial period of time together with Hassan, who had

been a close friend of Ali's from the time when they were teenagers in Iraq. Ali and Kurd were good friends and business associates. Ali and Ms Ijevleva provided Kurd with a good deal of help in the setting up of Zabka. The business did not do well, certainly nowhere the levels suggested to insurance brokers. But the plan was to set the building on fire within the month. Information was sought on how to make an insurance claim and false records were prepared in readiness for an inflated, fraudulent claim.

4. The offences, including the fire, were well-planned. In early February the insurance policy was obtained from a broker in Oldham, rather than Leicester. Perhaps it was thought that a claim for fire damage could be pursued more easily in that way. Steps were taken to comply with the conditions of the insurance policy. An alarm system was installed and fire extinguishers ordered. On 22 February smoke detectors were purchased and installed. On the same day, however, four litres of white spirit were also purchased and brought into the shop. Ali tried to move the position of a CCTV camera at the rear of the neighbouring kebab shop. The evidence showed that Kurd, Ali and Ms Ijevleva were involved in these earlier activities.
5. On 24 February, the day before the explosion, Hassan, together with Ali and Ms Ijevleva, purchased 26 litres of petrol from the filling station in Leicester and drove to a street near Zabka. Within a few minutes the petrol had been transferred to Kurd's car, which was driven round to the front of the shop so as to make it appear that a normal delivery of goods was taking place. The petrol was then unloaded by Kurd and Hassan into the shop. Shortly afterwards, either Ali or Kurd moved the CCTV camera at the rear of the kebab shop to make

detection more difficult. They then spent the next hour or so distributing petrol and other flammable substances throughout the basement below the main area of Zabka. Hassan remained in the shop and acted as a look out.

6. The examination of the site after the fire revealed that the defendants emptied the contents of two containers of petrol in the basement. They used about 45 litres of petrol, together with several litres of barbecue fluid and of white spirit. They mixed these substances so as to produce a particularly intense fire. I wholly reject the suggestion made on behalf of Kurd that the intention was to cause a fire in the basement only, or even just the basement and shop. The exceptionally large amount of flammable material which was set alight makes it plain beyond doubt that the intention of each defendant was that the building as a whole should be set on fire, including the home of the Ragoobeer family. It would be nonsensical to conclude otherwise.
7. At the beginning of the following afternoon the three defendants left Ms Ijevleva working in the shop while they went into the city centre. During a meeting in a coffee bar which began just after 2.30pm and lasted over 1 hour 20 minutes, all three discussed their final preparations for the fire which was to take place that evening. I am sure that it was during that meeting that all three agreed that Ms Ijevleva should die in the fire, so that she would not receive any of the insurance monies. They all knew that a very considerable and highly dangerous amount of petrol and accelerants had been spread throughout the basement the day before. At the very least they intended that this lethal mixture would be ignited so as to produce a roaring conflagration which would affect the whole building. These flammable materials had been concentrated in the

front basement room and in a side corridor connecting that room and the rear. Ms Ijevleva usually worked by the till at the front of the store immediately above that front basement room. No doubt it had been decided to spread less flammable material in the rear basement room so that the fire could be started there with little risk to the person igniting it. The plan was that Ms Ijevleva would not be warned when the fire was being lit and that she should not have her phone with her. She was to perish in the fire. Looking at the evidence as a whole, I reject as being wholly implausible Hassan's suggestion that the decision to kill Ms Ijevleva was left to the journey back to the Hinckley Road area made by Ali and Kurd together in the same car at about 5.30pm, a journey which lasted only 11 minutes.

8. When all three defendants returned to the Hinckley Road area only Kurd went into the shop. Ali and Hassan stayed together in their car a few streets away for nearly an hour. Kurd visited them in their car at about 6.15pm. By now it was dark. He returned to the shop. At about 6.26pm Ali entered the basement of Zabka to prepare for and set the fire. At this stage Kurd appeared to be working in the shop, but he was also seeking to distract Ms Ijevleva. Hassan was waiting in the car to drive Ali away after the fire. Ali and Kurd were in contact by phone so that Kurd would know how preparations were progressing and when the fire was lit. Given that it was dark, it must have been obvious to both Kurd and Ali that there were lights on in the flat above the shop and no doubt other neighbouring flats.
9. At 6.53pm Ali tried to leave Zabka by the rear of the shop. He had just lit the fire in the rear basement room. He did not leave by the front door of the shop

where his girl friend Ms Ijevleva was working. He did not want to be seen by her. But then he saw Shane Ragoobeer and Leah Reek who had arrived by car in Carlisle Street. He did not want to be seen by them either. So he retreated to the rear of Zabka and hid. At 6.54pm he telephoned Ms Ijevleva's phone to ask what was happening outside. From the evidence I am sure that that phone was already in Kurd's possession. Kurd went outside to look down Carlisle Street and then returned through the front door of the shop. At the very moment that call ended Ali left the rear of Zabka once again and for the final time. Again, he did not leave through the front door of the shop. Neither he nor Kurd wanted Ms Ijevleva to know that he was on the premises. The agreed plan was that she would not be aware of the fire having been lit. If she had been warned she would have left. I am also sure that both Ali and Kurd knew that Shane Ragoobeer and Leah Reek had gone up to the flat above the shop.

10. The explosion took place just after 7.01pm. By then Kurd had left Ms Ijevleva by the till at the front of the shop. At that stage the shutter on the shop front was largely closed. Plainly she was completely unaware that her life was in danger or that she had any need to escape from the premises. It was unusually quiet on the shopping parade and it is reasonable to infer that Kurd had told her that the shop would close early. He was skulking in a rear extension behind the building which was not located over the basement. This area was much less affected by the fire than the main, four-storey part of the premises. Kurd must have known that that would be the case, otherwise he would have left the rear yard as Ali had already done. He was on the phone to Ali in a call which began about 4 minutes before the explosion and ended about 30 seconds after. Kurd left the rear of Zabka not by using its alleyway in the normal way, but by jumping over

a wall into the adjoining premises from which he left. He had no real injury at all. But he did have a pre-prepared false story ready as to how he came to be at the back of the shop and in possession of Ms Ijevleva's phone. It was all designed to make him look like an innocent victim of this disastrous explosion and fire.

11. When Ali left the premises he rejoined Hassan in the car and the two of them made off to Coventry. I am certain from the evidence that each of them must have heard the very loud explosion which took place at Zabka and that when they turned right on to the Hinckley Road they must have seen the devastation outside No 253 which they had caused.

12. The defendants did not try to contact Ms Ijevleva after the explosion to see if she had escaped or whether she had been injured. They had intended that she should die in the conflagration they had planned and they knew what had happened to her.

13. The fire was horrifying. The huge explosion caused a "pancake collapse" of 253 Hinckley Road. The ground, first and second floors fell into the basement. Ms Ijevleva died by being crushed to death. She was alive when the building fell on her, the masonry fractured her pelvis and spine. The weight of the masonry stopped her chest moving and she was asphyxiated.

14. Mary Ragoobee, her sons, Shane, Sean and Scott, and Leah Reek fell along with the collapsing structure of the flat into the basement area, where they remained trapped in the rubble. Fortunately, the police who arrived quickly on the scene were able to remove some heavy masonry and rescued Scott as flames rapidly grew larger and nearer. Scott, who was only 15, was taken to hospital

with three lacerations to his head and one to a leg and abrasions to his back and upper limbs.

15. Tragically, the other occupants of the flat could not be saved despite valiant efforts by the rescue services. They died from smoke inhalation, asphyxiation and in some instances through being burnt alive. Their final moments must have been terrifying and agonizing.
16. Mr Thomas Lindop was walking past Zabka when the explosion took place. He had to be pulled from the rubble. He had been knocked unconscious and very seriously injured. He suffered a traumatic brain injury, contusions to two lobes, skull and facial fractures, a fractured pelvis and fractures at the top and bottom of the spine.
17. The court has received a number of deeply moving victim personal statements, each of which describe the devastating effects these crimes have had on their respective families. Although my brief summary cannot do full justice to them, the court has taken them fully into account.
18. Mary and Jose Ragoobeer were married for 22 years. She was a loving and devoted wife and mother. Shane was only 18 and Sean only 17 when he died. Shane was planning to marry his girlfriend Leah. Sean was looking forward to studying at Manchester University. Mr Ragoobeer has lost his job and continues to need support and counselling. Scott has not yet been able to benefit from counselling. The health of Mary's elderly parents in Mauritius has deteriorated over the loss of their daughter and grandsons.

19. Leah Reek was 18 when she died. Her mother Joanne told the court that her daughter had been excited about starting a university course on Adult Nursing. That suited her caring and compassionate character down to the ground. She worked for Loros and wanted to be a palliative nurse. Since her death Joanne has been unable to return to work and she along with her husband Jon and daughter Molly have suffered greatly. Leah's death has had a wider impact on members of the local village and town.
20. Viktorija Ijeveleva was 22 when she died. She was only 17 when she met Ali and began to fall under his influence. She had a close relationship with her mother and was also a kind person who used to look after her younger siblings. Viktorija's death has caused her mother's health to decline. The loss of her daughter is unbearable for her.
21. Mr Lindop had to stay in hospital until 8 May, first in the Brain Injury Unit and then in the Neurological Rehabilitation Unit. He still needs treatment. Because of his injuries he can no longer drive. This causes much inconvenience because his wife does not drive. She and their two children suffered much stress through not knowing whether he would survive. Presently he can only work 3 days a week. Three members of the public and one police officer also received minor injuries from flying debris.
22. Each of the families have had to cope with the terrible circumstances in which they lost loved ones, along with the ordeals of the investigation and trial. These terrible losses and memories will remain with them for the rest of their lives.
23. The defendants deliberately set out to destroy the building. The unchallenged expert evidence was that the same level of damage could have been achieved

by using only 5 litres of petrol. Here much larger quantities were involved together with accelerants. The explosion and fire were caused in a heavily built up area with many shops and homes nearby. The lives and safety of many people were put at enormous risk. The eye witness accounts graphically described the fear that was created. For example, people thought that there had been an earthquake or worse. Neighbours had to run out of their homes fearing that ceilings were about to come down. No doubt the incident has had a profound effect on the neighbourhood and the city of Leicester.

24. I must pass separate sentences under count 1. They will run concurrently with the sentences for murder and are not treated as aggravating those sentences in order to avoid double-counting. Applying the Definitive Guideline, the offences involved high culpability and category 1 harm taking into account not only the amount likely to have been involved but also the high level of victim impact. Bearing in mind that the conspiracy was based upon a serious arson, it would be wrong to treat the victim as confined to the insurance company. In any event the claim would have required a substantial effort on the part of those investigating it. There was significant planning and Ali and Kurd took leading roles. Hassan had medium culpability. The fact of a conspiracy is an aggravating feature.

25. The sentence for murder is set by law. I must pass a sentence of life imprisonment. I also have to set the minimum term which must expire before each defendant can be considered for release. It is important to emphasise two features of a life sentence which deal with the dangerousness of any defendant and protect the public whatever the length of the minimum term. The first is

that he will not be automatically be released once he has completed the minimum term. A decision will have to be made at that stage as to whether it is safe to allow his release. The second is that even if and when he is released on licence, the life sentence will not then come to an end. A prisoner released on licence remains subject to the conditions of the life sentence for the rest of his life. If at any time, he re-offends, or gives reason to those supervising him to think that he is likely to re-offend, the Secretary of State may recall him to prison to continue serving the life sentence for such period as is necessary. For these reasons, the protection of the public does not come into the setting of the minimum term. The court must set the term which it considers appropriate taking into account, amongst other things, the seriousness of the offences of murder for which each defendant has been convicted.

26. In schedule 21 of the 2003 Act Parliament has set out the framework for the court to arrive at a judgment about the length of the minimum term. It lays down certain starting points from which the court may move up or down according to the circumstances of the case. These murders fall within paragraph 5 of that schedule. Having reflected carefully on all the submissions made and the authorities referred to, I do not consider that a whole life order would be justified in the case of any of the defendants.

27. There are three bases upon which these murders fall within paragraph 5 of schedule 21. First, they were committed for gain in furtherance of the conspiracy in count 1. Second, at least two people were killed. Third, this was murder by arson of the kind referred to in Jones (2006) 2 Cr App R (S) 19 (para. 61) as falling within paragraph 5. But the planning and pre-meditation that were

involved in these offences, the purchase and use of the inflammables and knowledge of the occupancy of the flat, and setting fire to the victims' home, are not additional aggravating factors because they are treated as being implicit in that type of offence (see Jones at para. 62). Nevertheless, these three factors taken together require that the starting point must be substantially higher than 30 years. I have had regard to all the decisions of the Court of Appeal to which I have been helpfully referred and also R v Muhammadi [2014] EWCA Crim 817.

28. I agree with the prosecution that it is plain beyond doubt that Kurd and Ali were both centrally involved in the planning of these crimes. It is plain from the way they both behaved in court and outside that they are highly manipulative and cunning individuals. They were both directly involved in spreading the flammable liquids throughout the basement and in the arrangements for setting the fire without Ms Ijevleva, or anyone else, becoming aware of what was going on at that precise time.

29. Hassan played an important but lesser role. He was a very close, longstanding friend of Ali and he knew the essentials of the plot, as regards the insurance fraud, the fire and what was to happen to Ms Ijevleva. He was the driver for various trips made in connection with the plot and he also acted as a lookout. He purchased 26 litres of petrol used in the fire and helped to take that into the premises. But I am not satisfied that he was involved in spreading flammable liquids in the basement. In the evening of 25 February he waited for Ali to finish preparing and setting the fire and then drove him away from the scene. Along

with the other two defendants he then took part in the various attempts to make it look as if they had had nothing to do with the fire.

30. There are a number of aggravating factors. Not only petrol but accelerants were used. The quantities were exceptionally large. Five rather than two people were killed. Each of the victims must have experienced a great degree of pain and suffering before they died. They were trapped in the collapsed building and could not escape the approaching fire. At least some of the victims were burnt alive. Ms Ijevleva suffered asphyxiation by being crushed to death. The killings have had a devastating effect on three different families. The Ragoobeer family have lost a wife and mother and two sons. The family unit has been destroyed.
31. It was fortunate that Scotty Ragoobeer was saved from the fire. He could very easily have been killed or badly burnt. Mr Lindop suffered life-threatening injuries. The arson attack on this terraced building was exceptionally dangerous and put the lives of neighbours and other members of the public at a high level of risk. The defendants caused an exceptionally high level of harm.
32. I turn to consider whether there are any mitigating factors. I have taken into account the ages of each defendant and their background. Ali is 38, Kurd 34 and Hassan 33.
33. I do not accept that the intention of any of the defendants in relation to Ms Ijevleva was merely to cause seriously bodily harm rather than to kill her. I am also sure that both Ali and Kurd knew that the flat above the shop was occupied. The lights were on and they were at least aware that Shane Ragoobeer and Leah Reek had gone up to the flat 6 minutes before the explosion occurred. In relation to the other victims this was not only a case of transferred malice. These

defendants knew that there was only one exit from the flat. The way in which they had spread the large quantity and mixture of petrol and accelerants means that they must have appreciated that once a serious fire had taken hold it would spread rapidly to the upper floors with thick smoke and that those in the flat would die, whether by fumes, smoke or flames. In any event, given what these defendants did and knew, this is not a case where an intention to cause only serious bodily harm would make any significant difference to the minimum term (see Jones at para. 61 and Peters (2005) 2 Cr App R (S) 101).

34. Hassan also intended that Ms Ijevleva should die in the fire. In any event, through his own involvement in what happened and his close friendship with Ali, he must have known about the way in which the large quantity and mixture of petrol and accelerants had been spread though the basement. Some of his comments in the covert recording of 2 March 2018 further support this conclusion. For example, he knew about the use of a second petrol container. I take into account the lack of evidence that Hassan, unlike the other defendants, knew that the flat above the shop was occupied. Nonetheless, he must have known that there was a flat above the shop and at the very least he is guilty of the murder of the occupants of the flat through his malice transferred from count 2. This distinction between the position of Hassan and the other defendants calls for a further appropriate reduction in the minimum term in his case.

35. None of the defendants has shown the slightest bit of remorse for their wicked crimes. They were exceptionally callous and deceitful. They pretended to be concerned about the victims and even to grieve for Ms Ijevleva. Kurd had his prepared story ready for the media and the police. Ali and Hassan pretended to

comfort and help the mother of Ms Ijevleva. In truth all three were only concerned to try and save their own skins. They repeatedly lied both inside and outside court.

36. I take into account the fact that Kurd and Ali were of previously good character, although for crimes as serious as these, that factor attracts only relatively limited weight. I accept that Hassan's two convictions were for fairly minor offences and that they do not aggravate the sentences to be passed in his case.

37. The aggravating circumstances very considerably outweigh any mitigating circumstances.

38. Stand up Arkan Ali. The sentence of the court on count 1 for conspiracy to commit fraud by misrepresentation is 7 years. The sentence of the court on each of counts 2, 4, 6, 8 and 10 for the murders of Viktorija Ijevleva, Mary Ragoobeer, Shane Ragoobeer, Sean Ragoobeer, and Leah Reek is imprisonment for life, with a minimum term to be served of 38 years, less 318 days already served in custody on remand. All these terms of imprisonment will run concurrently. You will leave the dock.

39. Stand up Aram Kurd. The sentence of the court on count 1 for conspiracy to commit fraud by misrepresentation is 7 years. The sentence of the court on each of counts 2, 4, 6, 8 and 10 for the murders of Viktorija Ijevleva, Mary Ragoobeer, Shane Ragoobeer, Sean Ragoobeer, and Leah Reek is imprisonment for life, with a minimum term to be served of 38 years, less 318 days already served in custody on remand. All these terms of imprisonment will run concurrently. You will leave the dock.

40. Stand up Hawker Hassan. The sentence of the court on count 1 for conspiracy to commit fraud by misrepresentation is 4 years. The sentence of the court on each of counts 2, 4, 6, 8 and 10 for the murders of Viktorija Ijevleva, Mary Ragoobee, Shane Ragoobee, Sean Ragoobee, and Leah Reek is imprisonment for life, with a minimum term to be served of 33 years, less 318 days already served in custody on remand. All these terms of imprisonment will run concurrently. You will leave the dock.
41. I order that any error in the computation of the number of days already served in prison may be corrected administratively.
42. I also make orders for forfeiture in respect of the VW Golf YG56 GNJ and the Audi MF13 EUE.