



JUDICIARY OF
ENGLAND AND WALES

R. v Jack Shepherd (Bail Act offence)

Sentencing Remarks of

His Honour Judge Richard Marks Q.C.

The Common Serjeant of London

Central Criminal Court 11 April 2019

Jack Sebastien Shepherd, I have to sentence you for an offence under the Bail Act.

When this case first came before me as a PTPH on 15 November 2017 I enlarged the bail that you had been granted by the magistrates court. That was unopposed by the prosecution and at that time there was no reason for me to do otherwise.

The matter next came before me on 28 June 2018 when I was told that a warrant had already been issued for your arrest by another court in your relation to your non attendance there in March 2018 in connection with a separate matter. (As that is still outstanding there should be no reporting of this part of my sentencing remarks).

I was also told by your legal team that they had spoken to you by telephone in early May when you had intimated that it was very likely that you would not attend your trial which was scheduled to begin the following week, on 2 July 2018.

Against that background I issued a bench warrant for your arrest, not backed for bail.

You were true to the instructions that you had given your lawyers because you did not attend your trial and in accordance with my powers I ordered that your trial should take place in

your absence. This was not opposed by your legal team although in the circumstances they could scarcely have sought to resist the application of the prosecution in this regard.

Your trial lasted for about three and half weeks and concluded on 26 July with a guilty verdict in relation to the one charge you faced of gross negligence manslaughter. I sentenced you, the following day, 27 July to 6 years imprisonment.

You had in fact left the jurisdiction in March 2018 and gone to live in Georgia.

Charlotte's family were of course distraught about the circumstances in which she died and those feelings were greatly exacerbated by the fact that you had chosen to go on the run and as they entirely understandably saw it, to evade justice.

Through their efforts a considerable media campaign began, principally taken up by the Daily Mail and the fact that you had fled to Georgia soon became known publicly. I mention that because it is submitted on your behalf that a mitigating factor, which I should take into account in your favour, was that you had voluntarily surrendered yourself to the authorities in Georgia in circumstances where you could have continued to be at large.

In my judgment that submission has very limited weight. I am entirely satisfied that although you could have sought to disappear in Georgia or to go elsewhere the reason that you decided to surrender was because you knew well enough from all the publicity that had been generated that it was known where you were, and accordingly that it was likely to be only a matter of time before the net closed in on you.

It is also submitted on your behalf that I should give you credit for the fact that you voluntarily consented to extradition in circumstances where you could have fought it but in my judgement that barely tells the whole story.

It was initially made very clear on your behalf by your lawyers in Georgia that you intended to fight extradition and it was only belatedly that you choose not to do so. I am told that your decision to contest extradition was based upon legal advice that you received in Georgia, but

notwithstanding everything from which you had fled in this country, it was your decision whether to accept or reject such advice. You would also have been aware that whilst the matter was resolved by the Georgian courts, which might well be a protracted affair, you would remain in custody there.

My attention has been drawn by your counsel to the sentencing guidelines that are relevant to the offence of failing to surrender to bail, to which I am duty bound to have regard.

The maximum sentence for this offence is 12 months imprisonment. I am required by law to give you a one third discount for your guilty plea at the first available opportunity notwithstanding the fact that there was absolutely no basis upon which you could have done anything other than to plead guilty. This means that the effective maximum sentence which the court could impose in your case is one of eight months imprisonment.

The guidelines indicate that I have to make a determination in relation to 2 matters, namely, culpability and blame. As to the former it is accepted on your behalf that this falls into the top category. As to the latter there is an issue between your counsel and the prosecution.

The issue turns upon whether your failure to attend resulted in substantial delay and/or interference with the administration of justice.

It did not amount to substantial delay since, as I have already observed, the trial took place when it was intended to, but in your absence.

Did your absence interfere with the administration of justice? I am satisfied that it did for the following reason. A serious and highly unusual feature of the case was the fact that although your lawyers were unaware of your whereabouts, you had provided them with a means of communicating with you, although I was not told of the mechanism as to how this worked. The effect of this was, as I gleaned during the trial, that notes of the entirety of the evidence were being sent to you on a frequent basis via the Internet, and instructions were received from you about certain aspects of the case. I became particularly aware of this when it came

to mitigation when I was presented by your counsel with a detailed statement from you, written and sent from your hideaway. In other words, you were in effect having your cake and eating it; this is not how our system of justice is intended to operate.

I acknowledge that in one respect this worked to your detriment in that your counsel was able to explain to you the ramifications of not giving evidence in your own defence such that I was able to give the jury an adverse inference direction pursuant to s.35 CJPO Act 1994.

Other factors that in my judgment are relevant to the appropriate sentence in your case are these;

1. the seriousness of the offence that you faced.
2. the fact that you made a conscious, deliberate and considered decision to go on the run.
3. the amount of time that it has taken to find you and thus the amount of time that you were unlawfully at large, which has hugely added to the distress of Charlotte's family who could not have known when, if at all, you would be apprehended; you, the person who had spent the last hours of her life with their beloved daughter and sister.
4. the time and resources that have been involved in tracking you down.
5. I take the view that it is important in a case such as this that the court deals with you in such a way as to make it clear to others who may be minded to do what you did that, such conduct will not go unpunished.

The above factors together, along with your conduct during the trial, make this a highly unusual and indeed exceptional case such that regardless of whether I am right about the categorisation of this offence under the Guidelines, in my judgment a sentence outside the range of sentences indicated by the Guidelines is called for.

Your conduct in absenting yourself from justice for so long was as cowardly as it was selfish

I give you some very limited credit for the mitigating factors urged on your behalf. These matters together with the discount for the guilty plea to which you are entitled, lead me to the conclusion that the appropriate sentence is one of six months imprisonment.

In accordance with ordinary principles this will be consecutive to the six-year sentence imposed upon you so that your total sentence will be 6 ½ years imprisonment.

You spent 78 days in custody in Georgia. There is some uncertainty as to whether, in addition to being extradited for the manslaughter offence you were also extradited for the Bail Act offence. If, but only if, you were those 78 days will fall to be deducted from the 6 month sentence pursuant to the provisions of s. 243 CJA 2003.

His Honour Judge Richard Marks Q.C.

The Common Serjeant of London