



**IN THE CROWN COURT AT BIRMINGHAM**

**THE QUEEN V. ZEPHANIAH MCLEOD  
18 NOVEMBER 2021**

**SENTENCING REMARKS OF THE HON. MR JUSTICE PEPPERALL**

1. Zephaniah McLeod, you have pleaded guilty on this indictment to the manslaughter of Jacob Billington, the attempted murder of Migle Dolobauskaite, Thomas Glassey, Michael Callaghan and Shane Rowley, and to causing grievous bodily harm with intent to Dimitar Bacharov, Ryan Bowers and Rhys Cummings.
2. Just after midnight on 6 September 2020, you were wandering the streets of Birmingham armed with a knife and intent on killing one or more persons. Over the course of twenty minutes, you stabbed your first three victims. After disposing of your first knife, you soon decided to obtain another one. You asked a restaurant to lend you a knife on the pretext that you needed to cut something and, when the staff refused, you took a taxi home and then straight back into Birmingham city centre with the sole purpose of obtaining a second knife. Having rearmed yourself, you stabbed another five victims over the course of the next ten minutes.
3. Your victims were variously enjoying a night out or returning home from work. They gave you no offence, and they were chosen at random. On a number of occasions, you asked for a cigarette or a light, in an apparent pretext to get close to a potential victim before striking. The video and witness evidence demonstrates that you used significant force as you stabbed your victims. Wherever possible, you aimed your knives at your victims' necks.
4. In the course of your murderous rampage, you killed one man, left another man and a woman fighting for their lives and wounded five others. While they were your direct victims, your actions have had the most profound effect on dozens of lives. One family is left grieving for a young man whose life was cut short at just 23, while other families had to endure the uncertainty of whether their loved ones would survive and continue now to struggle to come to terms with life-changing injuries. Hopes and dreams have been crushed. Survivors and their families have been traumatised by the sheer horror of these events and their brush with mortality. Some have described survivors' guilt, flashbacks, anger, fear of going out and mistrust of strangers. They have endured not just physical pain but the most terrible psychological distress. Jobs have been lost and others have suffered losses of earnings.
5. Jacob Billington was just 23 when you stabbed him with considerable force to his throat. The knife travelled 12½ centimetres through Mr Billington's neck, completely dividing the left carotid artery and the left jugular vein and exiting at the shoulder. He lost considerable blood and the injury was not survivable. Your actions and your admissions in respect of the other counts on this indictment leave me in no doubt that you targeted Mr Billington's neck because you intended to kill him.

6. Jacob was the much-loved son of Joanne and Keith Billington, brother of Abbie, Izzie, Adam and Ruby, and stepson of Tony and Claire. In moving personal tributes, he was described by his parents and his sister Abbie as a loving, happy, easy-going and popular young man who lit up a room. He was naturally funny and great company. He was a talented and versatile musician who played in a band with his close friend, Michael Callaghan. Indeed, I have had the pleasure of watching what I'm sure is now a very precious and poignant video of Jacob, Michael and their fellow band members playing in happier times. Four young carefree friends with lives full of such promise.
7. Jacob was also hard-working and successful. A committed environmentalist and a graduate of Sheffield Hallam University. It is clear to me that Mr Billington was a talented and decent young man with a bright future ahead of him, and that his killing has left an enormous hole in the lives of his family and friends.
8. It is only through good fortune, prompt medical attention and the skill of the surgeons and other clinical staff that no one else died that night. The attempted murder of Michael Callaghan left him suffering the most appalling and life-threatening injury to his neck that transected his right carotid artery and his right internal jugular vein. He required emergency surgery to repair the damaged vessels and a massive blood transfusion to save his life. Mr Callaghan suffered an extensive stroke on the right side of his brain. He suffered a clot and swelling on the brain that required emergency treatment with a decompressive craniectomy.
9. Mr Callaghan's life remained in real danger for some weeks. In all, he was in hospital for over six months as he clawed his way back to health. He has been left partially sighted and unable to work or drive. He has poor mobility, no use of his left arm and difficulty speaking. He was subsequently treated with a cranioplasty in order to replace the missing section of his skull.
10. Mr Callaghan's parents, Anne and Mark, and his sister, Alice, lovingly described their horror at his injuries, the death of his best friend and the enormous impact of these terrible events.
11. You attempted to murder Shane Rowley by stabbing her six times in the torso. She was also very lucky to have lived. She suffered a wound to the right sternum that entered the lung cavity, and further wounds to her abdomen, the right side of the chest towards the armpit and her left nipple. She developed a large right-sided pneumothorax. Further stab wounds to her abdomen penetrated her liver, her right kidney and her small bowel. She suffered significant blood loss and required surgery to pack her liver, repair her right lung, her diaphragm, her right kidney and the blood supplies to and from her liver and pancreas. Her small bowel was reconstructed. The abdominal laparotomy incision was left open while further arterial bleeding points were identified and sutured. Ms Rowley has suffered recurrent wound infections, considerable pain and permanent damage to her pancreas and liver.
12. You attempted to murder Thomas Glassey by stabbing him twice in the chest. One stab wound caused a displaced fracture of the fifth right rib and a laceration of the right lung. The attempted murder of Migle Dolobauskaite was clearly caught on CCTV. You repeatedly lunged at her face with a knife causing a diagonal cut to the top left of her forehead, a 1-cm laceration to her nose and a 1½-inch stab wound to her right shoulder.

13. Finally, you wounded three further men with intent to cause them really serious harm. You stabbed Ryan Bowers in the face just in front of his right ear. He suffered a gaping wound measuring some 3cm by 1cm. You stabbed Dimitar Bacharov in the neck but, fortunately, were only able to cause a superficial injury. Finally, you stabbed Rhys Cummings in the neck as he tended to the critically injured Shane Rowley. He suffered a slash wound measuring some 3-4 inches in length.
14. This was an appalling catalogue of offending of the utmost gravity.
15. You are now 28 and have a number of previous convictions that, upon the evidence, cannot be explained by your undoubted mental illness. In 2011, you were sentenced to 2 years' detention for two offences of robbery and one of attempted robbery. In 2015, you were imprisoned for 3½ years for, among other matters, offences of robbery, assault and possession of a knife in a public place. Finally, in 2017, you were sentenced to 3 years' imprisonment for offences of possession of heroin, crack cocaine and cannabis with intent to supply and for possession of an imitation firearm.
16. The guilty pleas that you have entered and which have been accepted by the prosecution necessarily establish several matters of significance to this sentencing exercise:
  - (a) First, although you were undoubtedly suffering from a mental illness, the defence of insanity was not open to you. In other words, you accept that you would not have been able to prove that your mental functioning was so impaired that either you did not know what you were doing or that you did not realise that what you were doing was legally wrong. Indeed, your comments to witnesses that they should "watch this" before stabbing Ms Rowley, and to Mr Bacharov that he would now have a wound clearly established that you understood the effects of your actions.
  - (b) Secondly, you accept by your pleas that, notwithstanding your illness, you were both capable of forming, and did in fact form, an intention to kill four of your victims. As I have already made clear, I have no doubt whatever that you attacked Mr Billington with the same murderous intent.
  - (c) Thirdly, the acceptance of your plea of diminished responsibility is plainly relevant to the entirety of your offending. While I do not accept that your mental illness extinguished your responsibility for your actions, it is clear that it reduced your culpability for each of these offences.
17. The first matter that I must therefore determine is the extent of your retained level of responsibility. Such assessment is neither easy nor an exact science, but requires a fair evaluation of the psychiatric and other evidence before the court. I am much assisted by the expert evidence of Dr Kenney-Herbert for the prosecution and Dr Kennedy for the defence but, as they properly recognise, the assessment of retained culpability is for me. In assessing culpability, I make the following findings of fact:
  - (a) First, you have suffered from paranoid schizophrenia since 2012.

- (b) Secondly, your offending on 6 September 2020 was highly and directly attributable to such mental illness. Indeed, I am satisfied that you were severely unwell, that you were psychotic and suffering auditory hallucinations.
- (c) Thirdly, I do not accept your claimed amnesia. While having no memory of these violent events is clinically plausible, amnesia stretching back to earlier in the summer is less so. Further, your account is contradicted by the internet searches that you undertook into your offending shortly before your arrest, and the apparent ability to recall matters in respect of your attempts to obtain medical assistance that might be seen as exculpatory. Nor do I accept as accurate your more recent claims now to remember thinking that your victims were demons with horns.
- (d) Fourthly, I find that your condition has never been consistently and effectively treated before these offences.
- (e) Fifthly, I am satisfied on the evidence that you knew that your condition was adversely affected by failing to take your medication and by the abuse of illicit drugs. Notwithstanding such knowledge, I find that you have a history of failing properly to engage with mental health services, failing to take your antipsychotic medication and of abusing illegal drugs. Indeed, I find that you were taking both crack cocaine and cannabis in the period leading up to your offending.
- (f) Sixthly, I accept that you had relatively little insight into the seriousness of your condition or of the possible consequences of failing to take your antipsychotic medication.
- (g) Seventhly, I find that you were released from prison in April 2020 at the height of the first wave of the COVID-19 pandemic without any appropriate follow-up by mental health services. Indeed, given your past medical history it is a matter of considerable concern that you were simply lost in the system for some weeks.
- (h) Eighthly, I find that you made some attempts to obtain treatment in August 2020.

Balancing all of the evidence before me, in my judgment your retained level of responsibility fell in the medium range.

- 18. Having made that assessment, I turn to the guidelines issued by the Sentencing Council. I have considered the offence-specific guidelines for manslaughter by reason of diminished responsibility, attempted murder and wounding with intent. Further, I have considered the generic guidelines for totality, dealing with offenders suffering from mental health conditions and guilty pleas.
- 19. In view of your level of culpability, I take a starting point of 15 years' imprisonment for a single offence of manslaughter before considering the aggravating and mitigating features of your case. Your offending was aggravated by your previous convictions; by some element of planning in arming and rearming yourself for these offences; and by your use of knives taken to the scene with the intention of their use in offences of extreme violence. I have of

course already taken into account your mental illness at the first stage in determining your culpability. You have expressed remorse for your actions both in your letter to the court and through counsel. I accept some element of remorse but, in my judgment, you still have limited insight into the pain and consequences of your offending. That is not a further aggravating feature since it is an element of your illness. I do not, however, accept that there is any significant mitigation. Taking into account both the aggravating and mitigating features of your case, the appropriate sentence for a single offence of manslaughter would have been 18 years' imprisonment. Such sentence would, however, be utterly inadequate to reflect the totality of your offending across this indictment.

20. I turn then to the offences of attempted murder. The use of knives that you had taken to the scene in order to commit offences of violence is a factor that would ordinarily indicate high culpability. My finding in respect of the level of retained responsibility requires, in my judgment, the court to place these offences in category D. The offences of attempting to murder Michael Callaghan and Shane Rowley involved harm of the very highest level and I take in each case a starting point of 14 years' imprisonment. The other offences of attempted murder involved level 2 harm and I take in each case a starting point of 10 years' imprisonment. Such offending was again aggravated by your previous convictions. There is some but minimal mitigation in your claimed remorse for your actions. Taking into account the aggravating and mitigating features of your case, I make no adjustment to my starting points.
21. As to the offences of wounding with intent, the use of knives that you had taken to the scene in order to commit offences of violence is a factor that would ordinarily indicate high culpability. My finding in respect of the level of retained responsibility requires the court to place these offences in category C. The offences of wounding Ryan Bowers and Rhys Cummings involved level 2 harm and I take in each case a starting point of 6 years' imprisonment. The offence of wounding Dimitar Bachvarov involved level 3 harm and I take a starting point of 4 years' imprisonment. Taking into account the same aggravating and mitigating features of your case, I make no further adjustment.
22. Sentencing for such a catalogue of offending requires, however, the court to consider the principle of totality. In my judgment, the proper approach is to pass a sentence for the offence of manslaughter that reflects the totality of the offending on this indictment and then to pass shorter concurrent sentences on the other counts. The appropriate global sentence after trial would have been 42 years' imprisonment.
23. Having determined the proper determinate sentence, I return to the careful stepped approach in the manslaughter guideline. I am next required to consider the issue of dangerousness. I have no doubt whatever that you are a very dangerous man and that you pose a significant risk to members of the public of serious harm occasioned by the commission of further specified offences. Further, I consider that the seriousness of the manslaughter taken together with the offences of attempted murder are such as not simply to justify but demand the passing of a sentence of life imprisonment.
24. I am satisfied upon the medical evidence that you are currently suffering from a mental disorder, that such illness is of a nature and degree to warrant your detention in hospital under the Mental Health Act 1983, that you require treatment in conditions of high security and that such treatment is available to you. Since a hospital order may be an appropriate way of dealing with your case, I am therefore required to consider all sentencing options. Broadly, there are three possible sentences:

- (a) First, I could make a hospital order pursuant to s.37 with or without a restriction order under s.41. Such order would require your removal to hospital rather than prison and the restriction would, among other matters, prevent your release save by the First-Tier Tribunal.
  - (b) Secondly, I could simply pass a sentence of imprisonment and leave it to the Secretary of State to direct your transfer to hospital as and when necessary.
  - (c) Thirdly, I could pass a sentence of imprisonment and make a hospital and limitation direction pursuant to s.45A. Such order would direct your removal to hospital. Upon your recovery you would then be returned to the prison estate.
25. The doctors properly recognise that it is for this court, and not them, to determine whether there is a need for punishment and the proper sentence. Nevertheless, they agree that the most appropriate way both to treat you and to protect the public from the risk of further harm is to make a hospital order under s.37 of the Mental Health Act with restrictions pursuant to s.41.
26. In sentencing a dangerous mentally ill offender, the court will of course be concerned with rehabilitation, but more particularly to ensure that the public is properly protected from the risk of further serious harm. While accepting that your responsibility for your offending was diminished, I consider that punishment also remains an important objective of sentencing in this case. Given the risk that you currently pose to fellow prisoners, prison officers and others in the prison estate, I consider that you must be returned to a secure mental hospital. Having regard to all of the circumstances, I consider, however, that a hospital order under s.37 with a restriction under s.41 is not appropriate and that I would be failing in my duty if I were not to pass a sentence of life imprisonment in this case. Accordingly, the appropriate sentence is one of life imprisonment with a s.45A direction. Such sentence ensures that you first obtain treatment, but means that, should you ever be assessed as fit to leave the mental hospital, you would be transferred to prison and not simply released.
27. I am required by law to fix the minimum term, being the period that you must serve in custody before you can apply to the Parole Board to be considered for release. While it is well known that offenders sentenced to a determinate sentence of imprisonment may be released early and serve the balance of their sentence in the community, it is important that both you and the public understand that when a judge imposes a sentence of life imprisonment, the offender must serve every single day of the minimum term.
28. Two further adjustments are required. First, I am required to reduce the notional determinate sentence by one-third in order to reflect the fact that there will be no early release. Secondly, you are entitled to credit of 25% to reflect your guilty pleas. Accordingly, the appropriate minimum term in this case is 21 years.
29. I therefore sentence you to life imprisonment on count 2 and direct that you will serve a minimum term of 21 years before you are eligible for parole. I sentence you to concurrent sentences of imprisonment on counts 7 and 10 of 14 years, on counts 5 and 6 of 10 years, on counts 9 and 12 of 6 years and on count 4 of 4 years. I direct that, in the calculation of the minimum term, you should have full credit for the time that you have been remanded

in custody, which according to the information before me is 435 days. Such calculation can be corrected administratively should it prove to be wrong.

30. Further, I direct pursuant to s.45A of the Mental Health Act 1983 that instead of being removed to and detained in a prison, you will be removed to and detained at Ashworth Hospital. You will be subject to the special restrictions set out in s.41 of the 1983 Act without limit of time. What this means is that you will be detained in hospital for as long as necessary. If and when it is no longer necessary to detain you in hospital, you will be transferred to prison. Once in prison you will serve the remainder of the minimum term that I have imposed before you will be eligible to apply to the Parole Board for your release.
  
31. Further, I make deprivation and destruction orders in respect of the knives, and order that you should pay the appropriate victim surcharge. You may go down.