



JUDICIARY OF
ENGLAND AND WALES

REGINA

-v-

TYRECE FULLER

SENTENCING REMARKS OF

THE HON. MR JUSTICE CAVANAGH

MAIDSTONE CROWN COURT

28 October 2021

Sentence in the absence of Tyrece Fuller

1. Tyrece Fuller should have come before me for sentence today having been found guilty at his trial at Inner London Crown Court on 21 July 2021 of two offences, manslaughter and possession of a bladed article.
2. The sentence was originally listed for 15 October 2021. On that occasion, Tyrece Fuller, who was in custody, refused to get on the prison van to come to court. I was told that he had complained of being unwell that morning. He was checked by the prison nurse and was told that he was fit to travel to Court. However, he still declined to do so, saying that he was unwell. He had spoken to his solicitor the day before and had not indicated any unwillingness to attend Court. On that occasion, I adjourned the sentence to today, 28 October 2021. This was at considerable inconvenience to counsel and to the court but, most importantly, it increased the distress for the victim's family, who were already on their way to Maidstone Crown Court when they were told that they should turn back. It has also caused inconvenience for those involved in the trial in which I am currently involved, as I have had to delay the start today so that this second sentencing hearing can be accommodated.
3. On 15 October, when adjourning sentence, I made clear that, if Tyrece Fuller did not attend on the second occasion, then, unless there was a very good reason for his absence, it was likely that I would proceed to sentence him in his absence. This message was passed to Tyrece Fuller by his legal advisers. He was also advised that his submissions in relation to mitigation may be undermined if he did not attend court.

4. Mr Fuller has not attended today. I am told that he attended the waiting area for the prison van, but then refused to get on the prison van. I am also told that he suffers from anxiety and is on anti-depressants and anti-anxiety medication, but there is no suggestion that he is medically unfit to attend today. A sentencing hearing is inevitably stressful, but that is no excuse for the convicted person refusing to attend it. I have carefully considered whether I should go ahead today in Mr Fuller's absence. I have decided that I should do so. This is the second occasion on which he has refused to attend his sentencing hearing, without a good reason for doing so. I am satisfied that Mr Fuller has voluntarily waived his right to attend today. To adjourn again would cause great inconvenience for the Court and other Court users, and, most importantly, it would exacerbate the distress of his victim's family. I have no confidence that Mr Fuller would attend if I adjourned sentence yet again. Moreover, Mr Fuller has had ample opportunity to give instructions to his solicitors and counsel in advance of this sentencing hearing.
5. I will make arrangements for a written copy of my Sentencing Remarks to be produced so that it can be given to Mr Fuller.
6. Accordingly, I will now proceed to pass sentence. I will address the Remarks to Mr Fuller, even though he is not here.

The sentence

7. As I have said, you, Tyrece Fuller, were found guilty at your trial at Inner London Crown Court on 21 July 2021 of two offences, manslaughter and possession of a bladed article.
8. You were also tried for murder, arising out of the same incident, but the jury has acquitted you of murder and so I make clear that I sentence you on the basis that you are not guilty of murder and did not intend to kill your victim or to cause him serious bodily harm when you stabbed him.
9. I will now describe the facts of the offences, which were captured on CCTV images that were shown to the Court. I should make clear that I was the trial judge and that I am satisfied so that I am sure that what follows is an accurate description of the offences for which I am to sentence you.
 10. On 22 November 2020, just before 6pm, you were standing at a pedestrian crossroads in the Blenheim Gardens Estate, London SW2. You saw a man, Terrell Davis-Emmons, approaching from some distance away. You had a dispute with Mr Davis-Emmons, which you said was the result of a gambling debt of £800 that you owed him. He had threatened you with a knife about the debt on a previous occasion, and you were frightened of what Mr Davis-Emmons might do when he saw you. You did not know whether Mr Davis-Emmons was himself armed with a weapon on this occasion, though you said that he had a reputation for carrying knives.

11. As soon as you caught sight of Mr Davis-Emmons, you rushed into a nearby house, in Ramilles Close, where you spent much of your time, and snatched up a large knife in a sheath from the kitchen. You immediately ran back out into the pathway, tucking the knife into your waistband. This meant that, by the time Mr Davis-Emmons arrived on the scene, you had armed yourself with a knife. It was a large knife. It was not a kitchen knife. You described the blade as a camping knife, but I am satisfied so that I am sure that a better description would be that it was what is known as a Rambo knife. From the CCTV evidence I am satisfied that the blade was at least 6 inches long. I am also fully satisfied, as a result of the speed at which you located the knife, that you knew that the knife was there and that it was placed in the house so that you or others in the house could have access to it at short notice if they felt that they needed it.
12. Shortly after you returned to where you had been standing at the crossroads, Mr Davis-Emmons arrived. You can be seen putting him in a bear hug and then throwing a punch at him. At this point, Mr Davis-Emmons drew a large machete from his waistband. Immediately after he did so, you drew your knife and took it from the sheath. Mr Davis-Emmons lunged at you with his machete and you lunged at him with your knife. Neither of you hit the other. You said in evidence that Mr Davis-Emmons threatened to kill you and to cut you up and I accept that this was so. Mr Davis-Emmons walked quickly towards you and then walked away from you, re-sheathed his knife, and put it in his waistband. He continued to shout threats and behave aggressively towards you. At this point, a third man, Mr Ali Diakite, bravely stepped in between you and tried to calm the situation down, pushing both you and Mr Davis-Emmons away.
13. Mr Davis-Emmons then appeared to start to walk away and you started to walk towards the house in Ramilles Close. Then Mr Davis-Emmons turned and moved back towards you but did not take out his machete. I accept he was still using threatening word at this stage. You were hidden from Mr Davis-Emmons by Mr Diakite. You suddenly came from behind Mr Diakite, with the knife in your right hand, and lunged with an overarm motion with your knife at Mr Davis-Emmons. You stabbed Mr Davis-Emmons with one blow in the left front side of his chest. The knife went about 4 inches into Mr Davis-Emmons's body, penetrating his heart.
14. Mr Davis-Emmons stepped back and can be seen on the CCTV pulling up his shirt to look at the wound. Almost immediately, he lost consciousness and he fell face first into a bush. He died very soon afterwards.
15. You made your escape from the scene as quickly as you could. You did not try to help Mr Davis-Emmons. You disposed of the knife and your mobile phone, neither of which was recovered.
16. The defence that you presented to the jury was that you acted in self-defence. The jury rejected this defence. You said that you were scared and frightened and that your intention had been to scare Mr Davis-Emmons away. I accept that you were scared during the incident, but by the time that you stabbed him Mr Davis-Emmons had put his machete back in his waistband and, even though he

was still issuing threats to you, you were not in imminent danger of being stabbed. It is clear from the CCTV that you deliberately concealed yourself behind Mr Diakite so that Mr Davis-Emmons would not realise that you were about to aim a blow at him. This was not a feint. I am satisfied that you intended to hit Mr Davis-Emmons, though you did not intend to kill him or cause him grievous bodily harm.

17. I have heard a moving victim impact statement from Mr Kevin Emmons, Mr Davis-Emmons's father. He was obviously a very well-loved son, grandson and brother, who cared for his disabled brother, and was a talented musician. He looked after people in his community and had positive plans for the future. The victim personal statement graphically described how Terrell Davis-Emmons's death has devastated his family and those who knew and loved him.
18. There is a Sentencing Council guideline for the offence of unlawful act manslaughter, which I am obliged to follow, though not in an overly mechanistic way, unless I am satisfied that it would be contrary to the interests of justice to do so.
19. Some aspects of the circumstances of this offence come within Category B, high culpability, and one aspect arguably comes within Category D, low culpability.
20. In this case, death was caused in the course of an unlawful act which involved an intention by you to cause harm falling just short of grievous bodily harm, and which carried a high risk of death or grievous bodily harm which was or ought to have been obvious to you. These features suggest that the right category is Category B.
21. A case comes within category D if the action was in defence of yourself, but did not give rise to the defence of self-defence. I accept that you acted in the heat of the moment and were concerned about your safety, but the fact remains that by the time you stabbed Mr Davis-Emmons, though he was still behaving aggressively, he had placed his machete in the sheath in his waistband and you were in no immediate danger. Perhaps most significantly, you could have protected yourself and avoided the incident altogether if you had stayed in the house in Ramilles Close. Instead, you chose to confront Mr Davis-Emmons. Furthermore, just before the stabbing took place, you had the opportunity to make your escape or to run back in to the house. Instead, you chose to lunge at Mr Davis-Emmons with your knife.
22. In those circumstances, I do not think that this is a case that should be sentenced on the basis that it falls in the middle between Category B and Category D. Rather, this case falls into the more serious category, Category B, although you are entitled to some reduction in the starting point for the fear that you were in and the concerns that you had about your own safety. The starting point for Category B is 12 years' custody and the range is from 8-16 years. Taking account of the circumstances of this offence, and in particular your fears for yourself, and before adjustment to take account of aggravating and mitigating features, the starting point is 10 years' imprisonment.

23. However, a major aggravating feature of the offence is that you brought a knife to the scene of the incident. As soon as Mr Davis-Emmons appeared on the scene, you went into the house and took a knife, taking it with you to the pedestrian crossroads, plainly with the intention of using it if you thought it necessary.
24. Other aggravating features are that this took place in a public place – members of the public frequently used this pathway – and that you fled the scene and took steps to get rid of the knife and your mobile phone.
25. The aggravating features are, however, balanced by a number of mitigating features. The offence was not premeditated. You are relatively young. You are 22 years old now and were 21 when the offence was committed. You are a young man of previous good character and you are entitled to substantial credit for that. You come from a loving family and have a strong relationship with your mother and were close to your grandmother. Growing up, you avoided the temptations to fall into a life of crime that many others in your peer group fell prey to. You worked to support yourself and your mother. You had ambitions to become a professional boxer. You do not take drugs and have no issues with alcohol.
26. I am also satisfied that you are truly remorseful for your actions and for causing the death of Mr Davis-Emmons, and for the impact upon his family. I have been gravely disappointed by the fact that you have not had the courage to attend Court to face your sentence, but I will not take this into account in the sentence that I pass.
27. You were also found guilty of possessing a bladed article in a public place. This arises from the same incident. I will pass a concurrent sentence for this offence. I have taken account of the fact that you were in possession of a knife, and, indeed, had gone out of your way to arm yourself with a knife, in the sentence that I pass for manslaughter. There is a Sentencing Council guideline for possession of a bladed article, which I have taken into account. This offence is in culpability category A and harm category 1. As such, the starting point is 1 year and 6 months' custody and the normal range is from 1 year to 2 years and 6 months' custody.
28. Since manslaughter is a specified offence for the purpose of the Sentencing Act 2020, I must also consider whether I should impose a life sentence or an extended sentence for this offence on the basis that you are a dangerous offender. This means that I must consider whether there is a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences.
29. Taking into account all of the information that I have before me, I have decided that you are not a dangerous offender, and so that I should not pass a life sentence or an extended sentence upon you. Though this was a very serious

offence of violence, you have no other convictions for violent offences, and indeed no previous convictions of any sort. I have been provided with a Pre-Sentence Report to assist with the question of dangerousness. The writer says that you came across as being genuinely remorseful for the offence and you convinced the writer of your determination to make a positive change in your life. Prior to this offence, you lived a law-abiding life and were trying to make the best of your life. You are assessed as posing a low likelihood of reconviction and of posing a medium risk of physical harm to the public.

30. There is a problem with the Pre-Sentence Report in that the writer mistakenly thought that you had pleaded guilty to manslaughter, and will have taken this into account in your favour. Nonetheless, I am satisfied that you do not meet the criteria for dangerousness and so that I should not pass a life sentence or an extended sentence upon you.
31. However, it is inevitable that I must pass a lengthy sentence of imprisonment upon you for this offence. This is yet another tragic example of the curse of knife crime in London. A young man's life has needlessly been cut short by the willingness of young men to pick up a knife or blade and to use it when there were far easier and far safer and better ways of resolving the situation. Mr Davis-Emmons's father referred to the lifetime of heartache that his family is suffering as a result of his son's killing.
32. Before passing sentence on you, I should make clear that I have taken account of all that has been said by defence counsel, who said everything that could be said on your behalf. I have read the letter that you sent to me. I also take account of the fact that you will have spent part of your time in custody during the period of the Covid 19 Pandemic, with the additional difficulties and restrictions that this entails.
33. The appropriate statutory victim surcharge will apply.
34. I now come to the sentences that I will impose for each of these offences.
35. Each of these offences is so serious that only a custodial sentence can be justified. They will be the shortest that are commensurate with the seriousness of the offences.
36. For the offence of manslaughter, you will go to prison for 10 years.
37. For the offence of possession of a bladed article, you will go to prison for 3 years. This will be concurrent to the sentence for the offence of manslaughter and so the total sentence will be 10 years.
38. You will serve up to two-thirds 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.

39. The days that you have spent on remand in custody will automatically count towards your sentence.