

R v LEON CLIFFORD & Others

Newport Crown Court

Sentencing Remarks – 29 March 2021

1. It falls to me now to sentence you in the light of the jury's unanimous verdicts at the conclusion of a ten-week trial which started in January this year and ended just under two weeks ago.
2. Leon Clifford, Leon Symons, Peter McCarthy and Brandon Liversidge, you have each been convicted of murder; Ryan Palmer, Lewis Evans and Raymond Thompson, you have each been found guilty of manslaughter.
3. The jury have, therefore, found you each responsible, albeit to different degrees, for the death of Harry Baker, a 17-year old who leaves behind a family whose upset at his death is as understandable as it is profound.
4. His mother and father have both explained how they feel in moving and eloquent victim impact statements. They each make sad reading. Mrs Baker has, indeed, today read her statement, showing great courage and dignity in doing so. It is clear that family members' lives have changed forever. I should record that throughout the trial Harry Baker's parents have attended. It must have been immensely distressing for them – made worse by having to attend two trials given that the first had to be abandoned in March last year due to COVID-19.
5. Emma Baker very frankly acknowledges that her son Harry "*somehow got sucked into*" a drug dealing lifestyle. It is clear that that, indeed, was the case for that is why Harry was in Barry. Like you Leon Symons and Brandon Liversidge and you also Leon Clifford, he was a drug dealer along with his friend Louis Johnson. That is why he had come to Barry from Cardiff: to supply drugs to the apparently very many drug users who live in Barry.
6. The fact that Harry Baker was involved in drug dealing does not, however, remotely justify what happened to him that night. Nor does the fact that, as a drug dealer, he was carrying at least one knife. He did not deserve to die and his death is as tragic and unnecessary as that of anybody who is murdered. I make that abundantly clear.

7. The circumstances need not be rehearsed in any particular detail. They are now very well known. Suffice to say that, consistent with what the jury must plainly have concluded given the verdicts which they reached, there was an ambush at the top of Little Moors Hill just after midnight on 28 August 2019. This involved you Leon Symons, Leon Clifford, Brandon Liversidge and Raymond Thompson alighting from Lewis Evans's car and waiting in the grass area which runs down to Arno Road for Harry Baker and Louis Johnson to appear. When they did so, you ran across that grass area. There then followed a stand-off which saw you Leon Symons and one other (not Leon Clifford) brandishing knives and Harry Baker and Louis Johnson doing the same. You Brandon Liversidge may or may not have done so also but, whether you did or did not at that stage, you were there. As for you Raymond Thompson, you did not have a knife but you were there and you headed over towards Harry Baker and Louis Johnson along with the others albeit that you then fell down the grass bank and were not directly involved in the stand-off. The jury must, however, through their verdict of manslaughter in your case, have concluded that you were nonetheless part of the ambush.
8. Matters did not end at the top of Little Moors Hill. On the contrary, what then happened was that there was a mile-long chase from there to Barry Docks, specifically to the Intermodal Container Terminal. This was captured on CCTV. You Brandon Liversidge were for the most part at the front of the chasing group. You were carrying a knife, not merely a metal bar as you insisted at trial. The others followed albeit that in the latter stages it appears that Leon Clifford may have taken over from you at the front of the chasing group. You Leon Symons, Ryan Palmer and Peter McCarthy were somewhat behind. You Raymond Thompson ran for only a short distance before essentially strolling along Cardiff Road along with your friend, Nathan Delafontaine, and ultimately turning right to head home.
9. What happened when the others reached the Intermodal Container Terminal was also, at least in part, captured on the CCTV at the entry gate. Although there is no footage showing Harry Baker and Louis Johnson entering the yard, and nor is there footage showing Leon Clifford and Brandon Liversidge doing so, it is obvious that all four did – including you Brandon Liversidge: Harry Baker's body was found within the yard the next morning; Louis Johnson's hoodie was found on a perimeter fence indicating that he must have climbed over that fence in order to make good his escape; Leon Clifford was seen on the CCTV climbing out of the yard along with Leon Symons, Ryan Palmer and

Peter McCarthy; and Brandon Liversidge was seen on that same footage just outside the gate as the others were climbing out. I am clear, despite his denials, that the jury must have concluded, in the circumstances, that Brandon Liversidge had, indeed, also been in the yard.

10. Although the attack on Harry Baker was not itself captured on the CCTV since it took place out of camera shot in an overgrown area behind a Biffa bin and some containers, the forensic and medical evidence pointed to his having been stabbed in that area, probably towards the perimeter fence, and then heading back towards the main yard where his body was later found. He suffered stab wounds to various parts of his body, including to his head and to his abdomen. It was one of the wounds to the abdomen which was to prove fatal, albeit that death would not have been immediate and, indeed, had he received medical attention, the likelihood is that he would have survived.
11. Only one of you, Leon Clifford, accepts having stabbed Harry Baker; he accepts, indeed, inflicting the fatal wound. The other two knifemen, you Leon Symons and you Brandon Liversidge, do not accept having stabbed Harry Baker. It was no part of the prosecution's case that you Ryan Palmer and you Peter McCarthy wounded Harry Baker; indeed, it is accepted that neither of you was carrying a knife as opposed to the pieces of broken pallet which you can be seen on the CCTV of the chase arming yourselves with en route to the yard.
12. As for you, Lewis Evans, your case at trial was that you were merely doing what you had grown accustomed to doing which was driving Leon Symons and Brandon Liversidge (and Leon Clifford) around so that they could do drug deals. You maintained that you had no idea that there was to be an ambush, still less that anybody would end up dying. The jury rejected your evidence that you did not know there was to be an ambush whilst nonetheless, as demonstrated by their manslaughter verdict in your case, and apparently accepted that you did not intend either that Harry Baker should die or that he should suffer really serious injury.
13. It is against this background that I come on now to address the matter of sentence in each of your cases. I should make it clear before doing so that the appropriate victim surcharge will also be payable by each of you.

Murder: Leon Clifford, Leon Symons, Peter McCarthy and Brandon Liversidge

14. I start by dealing with the four of you who have been convicted of murder: to repeat, Leon Clifford, Leon Symons, Peter McCarthy and Brandon Liversidge.
15. Where a person over the age of 21 is convicted of murder, the Court is required to sentence the offender to imprisonment for life. That, therefore, is the position in your cases Leon Clifford, Leon Symons and Peter McCarthy.
16. Where a person convicted of murder is under the age of 18 at the time that the offence was committed, the Court is required by ss. 259 and 275 of the Sentencing Act 2020 to sentence the offender to be detained at Her Majesty's pleasure. That is the position in your case, Brandon Liversidge.
17. In all such cases, the Court is required by s.322 and Schedule 21 of the Sentencing Act 2020 to determine the minimum term to be served by the offender. To be clear, by this is meant the minimum term which must elapse before an offender can be released on licence.
18. It is important to emphasise, so that you and the public can understand the position, that the minimum term is just that - a minimum period which must be served before you are considered for release. After it is served, there is no guarantee that you will be released at that time, or at any particular time thereafter. It is then only if the Parole Board decides you are fit to be released that you will be released. Moreover if, and when, you are released you will remain subject to licence for the rest of your life, and may therefore be recalled to continue your life sentence. It is in these ways that a life sentence protects the public for the future.
19. As to what the minimum term should be, the position is different as between offenders over the age of 18 and those under the age of 18 at the time that the offence was committed.
20. In the case of an offender over the age of 18 - and so in your cases Leon Clifford, Leon Symons and Peter McCarthy - the prosecution submit that Schedule 21.3(1)(a) and (b) and (2)(c) apply on the basis that Harry Baker's murder was done for gain such as in the course or furtherance of a robbery or in the expectation of gain as a result of the death. The prosecution point in this connection to a number of matters: first, the evidence of Rachel Bushnell in respect of the conversation between Leon Symons and Brandon Liversidge at the home of Lewis Evans; secondly, the unexplained removal of Harry Baker's clothes; thirdly, the fact that Harry Baker's phone was taken; fourthly, the fact

that no drugs were found on Harry Baker's body; and fifthly, what they suggest is the overwhelming inference that the Defendants (primarily you Leon Symons and Brandon Liversidge) were seeking to eliminate a rival drug dealer and thus profit financially from his death.

21. Your respective counsel, Leon Clifford, Leon Symons and Peter McCarthy, accept on your behalf that the prosecution are right about this. It follows, on this basis, as the prosecution submit, that the appropriate starting point in determining the minimum term is 30 years.
22. In your case, Peter McCarthy, the point is made on your behalf that you are not yourself a drug dealer but, rather, an addict and that you should not be treated as having taken part in a murder for gain or at least to the extent as the others. Against this is the point that you nonetheless have been convicted, on a joint responsibility basis, along with Leon Clifford and Leon Symons. It is clear that the sentencing of an offender convicted as a secondary party is governed by the same principles as those applied to an offender convicted as a principal: see *A-G's Ref. (No.24 of 2008) (Sanchez)* [2008] EWCA Crim 2936. The appropriate starting point in respect of you Peter McCarthy is, therefore, also, as Mr Cotter QC accepts, 30 years. That said, as I shall come on to explain, your case does differ and this will be reflected in the ultimate sentence which you will receive since I accept that you were essentially recruited by the others, your drug dealers, Leon Symons and Brandon Liversidge, to take part through the control which they had over you and other addicts whom they supplied.
23. As for you Brandon Liversidge, the position is, again by law, markedly different since, by reason of Schedule 21.6, if the offender was under the age of 18 when the offence was committed, the appropriate starting point, in determining the minimum term, is 12 years.
24. Having identified the respective starting points, I turn to the aggravating features in this case. These include the following, although it should be acknowledged right away that these do not apply to each and everyone of you.
25. The first applies to you Leon Symons and Brandon Liversidge, but not, in my assessment to you Leon Clifford and you Peter McCarthy, namely a significant degree of planning or premeditation, as demonstrated by your arming yourselves with a knife or knives, the wearing of masks or face coverings and the hunt for Harry Baker at the home of Poppy Davies followed by the ambush at Little Moors Hill. Although you Leon Clifford had a

knife, this was because you were a drugs dealer and the evidence was that dealers ordinarily carried knives on the streets of Barry in 2019. You were not the instigator of events leading to the murder and nor is there any evidence that you held any prior hostile intent towards Harry Baker. Nor, furthermore, is there any evidence that you were wearing any face covering during the hours before or at the time of the murder. There was no evidence that you engaged in any way at Little Moors Hill before the chase. Indeed, it was the evidence of Rachel Bushnell that you subsequently told her that it was not your fight. As for you Peter McCarthy, apart from some evidence that you had been looking for Harry Baker earlier in the evening whilst at Poppy Davies's flat, the other features here described do not apply to you.

26. The second aggravating feature highlighted by the prosecution concerns the fact that the chase from Little Moors Hill to the Intermodal Container Terminal was over a considerable distance. This applies to each of you as your counsel accept.
27. Thirdly, the prosecution point to the mental or physical suffering inflicted on Harry Baker before death. I have touched on this already but they emphasise the unchallenged evidence of the forensic pathologist, Dr James, to the effect that Harry Baker survived for some time after the wounds were inflicted - likely to be approximately 1-3 hours. Again, this is acknowledged by each of your counsel to apply in each of your cases.
28. Fourthly, the fact that the murder was committed by a group or a gang is, again, rightly acknowledged by all of your counsel to amount to an aggravating feature in each of your cases.
29. Fifthly, in the case of you Peter McCarthy there is the fact that the murder was committed whilst you were intoxicated by drink or drugs. There is no evidence that this applies to you Leon Clifford, Leon Symons and Brandon Liversidge.
30. Sixthly, where appropriate and I will come on to this when dealing with your individual cases, the prosecution point to relevant previous convictions for violence/possession of weapons in some of your cases.
31. Lastly, the prosecution rely upon the concealment or destruction of evidence such as knives, phones and clothes, which each of you in various ways engaged in.
32. I turn, then, to your individual cases.

Leon Clifford

33. Leon Clifford, you were born on 18 July 1997 and so are now 23 years old. You have previous convictions for affray and possessing an offensive weapon (2014); assault occasioning actual bodily harm x 2 (2016 and 2018); possessing a knife or sharply pointed article (2018); possession of cocaine (2019) and possession of heroin with intent to supply (2020). The offence of possession with intent to supply was committed by you on 19 August 2019 and so just prior to Harry Baker's murder.
34. I have previously explained that I approach the fixing of the minimum term in your case on the basis that the appropriate starting point is 30 years.
35. I have also explained which of the aggravating features I have identified apply to you. I need not, therefore, repeat this.
36. As for mitigation, first, Miss Rees QC submits on your behalf, and I agree, that your relatively young age is a significant mitigating feature.
37. So, too, and secondly, is the fact that, although you have previous convictions for violence, these do not include convictions for serious violence or for use of weapons in the course of violence.
38. Thirdly, I consider also that there is some mitigation in the fact that you pleaded guilty to manslaughter which followed from your admissions that you stabbed Harry Baker. Although Miss Rees does not submit that you are entitled as of right to credit by way of discount, she nonetheless makes the point, in my view justifiably, that the fact your admission of manslaughter (made formally before the start of the first trial) by stabbing using one of the knives which had been recovered clarified to a degree what happened in the yard and how Harry Baker died.
39. She adds, again justifiably in my view, that the evidence of your admissions to Rachel Bushnell also demonstrate a degree of reflection upon your actions and remorse.
40. I take account of all these matters, both aggravating and mitigating, in arriving at what I consider to be the appropriate sentence. As will shortly appear, the last two matters will be reflected in a reduction when compared with the position of Leon Symons.

Stand up, please, Mr Clifford

41. I sentence you in respect of murder to imprisonment for life with a minimum term of 27 years. From this must be deducted the days that you have spent on remand in custody

for this offence - I am told numbering 573 but, if different, the matter can be adjusted administratively.

Please go with the officer

Leon Symons

42. Leon Symons, you were born on 3 April 1998 and are now 22 years old. You have 12 previous court appearances for 18 offences. Your previous convictions include possessing controlled drugs (2015); assault (2016); 3 x offences of threatening with a blade / possessing a knife or sharply pointed article (2016); battery / common assault x 3 (2016); and possessing a knife or sharply pointed article (2018).
43. Again, I have previously explained that I approach the fixing of the minimum term in your case on the basis that the appropriate starting point is 30 years.
44. I have also explained which of the aggravating features I have identified apply to you. Similarly, I need not, therefore, repeat this.
45. As for mitigation, first, Mr Rees QC highlights your relatively young age. I agree that, as with Leon Clifford, this is a significant mitigating feature.
46. I agree also that Mr Rees is right when he points out, secondly, that you have no previous convictions for serious violence or causing serious injury.
47. Otherwise, however, besides warning me against double-counting for the wearing of a mask and possession of a knife and pointing out that there is no evidence of an intention to kill from the outset, there is no other mitigation put forward on your behalf and understandably so.

Stand up, please, Mr Symons

48. I sentence you in respect of murder to imprisonment for life with a minimum term of 28 years. From this must be deducted the days that you have spent on remand in custody for this offence - I am told numbering 571 but, if different, the matter can be adjusted administratively.

Please go with the officer

Peter McCarthy

49. Peter McCarthy, you were born on 13 March 1983 and are now 38 years old. You have 25 previous court appearances for 65 offences. You have previous convictions for dishonesty, including robbery x 2 (2000); for affray (2002); possessing an offensive weapon (2003); possessing heroin with intent to supply (2004); possessing a prohibited weapon (2006); and supplying heroin (2008).
50. Once again, I have previously explained that I approach the fixing of the minimum term in your case on the basis that the appropriate starting point is 30 years. However, as I have indicated, your case is different to that of Leon Clifford, Leon Symons and Brandon Liversidge because, unlike them, you were not a drug dealer but a drug user – indeed, an addict.
51. I am satisfied, in the circumstances, that Mr Cotter QC, on your behalf, is right when he submits that you were essentially recruited by Leon Symons and Brandon Liversidge to take part through the control which they had over you and other addicts whom they supplied. I recognise that the evidence showed that you had been looking for Harry Baker whilst at Poppy Davies’s flat and I take account also of the fact that you were on the telephone to Brandon Liversidge as you were outside the Nisa store at the top of Little Moors Hill just as Harry Baker and Louis Johnson were about to be ambushed. This is evidence which suggests a level of involvement beyond merely joining a chase. However, I agree with Mr Cotter when he submits that your involvement was driven by addiction rather than any commercial rivalry.
52. In addition, despite the CCTV footage showing you briefly holding Leon Symons’s machete-type knife as you entered the yard, there is no evidence pointing to your having been directly physically involved in the violence which resulted in Harry Baker’s death.
53. I am satisfied, for these reasons, and taking into account both the aggravating features which I have identified as being applicable in your case and the mitigating factors such as your drug dependence (which I regard as needing to be weighed in the balance alongside the fact that committing an offence whilst under the influence of drugs is listed as an aggravating factor), the lack of any meaningful convictions for violence and the effect of any sentence on your children, that it is appropriate to reduce the 30-year starting point substantially.

Stand up, please, Mr McCarthy

54. I sentence you in respect of murder to imprisonment for life with a minimum term of 23 years. From this must be deducted the days that you have spent on remand in custody for this offence - I am told numbering 576 but, if different, the matter can be adjusted administratively.

Please go with the officer

Brandon Liversidge

55. Brandon Liversidge, you were born on 14 April 2003. You were 16 at the date of the murder and are now 17 years old. You will be 18 in just over two weeks' time.
56. I have previously explained that I approach the fixing of the minimum term in your case on the basis that the appropriate starting point is 12 years.
57. As for aggravating features, I have already explained which are applicable in your case. Although the prosecution remind me of the 'bad character' evidence which was adduced at trial, including footage concerning two incidents of violence whilst you have been on remand at HMP Parc, since you have no previous convictions/cautions, I make it clear that I proceed on the basis that this aggravating feature identified by the prosecution is not applicable to you.
58. On your behalf, Mr Crowther QC makes four points: first, he draws attention to your age; secondly, as just explained, he points to your lack of any previous convictions; thirdly, he suggests that you acted under the influence of older men; and lastly he highlights your expression of remorse as described in the pre-sentence report which has been produced for the purposes of this hearing.
59. The first of these matters is, of course, highly significant and I afford it considerable weight. However, in doing so, I must bear in mind that the consequence of your being the age that you were when the murder was committed is that the statutory starting point in your case is very considerably lower than it is in the case of the others who have been convicted of murder and when compared with the starting point which would have applied to you had you been just 19 months or so older than you were when Harry Baker was killed.
60. I am clear, in such circumstances, that your age at the time of the murder (16 years and 5 months) is not a reason for reducing the 12-year starting point. On the contrary, I am quite clear that that starting point must be increased and not inconsiderably given the

evidence not only of what you did the night that Harry Baker was murdered but given also, even making allowance for the immaturity which you inevitably had as a 16 year old, the self-evident maturity and, indeed, intelligence which you displayed when giving evidence at trial. You are an intelligent person – more intelligent than the other defendants who gave evidence. You also showed yourself, as the prosecution submitted in their closing speech to the jury, to be somebody who is devious and quite able to look after himself, not merely physically as shown by the incidents of violence seen in the CCTV footage from HMP Parc but also in seeking to manipulate as shown by your willingness first to blame Leon Clifford and then to blame Leon Symons after it became clear that he would not be giving evidence. The jury saw through you and, in my assessment, rightly so. They saw you for what you are: an intelligent and mature young man.

61. There is every reason to suppose that in 2019 you were equally intelligent and, if less mature, then, not markedly so. Your insistence at trial, for instance, that you were acting through fear of Leon Symons, indeed that you only became involved in serious drug dealing because of him, is evidence which the jury plainly did not accept – and again quite rightly. I make it clear that I say all this having taken careful account both of the NRM material and the pre-sentence report (including the reference, in particular, to the situation at home at the time). I have also read the letter from your former mentor at school.
62. The second matter I have already addressed in the context of aggravating features. When it comes to mitigation, given the ‘bad character’ evidence adduced at trial, evidence which included violence in the past, I am not inclined to treat you as though you are somebody who is of positively good character.
63. As to whether you acted under the influence of older men, I am not persuaded by this for reasons which I have already given. I bear in mind also that for the bulk of the chase you were at the front of the chasing group. Your evidence that you only chased at all because you were fearful of Leon Symons and because he told you to chase was clearly not accepted by the jury.
64. This brings me to the suggestion that you have expressed remorse. I am not myself convinced that this is genuine. As I say, you have shown yourself throughout these proceedings to be willing to say whatever you consider will assist you at any given point.

I consider it probable that what you now say about your being sorry that Harry Baker died is another example of this rather than an authentic standpoint.

65. Lastly, although not strictly by way of mitigation, Mr Crowther submits that, given the difference in age between you and the nearest-aged co-defendant, Leon Symons is just over 4 years, this is not the sort of case that calls for a close parity for the sentences to be just or rational. This is something which I bear in mind also when arriving at what I consider to be the appropriate sentence in your case.

Stand up, please, Mr Liversidge

66. I sentence you in respect of murder to detention at Her Majesty's pleasure with a minimum term of 20 years. From this must be deducted the days that you have spent on remand in custody for this offence - I am told numbering 571 but, if different, the matter can be adjusted administratively.

Please go with the officer

Manslaughter: Ryan Palmer, Lewis Evans and Raymond Thompson

67. Coming on, then, to deal with those of you who were convicted of Manslaughter, I have regard, as I must, to the Sentencing Council Guidelines on Unlawful Act Manslaughter.
68. I do so, in the first instance, to determine the appropriate category range in terms of Culpability.
69. The prosecution submit that this is a case which comes within Category A. For the prosecution to be right about that, the case must be a Very High Culpability case, the Guideline stating that this "may" be indicated by the extreme character of one or more culpability B factors and/or a combination of culpability B factors.
70. As to Culpability B, High Culpability, factors include:

"Death was caused in the course of an unlawful act which involved an intention by the offender to cause harm falling just short of GBH

Death was caused in the course of an unlawful act which carried a high risk of death or GBH which was or ought to have been obvious to the offender

Death was caused in the course of committing or escaping from a serious offence in which the offender played more than a minor role

Concealment, destruction, defilement or dismemberment of the body (where not separately charged)”.

71. Culpability C, Medium Culpability, involves cases described as falling between high and lower culpability *“including but not limited to”* the following:

“where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability

where death was caused in the course of committing or escaping from a less serious offence but in which the offender played more than a minor role”.

72. Lastly, Culpability D, Lower Culpability, is concerned with death which was caused in the course of an unlawful act:

“which was in defence of self or other(s) (where not amounting to a defence) OR

where there was no intention by the offender to cause any harm and no obvious risk of anything more than minor harm OR

in which the offender played a minor role”.

Culpability D also covers cases where *“The offender’s responsibility was substantially reduced by mental disorder, learning disability or lack of maturity”*.

73. Mr Lewis QC for the prosecution reminds me that the Guideline stipulates that *“the characteristics set out below are indications of the level of the culpability that may attach to the offender’s conduct; the court should balance these characteristics to reach a fair assessment of the offender’s overall culpability in the context of the circumstances of the offence”*. It goes on to state that the court *“should avoid an overly mechanistic application of these factors”*. That does not mean, however, that the sentencing judge should ignore what the Guideline provides, in particular in this context concerning what amounts to Very High Culpability. I agree nonetheless with Mr Lewis that the Guideline should not be rigidly applied and that what is required in each case is a fair assessment of the individual offender’s overall culpability with all the circumstances of the offence being borne in mind. That is what I have done in arriving at my assessment of the appropriate categorisation.

74. I am clear that yours are not Culpability A cases. Contrary to the stance adopted by the prosecution, there is no extreme example of a Culpability B factor present in any of your cases. Nor is there a combination of Culpability B factors since I am clear that the third

and fourth listed Culpability B factors are inapplicable and I am not satisfied to the requisite standard that the jury by their verdicts concluded that any of you intended to cause harm falling just short of GBH for the purposes of the first factor which means that there cannot be a combination of that factor with the second factor assuming that this is otherwise applicable. Clearly that is the position with you Lewis Evans and you Raymond Thompson. I consider it is also the position as regards you Ryan Palmer: as I will explain in a moment, I consider that whilst the second factor in Category B is applicable, the first is not and so yours cannot be a Category A case.

75. Beyond this, however, it is necessary to consider the categorisation issue by reference to you individually given the different roles which you each played.

Ryan Palmer

76. Ryan Palmer, you were born on 18 June 1986 and are now 34 years old. You have 48 previous court appearances for 77 offences. These convictions include affray (2006); and possession of heroin with intent to supply (2011).
77. Mr Hughes QC submits on your behalf that, consistent with the jury's verdict and on the evidence heard at trial, you should be sentenced on the basis that you took part in a pursuit aware that some degree of violence might occur at its conclusion and that, taken at its highest, the level of violence which was to be used was uncertain from your perspective. He highlights in this context how you were not present during relevant events at Poppy Davies's flat and that you were not part of the initial ambush. On this basis, it is Mr Hughes's submission that, as such, the second of the Culpability B factors does not apply in your case and that instead your culpability should be regarded as coming within the ambit of Culpability C.
78. I am not persuaded by Mr Hughes about this. It seems to me, on the contrary, that yours is a Culpability B case since, in my view, it is a case in which death was caused in the course of unlawful conduct which carried a high risk of death or GBH which was or ought to have been obvious to you. You had a piece of wood, it is true, albeit one with nails protruding from it, but you knew that others had knives with them when they entered the yard. For this reason, a high risk of at least GBH must have been or ought to have been obvious to you. The position would be different if not only you but others

merely had pieces of wood with them but that is not how it was and you knew that to be the case.

79. I would add, although it is fair to say that Mr Hughes did not anyway place reliance on it, that, in the circumstances, the reference at the end of Culpability D to an offender's responsibility being substantially reduced by mental disorder, learning disability or lack of maturity does not come into play despite your acknowledged learning and psychological deficits.
80. A Culpability B case has a starting point of 12 years' custody, with a sentencing range of between 8 and 16 years' custody.
81. As for aggravating features directly referable to you (as opposed to others involved in the attack on Harry Baker), you were under the influence of drugs at the time of the offence (given that you were an addict), you also had a weapon (albeit not a knife) and you additionally have committed offences of violence in the past (albeit not to any significant degree). I do not, in the circumstances, regard these matters as having especial significance in your case.
82. Turning to mitigation, I take into account the learning and psychological deficits to which I have referred. As Mr Hughes furthermore submits, aside from the affray in 2006 and earlier minor public order offences, there is no violence in your past criminal history. I also take into account the fact that you have been consistent in what you told the police when arrested and throughout (albeit that you, of course, denied any criminality and yet have been convicted). I also detect a form of remorse in what you told the police and in your evidence at trial. This should be taken into account also.

Stand up, please, Mr Palmer

83. I sentence you in respect of manslaughter to 11 years' imprisonment. From this must be deducted the days that you have spent on remand in custody for this offence - I am told numbering 576 but, if different, the matter can be adjusted administratively.
84. You will be released from custody no later than two-thirds of the way through the sentence, and the remainder of the sentence will be served on licence in the community. You must comply with all the conditions of your licence, failing which you will be at risk of recall to prison to serve the remainder of the term in custody.

Please go with the officer

Lewis Evans

85. Lewis Evans, you were born on 9 August 1959 and are now 61 years old. You have a caution for bigamy (2009); a caution for common assault (2012); and a conviction for making false statements to obtain benefits (2002).
86. Mr Bull QC submits on your behalf that yours is not only not a Culpability A case, which I have already explained I agree, but that nor is it a Culpability B case. He submits that, instead, it is either a Culpability C or a Culpability D case. Mr Bull highlights, in particular, how you were not present during discussions between your co-accused as to what was to happen and nor were you present at the ambush as it happened. As to the evidence which was given by Rachel Bushnell concerning what she heard when Leon Symons and Brandon Liversidge were in your home along with you, Mr Bull submits that this was merely to the effect that a potential robbery was to be carried out and somebody's drugs taken. There is no evidence, Mr Bull goes on to submit, that you knew that knives would be used to inflict serious injury. Nor, he submits, did you know about the severity of the attack which had taken place.
87. On that basis, Mr Bull submits that as far as you are concerned this is not a Culpability B case. I agree. I consider that yours is, indeed, a case which falls somewhere between Culpabilities C and D in that the case falls between a case "*where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability*" (Culpability C) and a case "*where there was no intention by the offender to cause any harm and no obvious risk of anything more than minor harm*" (Culpability D). I make it clear, probably only in passing, that I should not be taken as saying that this is a case "*in which the offender played a minor role*" (also a Culpability D factor).
88. A Culpability C case has a starting point of 6 years' custody, with a sentencing range of between 3 and 9 years' custody whilst a Culpability D case has a starting point of 2 years' custody, with a sentencing range of between 1 and 4 years' custody.
89. As for aggravating features directly referable to you (as opposed to others involved in the attack on Harry Baker), you were under the influence of drugs at the time of the offence (given that you were an addict). As with Ryan Palmer, I do not, in the circumstances, regard this matter as having especial significance in your case.

90. Turning to your mitigation, there was evidence at trial concerning the ailments from which you suffer, in particular the trauma which you have had to endure from your time serving in the Royal Navy in the Falklands and from the suicide of your son. Your lack of relevant convictions is also to your credit. So, too, are your 20 years' service in the Royal Navy.
91. I accept that you are remorseful even though you insisted at trial that you played no part in what happened to Harry Baker.
92. I accept, furthermore, that your participation in the drugs trade was a direct result of the injury and pain which you sustained in serving your country. You were, as Mr Bull puts it, a 'gofer', who followed orders to feed a significant drug addiction.

Stand up, please, Mr Evans

93. I sentence you in respect of manslaughter to 4 years' imprisonment. From this must be deducted the days that you have spent on remand in custody for this offence - I am told numbering 572 but, if different, the matter can be adjusted administratively.
94. You will be released no later than half way through the sentence, and the remainder of the sentence will be served on licence in the community. You must comply with all the conditions of your licence, failing which you will be at risk of recall to prison to serve the remainder of the term in custody.

Please go with the officer

Raymond Thompson

95. Raymond Thompson, you were born on 27 August 1972 and are now 48 years old. You have 74 previous court appearances for 166 offences. These include threatening words or behaviour (1990, 1991, 1992, 2001, 2002, 2003, 2004, 2005, 2007); assault with intent to resist arrest (1991); assault occasioning actual bodily harm (1994); perverting the course of justice (2000); possessing a prohibited weapon (2003); having a bladed/sharply pointed article (2004); assault occasioning actual bodily harm (2007); possessing an offensive weapon (2009); battery (2014).
96. Miss Grey QC submits that yours is not a Culpability A case. For reasons which I have explained, I agree. She submits, furthermore, that nor is your case a Culpability B case since, she suggests, the Court cannot be sure, on the evidence, that you were aware of

others having a knife or knives prior to their being brandished in the confrontation which took place at Little Moors Hill when Harry Baker and Louis Johnson were also brandishing knives. She highlights in this connection how it was your evidence that you became aware of there being knives only when they were drawn and how in police interview you described falling over the grass bank because you had the “frighteners” which you explained in re-examination was a reference to your seeing knives being brandished in the confrontation but, you meant, not beforehand. It is only if, Miss Grey submits, you knew that there were knives before the ambush took place that yours will be a Culpability B case by reason of the second of the listed factors being applicable, namely “*Death was caused in the course of an unlawful act which carried a high risk of death or GBH which was or ought to have been obvious to the offender*”.

97. I agree with Miss Grey about this. I agree with her, in particular, that yours is not a Culpability B case but instead a case “*where death was caused in the course of an unlawful act which involved an intention by the offender to cause some harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability*” – and so a Culpability C case.
98. As previously mentioned, such a case has a starting point of 6 years’ custody and a category range of 3-9 years’ custody.
99. As for aggravating factors, again the focus must be on matters directly referable to you (as opposed to others). Thus, as Miss Grey points out, you were not present at the home of Poppy Davies when others arrived there looking for Harry Baker and Louis Johnson. You, Nathan Delafontaine and Ryan Palmer left Poppy Davies’ and returned to your home address at Hilary Rise before the others. Nor, I accept, did you invite Leon Clifford, Leon Symons and Brandon Liversidge back to your house after everybody left Poppy Davies’s house. Furthermore, it appears to be Sara Baker, Peter McCarthy’s then partner, who made the arrangements to meet Harry Baker as she was the one who was speaking to him on the phone prior to midnight. As to your being at the top of Little Moors Hill just before the ambush, you were not armed with a knife or any other weapon, and nor were you wearing a face mask or any face covering. Nor, apart from perhaps the initial 60 metres or so, were you part of the chase to Barry Docks. You walked with Nathan Delafontaine and then turned right at the roundabout at Bryan Thomas Car Sales, at least half a mile from the Intermodal Container Terminal. It follows that nor were you part of the group which entered the yard. Nor were you present when Harry Baker was left to die.

100. The aggravating features which are directly referable to you are, first, the fact that you have as many previous convictions as you do. These, furthermore, include offences of violence. However, as Miss Grey notes, in terms of their gravity, it is significant that they were dealt with primarily in the Magistrates Court with sentences to be served within the community. You have only twice appeared before the Crown Court, once in 1994 and then in April 2000 for dishonesty offences.

101. Secondly, there is the fact that the offence for which you are now being sentenced was committed under the influence of drink and drugs. It is plain, indeed, that you had been drinking all day and that you had taken drugs on what was your birthday. You told the jury that you are dependant on alcohol and that you would drink at least half a bottle of vodka within an hour of getting up each morning; sometimes you would consume as much as a bottle with more alcohol later in the day such as cans of lager. You are also reliant on heroin and to a lesser extent crack cocaine. Although listed as an aggravating feature, the Sentencing Council's Overarching Principles; Sentencing offenders with mental disorders, developmental disorders or neurological impairments which came into force on 1 October 2020 explain that:

"Substance use disorders arise when the individual no longer has significant personal control over intake and/ or s/he has signs and symptoms of secondary disease. Substances of abuse affect the nervous system, often altering its activity so that the experience of the consumer is that when they do not have the substance, they have very unpleasant symptoms or signs ranging from intense anxiety through to psychotic symptoms (withdrawal symptoms/signs) and so they have to keep taking the substances in order to feel almost normal".

102. Miss Grey submits that you fall into this category, supported by reliance on a copy of your most recent GP records which refer to your having alcohol dependency syndrome. According to the Guidelines, Miss Grey observes, such a condition can reduce culpability in certain circumstances if the condition affects an individual's judgment and thought process. She submits that your intoxication should not, in the circumstances, be seen as an aggravating feature as you no longer had significant personal control over your intake. I tend to agree but, in any event, as explained when dealing with the cases of Peter McCarthy, Ryan Palmer and Lewis Evans, I am not inclined in this case to treat drug addiction as an aggravating feature of the offending.

103. Miss Grey refers also to medical records making reference to your being the victim of domestic violence by your partner, Renee Vrettoss. This is a matter which has been addressed also in a letter from Margaret Ellis, a family friend, who additionally refers to your vulnerabilities and provides details about your mother's heart condition and your father's cancer. I bear these matters in mind also.
104. Similarly, I bear in mind Miss Grey's submission concerning the fact that, whilst awaiting trial, you contracted COVID-19 and were in isolation for some weeks in December 2020. As the Lord Chief Justice made clear in *R v Manning* [2020] EWCA Crim 592, the impact of being in custody has been heavier during recent times.
105. I have regard to all these matters when deciding the appropriate level of sentence in your case.

Stand up, please, Mr Thompson

106. I sentence you in respect of manslaughter to 6 years' imprisonment. From this must be deducted the days that you have spent on remand in custody for this offence - I am told numbering 576 but, if different, the matter can be adjusted administratively.
107. You will be released no later than half way through the sentence, and the remainder of the sentence will be served on licence in the community. You must comply with all the conditions of your licence, failing which you will be at risk of recall to prison to serve the remainder of the term in custody.

Please go with the officer

108. I wish to end by again expressing my best wishes to Harry Baker's family and by also thanking everybody concerned in enabling this trial to have reached a conclusion. It was a trial which had to be abandoned after three weeks this time last year and the efforts which have been involved in ensuring that it could be held in these difficult times have been Herculean. As Presiding Judge of Wales, I am proud of what has been achieved not only in relation to this trial but more generally since not everybody knows that in Wales we now have no backlog in the Magistrates' Courts and have now also largely recovered in the Crown Courts. This is the result of sheer hard work on the part of the judges in Wales and also on the part of court staff whose efforts are not always appreciated. I wish to record my thanks to everybody for what has been achieved.

