



JUDICIARY OF
ENGLAND AND WALES

R v WAYNE RULE

Sentencing Remarks of Mr Justice Picken

Lincoln Crown Court

17 March 2023

1. I must sentence you on one count of murder and one count of attempted murder arising from two separate incidents (approximately an hour apart) which occurred in Spalding in the very early hours of 20 December 2021.
2. You pleaded guilty to those offences on 4 January 2023. You have, as such, accepted responsibility (albeit belatedly) for the death of one man and an intention to kill another.
3. The attempted murder was the first in time. At about midnight, you went to 20A Bodwitch Road in Spalding, where a friend of yours, Mark Stone, lived. He was in bed when you burst in with a knife in each hand – one a 10-inch carving knife and the other a smaller knife. You launched at Mr Stone, stabbing him some ten times or so to the face, neck, shoulder, back, left upper arm and right arm. You appeared, however, to be focusing on Mr Stone’s chest as he was trying to deflect you.
4. He asked you what you were doing given that you and he were friends. You told him, in reply, that he had ruined your life. Mr Stone did not know what you were referring to. Mr Stone said: *“Don’t kill me Wayne, I love you”*. You were making growling noises and spit was flying from your mouth. Mr Stone was clear that you were aiming to stab him in the heart.
5. The last of the stabs was to Mr Stone’s left side. He heard a popping noise and a whooshing sound, like a tyre being punctured; he felt air coming from his lung. You had punctured his lung. Mr Stone thought at that point that he was going to die and said to you: *“You’ve killed me now, that’s the one that’s done me”*. You replied: *“That’s what I came here for you fucking idiot”*. You, then, asked Mr Stone: *“Now where’s the drugs and the money?”*, before opening a

cabinet and taking out a small tub containing heroin worth approximately £15 - £20. You then left. As you did so, you stopped outside a neighbour's door and shouted something like "*You ain't seen nothing*".

6. Mr Stone was attended by paramedics and taken to hospital where he was given life-saving treatment to deal with the punctured lung. He had suffered major blood loss requiring blood transfusions and two chest drains. His condition deteriorated, however, requiring intubation and mechanical ventilation. He was in intensive care for 6 days.
7. Fortunately, Mr Stone survived. Tragically, that was not the case with your other victim that night, Mr Darren Kirk.
8. Mr Kirk and you both lived at 2 Cygnet Court, Spalding. He lived at Flat 1; you lived at Flat 3. Mr Kirk lived with his partner, Sam Costello.
9. Just after 1 am, police officers arrived at Flat 1 to find Mr Kirk lying naked and wounded in the kitchen. First aid was administered but Mr Kirk was pronounced dead at the scene. A knife was found in the hallway that was covered in blood and appeared to be bent out of shape.
10. Ms Costello told the officers what had happened. She said that she was at home with Mr Kirk when they heard banging at their front door. Mr Kirk went to the door and she followed. There, they saw you. You herded them into the kitchen, telling them that "*Mia Rock has gone over*" which Ms Costello took to mean that she had taken an overdose. You, then, pulled out a knife and made three upward motions to Mr Kirk's chest. Blood went everywhere and Mr Kirk fell to the ground. You, then, crouched over Mr Kirk and stabbed down on him three times to the back. You, then, left.
11. Having been told this by Ms Costello, the officers went upstairs to your flat. Your response was to shout threats to shoot the officers and to demand a negotiator. The area was contained by officers and a police negotiator attended. During this, you shouted to officers who were guarding the rear of the address from a window, asking whether "*Darren was dead*" and making threats to "*shoot the first cop through [your] door*".
12. Armed officers attended, your response to that being to boast about having already killed a police officer in the past and to claim that you had a shotgun in the flat. You said that you would kill another if officers forced entry to the flat. Eventually, a trained hostage negotiator having arrived, you agreed to surrender at about 7 am the next morning.

13. After being told that you were under arrest on suspicion of murder and attempted murder, you asked *“Which one is dead?”*. You were, then, taken to Grantham Police Station. In interview, your answer to most of the questions asked was *“no comment”*. You said, however, that you did not agree with the account given by Ms Costello, describing her as a liar. Also, asked why you had gone to Mr Kirk’s flat, you replied *“six years of fucking torture, that’s what drive me to go round there”* and that *“I didn’t go round to hurt them.”*
14. In a subsequent interview later the same day, you answered *“no comment”* to questions about your mental health and told the police that you owed someone money for drugs which had been seized during a search of your flat on 17 December 2021. You claimed to have been holding the drugs for someone. You denied that you had been to Mr Stone’s address earlier in the night. You now accept, through your guilty plea, that this was a lie.
15. Mr Kirk leaves behind a family whose distress at his death is as understandable as it is profound. Ms Costello has described the impact in moving and eloquent terms, explaining how her life and that of Mr Kirk’s daughter have been ruined. She had to watch Mr Kirk be killed by you and had to listen to him asking her for help which she could not give him because you told her that you would kill her too.
16. Mr Kirk’s daughter, Alana, has been no less eloquent, describing how her life has been on hold and how what happened has consumed everything. She has lost the opportunity to strengthen the relationship that she had with her father.
17. As for Mr Stone, he has bravely explained how he is still deeply affected by what you did to him. He has panic attacks where he cannot breathe and he cannot go to sleep until he is completely exhausted. The attack still goes through his head. He can remember everything that happened and, in particular, how you were spitting as you spoke and how he watched the knife go into his side where it pierced his lung. He thought that he was dying. You and he had been good friends and he cannot understand how it was that you tried to kill him.
18. It is against this background that I come on now to address the matter of sentence. I should make it clear before doing so that the appropriate victim surcharge will also be payable.
19. Where a person over the age of 21 is convicted of murder, the Court is required to sentence the offender to imprisonment for life.
20. I must, first, decide whether this is a case in which a whole life order is made. I do so in accordance with s. 321 of the Sentencing Act 2020, which provides that such an order can

be made if the Court is of the opinion that, because of the seriousness of the offence or the combination of the offence and one or more offences associated with it, it should not make a minimum term order.

21. In considering the seriousness of the offence or of the combination of the offence and one or more offences associated with it, s. 322(3) makes it clear that the Court must have regard to the general principles set out in Schedule 21 to the 2000 Act, paragraph 2(1)(a) of which provides that the Court must consider whether the seriousness of the offence or the combination of the offence and one or more offences associated with it is exceptionally high.
22. I have in this context borne in mind the observations made by the Court of Appeal in *R v Stewart* [2022] EWCA Crim 1063, specifically at [19].
23. In doing so, I have reached the conclusion that this is not an appropriate case for the making of a whole life order since the ‘exceptionally high’ test is not met. Instead, I have to determine the minimum term of imprisonment which you must serve before being eligible to apply to the Parole Board to be considered for release. To do so, I have to consider the seriousness of the offence, to determine the minimum period of time that you must serve in prison, before consideration can be given to your release.
24. It is important to emphasise, so that you and the public can understand the position, that a minimum term is not the same as an ordinary sentence of imprisonment where a defendant will normally serve only half or two thirds of that sentence before being released on licence. A minimum term is the term that must be served before your case may be referred to the Parole Board for a consideration of your release upon licence. It means the actual length of time that you will spend in prison before that process can take place.
25. Whether or not you will be released after the minimum term has been served will be for the Parole Board to consider at the end of that term. The Parole Board will not decide that you can be released at that stage, unless it is satisfied that you are not a risk to the public and are ready for release into society. There is no guarantee that you will be released at that time, or at any particular time thereafter.
26. 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.
27. It is in these ways that a life sentence protects the public for the future.

28. Mr Richmond KC, on your behalf, submits that this is a case to which paragraph 3 of Schedule 21 to the 2020 Act applies so as to mean that the starting point is a minimum term of 30 years given that the seriousness of the offence or the combination of the offence and one or more offences associated with it is particularly high, in that the murder of Mr Kirk should be viewed in combination with the attempted murder of Mr Stone.
29. Mr Richmond KC goes on to suggest that, in such circumstances, it is unnecessary to increase the 30-year term envisaged by paragraph 3 in order to take account of the fact that you are being sentenced both for the murder of Mr Kirk and the attempted murder of Mr Stone.
30. He submits, in particular, that care should be taken not to double-count when it comes to deciding the extent to which the minimum term for the murder offence should be increased to take account of the fact that you are also being sentenced for attempted murder.
31. Whilst I agree with Mr Richmond KC that double-counting should be avoided, it is no less important to avoid under-counting.
32. I propose, accordingly and bearing in mind also that the two offences were separately committed and not as part of a single incident, to approach the matter of sentence by considering, in the first instance, what would be appropriate sentences for the two offences were the Court sentencing them independently on the hypothetical basis that only one or the other had been committed rather than both, and then to consider the important matter of totality.
33. Both Mr Cavin KC and Mr Richmond KC recognised that this is an appropriate alternative approach to starting with 30 years' custody in accordance with paragraph 3 and, then, deciding what (if any) further uplift might be in order.
34. Had the murder offence stood alone, I am sure that, in accordance with paragraph 4 of Schedule 21, the appropriate starting point would have been 25 years given that you took a knife to Mr Kirk's flat intending to murder him with that knife and then did so.
35. That 25-year starting point would inevitably have been increased to take into account the following aggravating features (as well as the fact of your previous conviction for manslaughter to which I will return in a moment):

- (1) First, the fact that you murdered Mr Kirk in what he was entitled to regard as a safe place, namely his own home, as indeed you also did when entering Mr Stone's home and attempting to murder him.
- (2) Secondly, the fact that you did what you did in the presence of Ms Costello, who had to watch you murder her partner again in her own home.
36. I should explain that, although I am clear that what you did when going to Mr Kirk's flat was premeditated, coming as it did less than an hour after you had attempted to murder Mr Stone, I am not persuaded that it would be right to treat the offence as entailing a significant degree of planning or premeditation as identified in paragraph 9(a) of Schedule 21.
37. Nor do I treat as an aggravating feature the fact that, just as you accept that you intended to murder Mr Stone, so you acknowledge (through Mr Richmond KC) that, when stabbing Mr Kirk, you also intended to kill him. Rather, I approach the matter of sentence on the basis that it is not open for you to say, by way of mitigation and by reference to paragraph 10(a), that you merely intended to cause serious bodily harm rather than to kill.
38. In addition, although in writing Mr Cavin KC suggested that the Court should proceed on the basis that Mr Kirk's murder was committed, at least in part, as an act of revenge for the fact that your property was raided by the police a few days before on 17 December 2021, it is difficult to know, still less to be sure, that this is what led to your going to Mr Kirk's flat that night. Mr Cavin KC, indeed, today acknowledges that the Court cannot be sure. I do not, therefore, treat this as a further aggravating feature.
39. There is, however, the not insignificant fact that, amongst your considerable record of offending which includes previous convictions involving violence, is a conviction for manslaughter in June 2001. I recognise that, as Mr Richmond KC points out, the facts of that offence were different since they involved your hitting a police officer with the car that you were driving as you tried to evade arrest. Whether or not what happened on that occasion was intended, the fact remains, however, that you were responsible for the death of that police officer and received a nine-year sentence in consequence.
40. Put simply, taking all these matters into account and leaving aside for the moment the relatively limited mitigation which is available to you as well as the matter of credit for guilty plea, had the Court been sentencing you for the murder of Mr Kirk alone and not also for the attempted murder of Mr Stone, the likely sentence would have been

substantially more than 25 years in any event, if not at the 30-year level to which paragraph 3 of Schedule 21 refers.

41. I turn, then, to the attempted murder offence.
42. Both Mr Cavin KC, for the prosecution, and Mr Richmond KC agree that the appropriate categorisation for the purposes of the Sentencing Council's Attempted Murder Guideline is High (B) Culpability/Category 2 Harm. I agree with them about this.
 - (1) In terms of Culpability, you took two knives to the scene. That by itself is sufficient to make it a High Culpability offence. However, in my assessment, there is an additional reason why this is a High Culpability case since what you did in going to Mr Stone's flat, if not planned, was, nonetheless, premeditated in the sense that you intended to murder Mr Stone: that is why you took the two knives; it is why, on entering Mr Stone's bedroom, you immediately began the attack; and it is why you left very shortly after inflicting the stab wounds on Mr Stone.
 - (2) As to Harm, the offence involved the infliction of serious physical harm: there were at least 12 significant stab wounds, and the injuries were life-threatening.
43. Were you were being sentenced for this offence alone, then, the Guideline makes it clear that the appropriate starting point would be 25 years' imprisonment with a sentencing range of between 20 and 30 years' custody. There are, then, the following aggravating features to consider:
 - (1) First, your previous convictions, including the manslaughter conviction to which reference has previously been made.
 - (2) Secondly, the fact that Mr Stone was in his own home, in fact in bed and as such in a vulnerable position, when you set upon him.
 - (3) Thirdly, the brutality of the attack, which entailed your stabbing Mr Stone repeatedly.
44. I repeat that, although Mr Cavin KC at one time suggested that the reason why you went to Mr Stone's property was, at least in part, as an act of revenge for the fact that your property was raided by the police on 17 December 2021, I do not treat this as a further aggravating feature since I cannot be sure that that was the case.
45. Again put simply, taking all the matters to which I have referred into account and before coming on to consider mitigation as well as the matter of credit for guilty plea, had the

Court been sentencing you for the attempted murder of Mr Stone alone and not also for the murder of Mr Kirk, the likely sentence would have been in the region of the 25-year starting point identified in the Guideline.

46. I turn, then, to mitigation, before coming on to address your pleas of guilty to the two offences. I take into account the following matters:
- (1) First, I accept that, as Mr Richmond KC submits, you have shown remorse through your guilty pleas.
 - (2) Secondly, whilst there is no psychiatric evidence before me which explains why you behaved as you did that night in December 2021, I bear in mind what Mr Richmond KC has told me concerning the difficulties which you were experiencing at the time in terms of your mental health, your drug dependency and your relationship with your former partner and two children.
 - (3) Thirdly but related to the previous point, Mr Richmond KC explains in particular that since being in custody you are receiving medication to help with these difficulties and that this has meant that, as noted in the two prison references which I have read, you have become somebody who is trusted not only by the prison authorities but also by fellow prisoners.
 - (4) Fourthly, although the evidential basis for this is not entirely clear, I proceed on the basis, as invited by Mr Richmond KC, that you felt that your life was in tatters and you snapped, lashing out at anybody whom you perceived (however unjustifiably) to have played a part in what you were going through. This included Mr Stone, with whom your former partner had suggested that she had been having an affair, and Mr Kirk, with whom you had had a difficult relationship as a neighbour.
47. I take account of all these matters, both in relation to the murder offence and in relation to the attempted murder offence, in arriving at what I consider to be the appropriate overall sentence in your case.
48. On that basis, had I been considering the murder offence separately, the notional sentence prior to credit for guilty plea would have been 28 years' imprisonment, whereas the notional such sentence in respect of the attempted murder offence would have been 25 years' imprisonment.

49. As for credit for guilty plea, in the case of the murder offence, the maximum credit available to you is one-sixth and, in any event, not more than 5 years. Moreover, the Sentencing Council's Overarching Guideline makes it clear that this level of credit is only available when a guilty plea has been indicated at the first stage of the proceedings, with a maximum of one-twentieth being given for a guilty plea on the day of trial.
50. In the present case, you chose to plead only late in the day. Mr Richmond KC explains that this was because of difficulties caused in obtaining a psychiatric report. In the event, no such report has been relied upon, however, I am prepared to proceed on the basis that it was legitimate to investigate this aspect and, as such, to afford you a 2-year reduction in respect of the murder offence, so reducing the sentence prior to totality considerations to 26 years. I should say that Mr Richmond KC takes no issue with this level of reduction.
51. As for the attempted murder offence, it seems to me that the appropriate level of credit (and, again, Mr Richmond KC takes no issue with this) would be 15%, so (with some rounding down) reducing the notional 25-year term to 21 years. Since, however, were you being sentenced for this offence alone, you would serve two thirds of such a sentence, when arriving at a minimum term, it is necessary to make a further reduction to 14 years.
52. Combined, these two sentences add up to 40 years' imprisonment. I recognise, however, that it would be inappropriate to approach the matter of sentence by simply adding the one sentence to the other since it is obviously necessary to arrive at an overall sentence which properly reflects the principle of totality by being just and proportionate in accordance with the Sentencing Council's Totality Guideline.
53. I confirm that I have applied that approach in arriving at the minimum term in your case. I confirm in particular that I have been careful, in doing so, to take account of the fact that there is an element of duplication in relation to the aggravating features applicable to the two offences, including the fact that you have a previous manslaughter conviction.

Stand up, please.

54. I sentence you in respect of murder of Darren Kirk to imprisonment for life with a minimum term of 35 years.
55. Formally, in respect of the attempted murder of Mark Stone, there will be a concurrent life sentence with a minimum term of 14 years.

56. From this must be deducted the days that you have spent on remand in custody for these offences - I am told numbering 450 days but, if different, the matter can be adjusted administratively.

You may go with the officer.