



IN THE CROWN COURT AT WOLVERHAMPTON

THE KING V. JERMAINE THOMAS

10 MAY 2023

SENTENCING REMARKS OF THE HON. MR JUSTICE PEPPERALL

1. Jermaine Thomas, you have pleaded guilty to the manslaughter of your own father; the unlawful wounding of another man; a racially-aggravated public order offence; and criminal damage.
2. Two things are abundantly clear. First, you are a very dangerous man. Public protection therefore requires that you should not be released until you no longer pose a threat to other people in the community. Secondly, you are seriously unwell. The issue at the heart of this case is the proper way to protect the public from you.
3. On 5 December 2020, you were living in shared accommodation in Handsworth in Birmingham with, among others, Adam Hannah. In the early evening, you challenged Mr Hannah about some money that you claimed he owed you. A scuffle ensued. You had a pocketknife in your hand with which you wounded Mr Hannah in the area of his neck. Mr Hannah was able to grab your hand and stop any further attack. You returned to your own room and apologised for your actions. You were drunk at the time of this offence.
4. In police interview, you claimed that Mr Hannah had himself drawn a knife. You now accept that that was not true. You pleaded guilty to unlawful wounding on the basis that you recklessly caused Mr Hannah injury.
5. When arrested, you continuously abused PC Hussain calling him a “curry muncher” and a “Paki bastard.” Your racist language continued and escalated inside the police station when you also threatened that you would stab the officer. Further, you spat inside the police vehicle.
6. On 16 July 2021, your father, Berris Thomas, was at home in Wolverhampton when you visited him. After a short argument, you stabbed him to death. The attack was frenzied involving no fewer than ten separate stab wounds to his face, neck and chest. You used at least moderate and approaching severe force in inflicting the most appalling injuries from which death was inevitable. The presence of defensive injuries on your father’s arms reveals that death was not, however, immediate.

7. The court heard a moving tribute from Berris Thomas's sister, Pauline. She spoke of Berris's joy at becoming a father and his love for you. Other witnesses described him as a lovely man who led a humble, ordered and peaceful life. It is plain that Berris was much loved and that his violent death has caused enormous suffering to his family and friends.
8. You are now 24. You have a number of convictions before the Juvenile and Magistrates' Courts for offences of robbery, assault with intent to rob, assault of an officer in the execution of his duty and criminal damage. I have considered psychiatric reports from Drs Meganty, Swarup and Kennedy. It is clear from that and other evidence that you had a difficult childhood. You were taking illicit drugs and playing truant from the age of 12 or 13 and soon became involved in petty crime. You became violent towards your mother and sister. By the age of 14, you were taken into care. You were in and out of care during the remainder of your teens and spent some time living rough. In addition to abusing drugs, you became increasingly dependent on large quantities of alcohol.
9. You are undoubtedly severely ill. Before turning more directly to the psychiatric evidence in this case, the guilty pleas that you have entered and which have been accepted by the prosecution necessarily establish two 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.
 - (b) Secondly, 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.
10. 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 Swarup for the defence and Dr Kennedy for the prosecution but, as they properly recognise, the assessment of retained responsibility is for me. In assessing that issue, I make the following findings of fact:
 - (a) First, there is clear evidence that you were and are suffering from paranoid schizophrenia. You were first diagnosed as psychotic in 2016 when you were prescribed antipsychotic medicine. In 2020 and 2021 you were detained under the Mental Health Act 1983. The 2021 admission followed an attempt to hang yourself.
 - (b) Secondly, I am satisfied that you were severely unwell at the time of these offences. You were psychotic and suffered delusions, including your belief that a disabled man had replaced your family with robots and fed you a cookie that

had caused you to become a robot under his control. Further, there is evidence that you were suffering from auditory hallucinations, in other words that you were hearing voices. Such was your illness at the time of this offence that I accept that your ability to understand the nature of your conduct, form a rational judgment and exercise self-control were each substantially impaired. Consistently however with your guilty plea, I conclude that - whatever your delusional state - you knew that you were killing a human being and not simply an inanimate robot.

- (c) Thirdly, your offending was highly and directly attributable to such mental illness. I accept Dr Kennedy's evidence that you were acting under the "unshakeable conviction" of the delusions.
- (d) Fourthly, your actions in the aftermath of the killing indicated that you knew that you had killed your father. Within one hour of this offence, you told the disabled man who is at the heart of your delusions that you had killed your father because he would not give you a bus or taxi fare home. On the second day after the killing, you texted a friend that you had killed your father. Further, on the fourth day, you called the police to report the presence of a dead body in the flat. I do not accept as genuine your apparent surprise upon your arrest that your father was dead, or your claim in police interview to it being impossible for you to answer questions about the day of the killing because of your poor memory. This was, in my judgment, behaviour designed to minimise your behaviour and was consistent with your previous dishonest suggestion that Mr Hannah had been armed with a knife. Such finding does not, however, undermine my conclusion that your offending was highly and directly attributable to your illness.
- (e) Fifthly, while after your father's death you took his car, his mobile phone, his watch and other jewellery, his television and his bankcard, I accept in view of your disordered thinking that that was not the reason for the killing. Rather, once your father was dead, you helped yourself to this valuable property.
- (f) Sixthly, I find that you had not been compliant with your anti-psychotic medication for some months before killing your father. Further, you abused drugs and alcohol. That said, I accept Dr Swarup's evidence that your then dose of anti-psychotic medicine was too low to offer any meaningful reduction in your symptoms. Further, your treatment in a clinical setting without access to either drink or drugs has not had a substantial impact on your continued severe ill-health. In any event, I accept that you had no real insight into your illness.
- (g) Seventhly, this is not a case where you failed to engage with mental health services.

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

11. 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; unlawful wounding; racially aggravated threatening behaviour; and criminal damage. Further, I have considered the

generic guidelines for totality, dealing with offenders suffering from mental health conditions and guilty pleas.

12. In view of your level of culpability, I take the starting point of 7 years' imprisonment indicated by the manslaughter guidelines. I cannot be sure that your offending was planned and am prepared to accept that this was a spontaneous explosion of violence. Your offending was aggravated by your extreme violence; by your use of a knife; by the commission of this offence in your father's own home at night when he ought to have been safe; by your actions after the killing in taking your father's property and failing to seek any medical assistance or notify the emergency services for 4 days; by your commission of this offence whilst drunk; by your previous convictions; and by your commission of this offence while on bail for unlawful wounding. By way of mitigation, I have of course already taken into account your mental illness at the first stage in determining your culpability. I also take into account the lack of premeditation.
13. Taking into account both the aggravating and mitigating features of your case, the appropriate sentence after trial for the offence of manslaughter would have been 12 years' imprisonment. You are entitled to credit for your late guilty plea. The appropriate sentence for the offence of manslaughter taken in isolation would therefore have been 10 years' imprisonment.
14. I turn then to the offence of unlawful wounding. This was a medium culpability offence in view of your use of a knife. I accept Mr Afzal's submissions that the harm is properly described as category 3. The guidelines for such an offence indicate a starting point of one year and a category range of a high-level community order to 2 years' imprisonment. I take the suggested starting point of one year.
15. The offence was aggravated by the fact that it was committed in drink and by your previous convictions. Having not treated the unlawful wounding as a lesser culpability offence, your mental health condition was a significant mitigating feature. I also take into account your remorse. Taking into account all of the aggravating and mitigating features of the offence, the appropriate sentence after trial would have been 9 months' imprisonment. You are entitled to credit for your late guilty plea at trial and the appropriate sentence is therefore one of 8 months' imprisonment.
16. The offence of racially aggravated threatening behaviour is again a lesser culpability offence in view of your mental illness. The sentence after trial would have been one of 3 weeks' imprisonment for the basic offence of threatening behaviour, but I would double that to six weeks in view of the fact that the offence was racially aggravated. After credit for your guilty plea, the appropriate sentence would be 4 weeks' custody.
17. I would impose no separate penalty for the offence of criminal damage.

18. Sentencing for all of these offences requires, however, the court to consider the principle of totality. Given that the more serious offence was committed while on bail, the sentence for wounding would be served consecutively to the sentence for manslaughter making a total sentence of 10 years 8 months' imprisonment. The sentence for the public order offence would, however, be served concurrently with the wounding sentence.
19. 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 offence of manslaughter is such as to require the passing of a sentence of life imprisonment.
20. 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.
21. 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. Dr Swarup expresses the concern that you are at risk of developing a rebound psychosis if transferred into the prison estate and that, without expert psychiatric assessment, such condition might not be detected or treated with potentially disastrous consequences. Further, he explained to me that the supervision of a patient on discharge from hospital under a ss.37/41 order is far superior to that available on release from prison under a hybrid order.
22. 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. In view of my findings as

to the level of your retained responsibility and the expert evidence before me, I consider that the most appropriate disposal is to make a hospital order under s.37 with restrictions under s.41.

23. I order therefore that you must be returned to a secure mental hospital pursuant to s.37 of the Mental Health Act 1983. Further, I order that 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. Such orders are made concurrently for the offences of manslaughter and unlawful wounding. In the circumstances, I impose no separate penalty for the public order and criminal damage offences.

24. Further, I order that you should pay the appropriate victim surcharge. You may go down.