



IN LEICESTER CROWN COURT

Date: 11 June 2024

Case No: 33JJ2093823

MR JUSTICE CALVER

REGINA

- v -

**NERO MCLEAN
NEVARDO MCLEAN
MOISES STEINER
JAMES WILLIAMS
THEOBALD (THENDO) BUDZWA**

**SENTENCING REMARKS OF THE HONOURABLE MR JUSTICE
CALVER**

Lifting of reporting restrictions

I have to decide, in the light of an application from the Press, whether to lift the reporting restrictions in respect of Nero and Nevardo McLean which I had imposed at the start of this trial under section 45 of the Youth Justice and Criminal Evidence Act 1999 now that they have been convicted. The other defendants are now 18 years old and so the reporting restrictions no longer apply to them.

In deciding whether to impose an order under s.45, the court must balance the public interest in the open justice principle against particular considerations relevant to those under 18. The particular considerations include the duty to have regard to the principal aim of the youth justice system to prevent reoffending by children and young persons; the obligation to have regard to the welfare of the child or young person as required by s.44 Children and Young Persons Act 1933; the right to privacy under Article 8 European Convention of Human Rights and judicial caselaw requiring the ‘best interests of the child’ to be ‘a primary consideration’ (though not necessarily one that prevails over all other considerations) in accordance with Article 3 of the UN Convention on the Rights of the Child.

Neither the principle of open justice nor the best interests of the child necessarily dictate the conclusion in any particular case.

Prior to and during the trial, the welfare of the defendant is likely to take precedence over the public interest in publication, and I considered that to be the case here. However, after a child or young person has been convicted and sentenced, the balance will invariably have shifted in favour of publication, albeit not necessarily decisively so. At this stage – which is the stage we have reached in this trial - the age of the offender and the seriousness of the crime will become

particularly relevant to a determination as to whether to continue the reporting restrictions.

It follows that I must balance the interests of the public in the full reporting of criminal proceedings after conviction of the defendants against the desirability of not causing harm to Nero and Nevardo who are 16 years and 9 months old. In particular publication can have a significant effect on the prospects and opportunities of young defendants and, therefore, on the likelihood of their effective re-integration into society. The court must still give *considerable weight* to this fact: *R (Y) v Aylesbury Crown Court* [2012] EWHC 1140 (Admin) per Hooper LJ at [38]. But I must also take into account the valuable deterrent effect that the identification of those guilty of the serious crimes of murder and manslaughter may have on others.

The onus lies on the party contending for an order restricting publication to satisfy the court that there is a good reason to impose it. It also follows that if a court is considering, as I am, whether to discharge or vary an order already made, then the party who had obtained the order restricting publication must satisfy the court that there remains a good reason not to discharge or vary it.

Mr. Aylett KC and Mr. Rutherford KC has submitted before me that Nero and Nevardo are twins and they will be stigmatised because of the nature of their relationship. Nevardo's improvements might be adversely affected.

I do not consider that [Nero]/Nevardo has discharged the burden of satisfying the court that there remains a good reason not to discharge the reporting restriction in this case. Murder/manslaughter are extremely serious crimes. The assault upon and killing of Junior Osborne in this case was planned, unprovoked and brutal and carried out in a public place. Whilst Nero and Nevardo are under 18, they will in

only 15 months' time become 18 when the reporting restriction will no longer apply. Both of them will clearly still be in custody at that point. Furthermore, the other defendants with whom Nero and Nevardo acted as a group in assaulting Junior Osborne, display a similar level of immaturity to Nero and Nevardo, even if they happen to be slightly older chronologically, and they are not subject to reporting restrictions. To maintain the restrictions for Nero and Nevardo but not for the other similarly immature defendants would be inconsistent and wrong. There is also a valuable deterrent effect that the identification of Nero and Nevardo, who are guilty of the serious crimes of murder and manslaughter respectively, may have on others who are tempted to carry knives in public places as a group or gang. I do not consider that the fact that Nero and Nevardo are twins which might cause them to be stigmatised outweigh these features of the case which favour removing the reporting restrictions.

In all the circumstances I order the reporting restriction imposed in this case under section 45 of the Youth Justice and Criminal Evidence Act 1999 to be immediately lifted.

I now move on to sentencing in this case.

Each of the defendants should stay seated until I tell you to stand.

1. Nero McLean, you have been convicted of the murder of Junior Osborne on 27 September 2023, and Nevardo McLean, James Williams, Moises Steiner and Thendo Budzwa you have each been convicted of his manslaughter on that day, leaving behind family members of Junior whose distress at Junior's death is as understandable as it is profound, not least because it was wholly unprovoked and senseless.

2. It falls to me now to sentence you in the light of the jury's unanimous verdicts at the conclusion of this trial on 14th May 2024. Before sentencing, I say straightaway that no sentence that a court can pass can compensate for the terrible loss of life felt by Junior Osborne's family, including in particular his wife, brother and children, and his friends.

Circumstances of the offence

3. The circumstances of Junior's death at your hands are now well known. Suffice to say that, consistent with what the jury must plainly have concluded given the verdicts which they reached, I am sure that on the afternoon of 27 September and before you all met at around 7.30pm at 3 Andrewes Walk, Leicester, you had all arranged to meet up in order to plan to attack Junior. You, Thendo, had identified the flat as a secluded place for you all to assemble with your knives and plan the attack. At least some of you had been there before, including you, Thendo, and you Nero.
4. You all took steps to be secretive about your plans and to cover your tracks.
5. Moises, you put a new sim card into your handset on the afternoon of the killing. You also wore two pairs of tracksuit bottoms on a hot day so that you could discard one after the attack on Junior, no doubt to avoid forensic detection.
6. All of you took a taxi to the flat at around 7.15pm, with you, Thendo, booking it in a false name. All of you save for Nevarado wore face coverings. You deleted snapchat messages from your phones no doubt to avoid incriminating yourselves. You went in and out of the back window at 3 Andrewes Walk to avoid the CCTV which covered the front door.

7. One of you got rid of the knife which killed Junior. None of you in any way assisted the police throughout their investigation prior to your trial. The sixth member of your group on that fateful night, known as DJ, accordingly remains at large.

8. All of you have either lied consistently throughout or remained silent about your involvement in the relevant events.

9. At the flat shortly before the killing, you filmed yourselves playing with very large knives. Moises and Nero were filmed in the flat in a mock-stabbing to Nero's throat. You were excited, showing off before the attack took place in order to send video clips to your friends. I am sure that at least three of you, being Moises, Nevardo and Nero, brought very large knives with you to the flat as a prelude to the assault on Junior. I am sure that each of you had ready access to these knives whenever you wanted and that you accordingly had them with each of you at all times. Indeed, the Jury's verdicts on Count 3 confirm this fact. I have no doubt that all of you were accustomed to carrying knives with you in private and public and that this was all entirely normal behaviour for each of you, despite the stupidity of it.

10. I do not believe your stories that you left the flat in order to get food or to go home. I am sure that you left the flat, armed with at least 3 knives between you, in order to find Junior and to attack him. Indeed, you filmed yourselves as you made your way to where Junior could be found. Nor do I believe the ridiculous story invented by you, Nero that the older member of the group who has not been caught, DJ, told you that Junior was on his way to rob your group and that you had to stop him, failing which DJ would hurt your family. Nor do I believe that DJ told you that if you stopped Junior

from robbing your group that he would give you money. It *might* have been the case that all of you as a group were promised money if you attacked Junior, but I cannot be sure of that fact in view of the unsatisfactory and unreliable nature of Nero's evidence in this respect. I cannot be sure that this was a killing done for gain and so I cannot sentence on that basis.

11. Unfortunately for each of you, as you made your way as an armed group towards the Narborough Road to find Junior, your conversation was picked up on CCTV audio footage, where you callously and childishly laughed and joked about stabbing Junior and stealing from him drugs and money. Again, you, Nero, came up with a ridiculous story that this was actually a conversation about someone who had assaulted you and your brother four years earlier and that you just happened to be talking about that as you made your way to assault Junior.
12. This conversation took place just 15 minutes before Junior was killed. However, again, I cannot be sure that this conversation demonstrates that this was a killing done for gain, as the Prosecution suggest. This chatter between you all may simply have been misplaced, childish bravado on your part. Moreover, there is no suggestion that any of you did in fact rob or attempt to rob Junior of any of his drugs or money, even assuming that he had any drugs or money on him, as to which there was no evidence.
13. Junior was riding away from all of you on his bike when he was attacked. He was not being in the least bit aggressive towards any of you. Indeed, he was blissfully unaware that this feral pack of youths, with the intention of assaulting him, was inexorably making its way to where he was on the Narborough Road.

14. Nero then sprinted across the Narborough Road towards Junior who was on the other side of the road, about to ride off on his bike, but who had been blocked by DJ on his bike. In the CCTV footage of Nero racing across the road to kill, two small children can be observed playing outside a shop.
15. Nero plunged the knife which he held in his right hand into the right hand side of Junior's neck. The knife cut Junior's jugular vein and split in two his sub-clavian artery. It then entered the right chest cavity, passing through the upper lobe of the right lung before ending in the muscle adjacent to the spine. Dr Hollinbury, the forensic pathologist, said that the force required to inflict this injury was towards the severe end, on a scale of mild/moderate/severe. On any view, it was a brutal, cold blooded killing which took Junior entirely by surprise. Worse still, you, Nero wielded the knife a second time and also sought to chase after Junior as he staggered away a short distance before collapsing and literally bleeding to death. A cruller, more heartless killing, is hard to imagine.
16. By this stage you, Moises, were in the middle of road, having run after Nero (although you lied in your interview about this). Whilst I do not sentence on this basis, it may well be that the reason you had DJ go back to the flat on his bike earlier that evening to fetch your mobile phone was because you wanted it to film the attack, as we know that at 5pm the following day you sent a video clip to someone via snapchat saying "This video shows Junior Osborne lying on the ground".
17. After the killing, none of you called for an ambulance for Junior. Instead, you all ran off together, as a pack, back to your pre-assigned rendezvous at 3 Andrewes Walk. You went in through the back window. Nevarado got lost but eventually made his way back to the same flat. Nevarado asked Ridina

Jozef, who lived at the flat, to look after something for him. She refused. That may well have been the murder weapon which has never been found, although again I do not sentence on that basis. Quite what you all did after the killing and what you did with the murder weapon is a mystery, because those of you who gave evidence each lied or were at the very least coy about what you did and where you went and with whom.

18. In summary, I have no doubt that this was a planned assault, and that each of you were party to that plan, albeit that those of you other than Nero did not intend to kill Junior or cause him really serious harm. It was borne out of an immature desire to prove how “big” you are in your show of knives; whereas your cowardly actions merely showed how desperately selfish and childish you all are. You took the life of an innocent man; and now you have destroyed your own lives, as well as, selfishly and thoughtlessly, the lives of those who loved Junior Osborne, as well as the lives of the people who love you. Your actions give rise only to feelings of contempt for what you did. And you will now have a long period of time in custody to reflect on the terrible damage that you have each inflicted on so many people’s lives.
19. My sentencing in this case must reflect the fact that you, Nero, intended to kill Junior and have been found guilty of an unprovoked and brutal murder using a very large knife. But it must also reflect the fact that whilst the rest of you, unlike Nero, did not intend to kill Junior or cause him really serious bodily harm, acting as a group who set out to carry out an unprovoked attack on Junior on the day in question, each of you nonetheless played an important role in intentionally encouraging and assisting in an attack by Nero and any reasonable person would have realised that as a result Junior might suffer some physical harm. Your story that you did not know that

Nero was going to assault Junior and that his assault took you all by surprise is, I am sure, false and an attempt to save your own skins. Whilst you did not intend Nero to kill or cause really serious harm to Junior, tragically for Junior and his family, the harm inflicted upon him by Nero *was* so serious that he lost his life. It should be a sobering thought for each of you that that would not have happened – and you would not now be about to be sentenced to a term of imprisonment for manslaughter - had you refused to have anything to do with the playing with and carrying of large knives on 27 September 2023 or indeed, at all.

Sentence

20. It is against that factual background that I come now to address the matter of sentence in each of your cases.
21. The case was adjourned for sentence to today, the 11th June 2024. I ordered Pre-Sentence Reports for each of you to be prepared before sentence and the court received them on 4 June 2024. They are extremely helpful and I have read them carefully. I have also read the very helpful sentencing notes provided to me by the Prosecution and counsel for Nevardo, Moises and James and I have listened carefully to the helpful and skilful submissions in mitigation of all of your respective counsel on your behalves.
22. I have also read the very moving victim impact statement of Julie Osborne, who is Junior Osborne's wife. It is important that each of you should have heard and understood something about the man who was killed by reason of your criminal conduct; about the life of the man which you ended at such a young age. Junior was a husband, a much-loved father, brother, and stepfather. As Julie says, because of the callous killing of Junior, Junior's children will never get to see their father again. He will never get to see his

daughter graduate, walk her down the aisle or see their careers blossom or become a grandfather. That is what you have so cruelly taken from him.

Ages of the Defendants

23. So far as your ages are concerned, Nero and Nevarado McLean, you were born on the 26th September 2007 and were therefore 16 (by just 1 day) on the 27th September 2023. You are now still aged 16.
24. Moises Steiner, you were born on the 4th November 2005 and you were therefore 17 on the 27th September 2023. You are now aged 18.
25. James Williams, you were born on the 27th August 2005 and were therefore 18 (and 1 month) on the 27th September 2023. You are now still aged 18.
26. Thendo Budzwa, you were born on the 21st January 2006 and were therefore 17 on the 27th September 2023. You are now aged 18.

Findings of guilt in this case

27. You, Nero McLean were found guilty of Murder (Count 1 on the Indictment). You had already entered guilty pleas to Manslaughter (count 2) and to Having an article with a blade or point (Count 3). The rest of you were all convicted of Manslaughter (Count 2) and Having an article with a blade or point (Count 3).

Previous convictions

28. It is clear that your carrying knives with you in this case is not an isolated incident.

29. Nero, you have one previous conviction on 26/06/23 for two offences: Possession of a knife and a section 4 Public Order offence. This offence was committed with James. The footage was played to the court during the course of the bad character application; you had a very large knife in a public place which was used in a threatening way towards other young men. You committed your offences in this case whilst subject to the 12 month referral order that was imposed upon you for that offence just 3 months earlier.
30. Nevardo, you have one previous conviction on 22/05/23 for possession of a knife. you committed this offence whilst subject to the 10 month referral order that was imposed upon you.
31. Moises, you have one previous conviction on 4/9/23 for possession of a knife in a private place. You committed this offence whilst subject to the 6 month referral order that was imposed upon you. You also have cautions for drugs and common assault in 2022.
32. James, you have one previous conviction (26/06/23) for two offences: Possession of a knife and a section 4 Public Order offence. This offence was committed with Nero. Again, the footage was played to the court during the course of the bad character application; you were wielding the very large knife in a threatening way at other young men. You committed this offence whilst subject to the 12 month referral order that was imposed upon you.
33. Thendo, you have no previous convictions, although there is a reprimand for Possession of a knife in July 2022.

34. It is a depressing fact that clearly none of you has to date been wise enough to have learned the lesson that the carrying of knives in public is mindless, dangerous behaviour which will in every case be punished robustly by the courts, although Nevardo says that he has now learned this lesson. It is to be hoped that all of you will do so in order to make something of your lives going forwards.

Nero

35. I shall deal with you, Nero, first, as you have committed the most serious of all offences – the offence of murder.
36. You had just turned 16 at the time of the offence. Where a person under the age of 18 at the time of his offence is convicted of murder, the court is required to sentence the offender to be detained during His Majesty's pleasure under section 259 of the Sentencing Act 2020. That is a mandatory life sentence for offenders who commit the offence of murder when they are a child. That therefore is the position in your case.
37. In such a case, the Court is required by s. 322 of the Sentencing Act 2020 to determine the minimum term to be served by the offender, taking into account the seriousness of the offence. To be clear, by this is meant the minimum term which must elapse before an offender can be released on licence. In doing so the court must have regard to the general principles in Schedule 21 of the Sentencing Act 2020 and follow any relevant guidelines which are not incompatible with the provisions of that schedule. For children, this includes Sentencing Council Guideline: Sentencing Children and Young People, especially section 4.

38. 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 you may therefore be recalled to continue your life sentence. It is in these ways that a life sentence protects the public for the future.
39. Schedule 21, paragraph 5A, prescribes different starting points for the minimum term in different situations for those under 18 years of age at the date of commission of the offence.
40. I am sure that you intended to kill Junior, such was the ferocity of your attack and I do not accept Mr. Aylett KC's submission to the contrary. But I do not accept the Prosecution submission that this was a murder done for gain, such that the starting point for the minimum term is 20 years. Rather, this case falls into Paragraph 4 of Schedule 21 of the Act, because you, Nero, took a knife or other weapon to the scene intending to have it available to use as a weapon, and used that knife or other weapon in committing the murder.
41. The starting point in determining the minimum term is accordingly 17 years. Mr. Aylett KC agrees that this is the relevant starting point.
42. Having identified the respective starting point for the minimum term you shall serve, I next take account of the aggravating and mitigating factors of your offence (to the extent that I have not allowed for them in my choice of

starting point), in arriving at what I consider to be the appropriate sentence. Paragraphs 9 and 10 of Schedule 21 lists on a non-exhaustive basis a number of such factors, including the age of the offender.

43. I turn first to the aggravating features in this case. In my judgment they are as follows:
- (1) A significant degree of planning or premeditation in the killing of Junior;
 - (2) The killing took place at night, in a public place, with children present;
 - (3) You attempted to conceal your identity with a face covering;
 - (4) The killing took place as part of the group and you hunted down Junior Osborne;
 - (5) The significant level of force used by you in the attack on Junior;
 - (6) You disposed of the murder weapon;
 - (7) The fact that just 3 months earlier you had been convicted of possession of another very large knife and a section 4 Public Order offence, and that you committed this offence whilst subject to the 12 month referral order that was imposed upon you.
44. So far as mitigation is concerned, your young age at the time of the offence is, in particular, a mitigating factor. You had only turned 16 by one day. I also take into account in particular the Sentencing Council Guideline for Sentencing Children and Young People and the Children and Young People in the Crown Court Bench Book (including the Youth Guideline at paragraph 17). I recognise that your obvious lack of maturity can impact upon your decision making and risk taking behaviour as a young person. I therefore have to assess the extent to which your young age and lack of maturity reduced your culpability in committing the murder.

45. As for that, you displayed a significant lack of emotional and developmental maturity, not only in respect of the relevant events with which this trial was concerned but also during the trial itself. Indeed, you have continued at times to display an immature, disruptive and aggressive attitude whilst on remand at Werrington Young Offenders' Institute. Whilst I consider that the assault on Junior was planned, your decision to sprint across the road and to kill Junior had the hallmarks of an immature, impulsive act on your part. I also take into account that, as part of your immaturity, you were clearly susceptible to negative peer pressure and it seems possible at least that you were vulnerable to being swayed by DJ as a much older man.
46. Furthermore, I have noted the contents of the pre-sentence report in your case which states that you have accessed the Leicester Social Care system as a result of domestic abuse and lack of parental care (from your father), and that you have social, emotional and mental health needs, including a diagnosis of ASD (Autism Spectrum Disorder). These are further external factors which I consider are likely to have affected your behaviour on 27 September.
47. I heard Mr. Aylett KC read out your letter in which I accept that you make a genuine, albeit belated, expression of remorse.
48. I also take into account that you did at least plead guilty to the count of manslaughter.
49. There is other mitigation and I take it all into account.

50. I recognise that, having taken into account all of these aggravating and mitigating features of your offence, I should then impose the least possible minimum term which is consistent with your welfare and rehabilitation needs.
51. In your case your lack of maturity does not, in my judgment, outweigh the seriously aggravating features present in your case which I have summarised. I am, however, willing not to increase your sentence above the starting point by reason of your lack of maturity relative to your chronological age and your welfare and rehabilitation needs.

Stand up please Nero McLean

52. I will now explain to you in plain English what this means for you.
53. The sentence for murder is fixed by law. This means there is only one sentence I can give you. For a person your age it is called detention during His Majesty's Pleasure. This is a custodial sentence. This means that instead of going home today you will go to a secure place. You will not be allowed to leave that secure place until you are told you can.
54. I have to decide the shortest length of time you must stay in custody. This is called a minimum term.
55. Having regard to all the aggravating and mitigating features in your case, I sentence you in respect of the murder of Junior Osborne to a sentence of detention during His Majesty's pleasure, with a minimum term of 17 years before the Parole Board may consider your possible release.

56. I am told that you have already spent [253] days in custody before you came to court today (this is called being on remand). This means I take those days away from the minimum term – the shortest amount of time you have to be in custody. The minimum term is made less and is now [16] years and [112] days: this is the same as [16] years and nearly [4] months. Any mistake as to time on remand can be corrected without you having to come back to court.
57. The Parole Board are a group of people who decide if it is safe for a person to leave custody. After you have spent [16] years and [112] days in custody they will decide if you can leave then or not. If they decide it is not safe, then you will stay in custody for a longer time. When you do leave custody, you will be on licence for the rest of your life. This means that there are rules, or conditions, that will be decided when you leave custody. You will have to follow those rules for the rest of your life. If you break those rules you may have to go back into custody.
58. On count 3 to which you pleaded guilty, having a bladed article in a public place, because this was the knife with which you killed Junior Osborne and I have already sentenced you to a minimum term of 17 years (less time spent on remand) as a result of the much more serious crime of murder, I consider that I am justified, exceptionally, in imposing no separate penalty for this offence. This is despite the fact that this is your second such offence, with the offences committed within 3 months of each other and which offence would accordingly, absent the exceptional circumstances in this case, have been subject to statutory minimum sentencing provisions. I also consider that it would be unjust, looking at your total sentence, to impose any further penalty for this offence. What this all means is that your

conviction on this count will not lengthen the minimum term that I have already imposed upon you of 16 years and 112 days in custody.

59. Finally, in view of the sentence which I have imposed for murder, I revoke your referral order which was imposed for your conviction on 26 June 2023.
60. I should also make it clear that the appropriate victim surcharge will also be payable by you.

Please go with the dock officer.

Nevardo

I turn next to sentence you, Nevardo McLean.

61. You have been convicted of manslaughter (count 2) and having a bladed article in a public place (count 3).
62. Like your twin brother, Nero, you too had just turned 16 at the time of the offence and you are currently still 16 years of age.
63. Section 250 of the Sentencing Act 2020 provides this Court with the power to order detention of a person under the age of 18 for more than two years where they are convicted of an offence punishable in the case of a person aged 21 or over with imprisonment for 14 years or more. Manslaughter is such a case.
64. Mr. Rutherford KC agrees with the Prosecution that category B is the appropriate bracket to apply in terms of sentencing you for your manslaughter conviction, albeit at the lower end of the scale. I agree that your offence of manslaughter is a category B case; indeed I consider that to be so for each of the defendants convicted of manslaughter. 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. Setting out as part of a group at night, armed with knives, to assault a victim clearly falls within that definition. That means a sentencing starting point *for an adult* of 12 years' custody and a range of 8-16 years custody.

65. In your case there are several seriously aggravating features of your offence as follows:

- (1) The death occurred in the context of an offence which was planned or premeditated, with Junior Osborne being hunted down;
- (2) You were one of three defendants who brought a knife with you to the flat and you had with you a knife as you set out to find Junior.
- (3) The offence took place at night, in a public place, with children present;
- (4) You played your part in the disposal of the murder weapon;
- (5) The fact that just 4 months earlier you had been convicted of possession of a knife and that you committed this offence whilst subject to the 10 month referral order that was imposed upon you. That referral order has now concluded.

66. Because you are just 16 years old, in sentencing you I must pass the shortest sentence possible commensurate with the seriousness of the offence. However, this was a very serious offence.

67. The mitigating factors in your case, as have been eloquently summarised by Mr. Rutherford KC on your behalf, are as follows:

- i) Your diagnosis of autism clearly impacts upon your poor decision making skills as well as his lack of cognitive ability (as confirmed in your PSR).

- ii) Your obvious immaturity over and above your chronological age, as evidenced both by the relevant events and by your immature behaviour during the trial.
- iii) You are clearly susceptible to negative peer pressure and it seems likely that you were vulnerable to being swayed by DJ as a much older man.
- iv) You have expressed remorse for the victim and his family.
- v) the efforts you are making to self-improve in custody, most notably as regards both education and behaviour (details of which are evidenced in the PSR). You are clearly a bright young man and it is thoroughly depressing that you find yourself in this situation.

68. I have also read your letter to me. I was pleased to see that you have been using your time constructively in full time education (which is supported by the author of your PSR) and to reflect on the wrong turn that your life has taken. Your letter showed a commendable absence of self-pity as Mr. Rutherford KC said on your behalf. You have a choice to make now: and it is to be hoped that the choice you make is that this is to be a turning point in your life and that you will leave behind the days of knives and bravado and instead use your obvious potential to make something of your life. I hope and trust that you are genuine in saying that you now understand the dangers of carrying knives in the community and the negative impact of doing so on families and individuals, and how a young person, thinking of carrying a knife, should not do so. As you eloquently put it, they should choose a life and not a knife. I also note that you want to express your deep sorrow to Junior's family for your involvement in the taking of his life.

69. But as of today, I have to decide what is the lowest sentence that is right for you. The category starting point is 12 years for an adult. I consider that

there are significant aggravating features in your case (which I have identified) but also significant mitigating features, particularly your lack of maturity relative to your chronological age, your autism and your childhood experiences, which cancel out the aggravating features. This is nonetheless a very serious offence. In view of the seriousness of your offence, I consider that you should serve two-thirds of the sentence that I would have imposed on you had you been an adult, which would have been 12 years.

Stand up Nevardo

Count 2: Manslaughter

70. So what does this mean in plain language? It means that I have decided that for your conviction of manslaughter, I must sentence you to custody for eight years. This is called long-term detention under section 250 of the Sentencing Act. This means that instead of going home today you will go to a secure place. You will not be allowed to leave until 2/3rds of the way through your sentence. This means you will not be allowed to leave for 5 years and 4 months.
71. I am told that you have already spent [253] days in custody for this offence (this is called remand). Those days count as part of your sentence. Those [253] days will be taken from the eight year sentence. This means that you have [7] years and 112 days of your sentence left, that is 7 years and nearly 4 months. Any mistake as to time on remand can be corrected without you having to come back to court.
72. Now I will tell you the reasons why I am giving you this sentence. I thought about a lot of different things to help me decide what sentence to give you. These are explained in some guidance used by judges called the Sentencing

Council Guideline for Sentencing Children and Young People and the Children and Young People in the Crown Court Bench Book. I have thought carefully about the things in that guidance. As I have already explained, I have also taken account of the adult sentencing guidelines for unlawful act manslaughter, which is your offence. I have to think about you and your situation and the help that you need. I have to think about what is best for you; this is because I have to have regard to your welfare. I also have to think about what will help prevent you – stop you – from committing more crimes and what will help you to play a positive part in your community when you are let out of custody. I thought carefully about all of the information I heard about you, and that I read in the Pre-Sentence Report. In particular, I thought about your autism and the effect that has on you, your lack of maturity and your family background. I have thought carefully about your young age. You are *still* young, but what you did was very serious indeed. There were two other sentences I could have given you. The first is called a Youth Rehabilitation Order. The second is called a Detention and Training Order. But what you did was very serious and neither of those sentences would be right for you. Custody is the only sentence that I can give you.

73. I am now going to make sure that you clearly understand what this sentence means for you. Because your sentence is eight years, as I have said you will have to stay in custody for 2/3rds of that time, which is 5 years and 4 months, although you have already been in custody for 253 days which counts towards that. You will be 20 before you can leave custody. After you leave, you will be on licence until the end of the eight years. Being on licence means that there are conditions – these are rules – that you will have to follow. If you break any of those rules you may have to go back to custody for the rest of your sentence, or for some of it.

Count 3: Having a bladed article in a public place

74. Finally, on Count 3, having a bladed article in a public place, I am going to impose no separate penalty. I consider the fact of your conviction for the much more serious crime of manslaughter and the sentence which I have imposed for it, which already takes account of the fact that you had a knife with you, as well as your young age and lack of maturity, exceptionally justify the court in not imposing a separate sentence for the serious offence of carrying a knife in public. This is despite the fact that this is your second such offence, with the offences committed within 4 months of each other, and so this offence would otherwise have been subject to the statutory minimum sentencing provisions. I also consider that it would be unjust, looking at your total sentence, to impose any further penalty for this offence. What this all means is that your conviction on this count will not lengthen the sentence that I have already imposed upon you of 8 years.

You may go with the dock officer

The remaining defendants

75. So far as the remaining defendants are concerned, that is you Moises, James and Thendo, you too have each been convicted of manslaughter (count 2) and having a bladed article in a public place (count 3).

Manslaughter (count 2)

76. All three of you are now aged 18. However, at the time when you each committed these two offences, Moises was 17 years and 10 months old (DOB 7/11/05); James was 18 years and 1 month old (DOB 27/8/05) and Thendo was 17 years and 8 months old (DOB 21/01/06). I agree with the Prosecution that, putting Nero to one side, there is no reason to differentiate between the rest of you in terms of the assessment of your culpability and harm.

77. I bear in mind, as Mr. Bhatia KC said, none of you acted as principals but rather as secondary parties in respect of your offences. However, I am firmly of the view that Category B is the appropriate bracket to apply in terms of sentencing each of you for your manslaughter conviction, as it is in the case of Nevardo. 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. That means in your cases, according to the Sentencing Council Guidelines for unlawful act manslaughter, a sentencing starting point of 12 years' custody and a range of 8-16 years custody.
78. In each of your cases there are several *aggravating features* of your offence as follows:
- (1) The death occurred in the context of an offence which was planned or premeditated, with Junior Osborne being hunted down;
 - (2) You had a knife with you as you set out to find Junior.
 - (3) The offence took place at night, in a public place, with children present;
 - (4) You each wore masks;
 - (5) You played your part in the disposal of the murder weapon;
79. In addition, in your case Moises, I am sure that you brought one of the three knives to the flat. You also wore two pairs of tracksuit bottoms as a means to avoid detection. Furthermore, just 3 weeks before you committed this crime, you were convicted of possession of a knife in a private place. You committed this offence whilst subject to the 6 month referral order that was imposed upon you, which I understand had not even commenced when you committed the present offence.
80. In your case James, just 3 months earlier you had been convicted of possession of another very large knife and a section 4 Public Order offence,

and that you committed this offence whilst subject to the 12 month referral order that was imposed upon you.

81. And in your case Thendo, you have a reprimand for possession of a knife in July 2022.
82. There are, however, very significant mitigating factors in each of your cases as well, particularly so far as your young age, your maturity relative to your chronological age and further personal mitigation is concerned.
83. In this regard, I shall summarise this personal mitigation in each of your cases in turn.

Moises

84. I have read and taken into account the Pre-Sentence Report in your case, Moises, and the note on sentencing provided by your counsel. I take account of the domestic abuse that you suffered from an early age from your mother's partners when you were growing up; the fact that you never met your father and that your relationship with your mother broke down when you were only 11. You then lived with your grandparents but in 2022 you were taken into care. Since that time it appears that you have been exploited by various criminal gangs. There is no doubt that your early life has been traumatic, with an absence of positive adult role models. These are all external factors which I consider are likely to have affected your behaviour in this case.
85. They have led to your obvious vulnerability as well as your immaturity over and above your chronological age, as evidenced by the relevant events in this case. I consider that you, too, are clearly susceptible to negative peer

pressure and it seems likely that you too were vulnerable to being swayed by DJ as a much older man.

Thendo

86. I have read the Pre-Sentence Report in your case Thendo. I take account of the following by way of mitigation. You have no previous convictions and you have shown some remorse for the killing of Junior. You are clearly highly vulnerable and open to influence by others. In the past, you have been exploited by criminal gangs and indeed subject to modern day slavery. You have had a difficult childhood, sometimes living apart from your mother and with no contact with your father, and frequently living in temporary housing. This has led you to be subject to an Interim care Order by your local authority. These are all external factors which I consider are likely to have affected your behaviour in this case. All of this has led to your obvious vulnerability as well as your immaturity over and above your chronological age, as evidenced by the relevant events in this case.

James

87. I have read and taken into account the Pre-Sentence Report in your case James. I have also read and taken into account the extremely helpful sentencing note of Ms Prior KC and Ms Saudek on your behalf and listened to their submissions on your behalf. I take account of the following by way of mitigation. You have shown some remorse for the killing of Junior. You did not try to dispose of your mobile phone after the killing.
88. Moreover, you had a traumatic childhood of neglect and abuse. From a young age you were the subject of abuse by your mother who had alcohol problems and other forms of abuse by others. When aged 12-13 you were stabbed to the head when someone attempted to steal your phone; you

friend was stabbed and killed when you were 15. At the age of 14 your father obtained sole custody of you and you lost all contact with your mother. You have suffered from depression from a young age. These are all external factors which I consider are likely to have affected your behaviour in this case. Your willingness to become involved in these events with an immature, knife carrying peer group, as well as your previous conviction displays a significant lack of maturity on your part, over and above your chronological age.

All defendants: dangerousness

89. I add that since the offence of manslaughter is a specified offence under schedule 15 of the Criminal Justice Act 2003, and is considered to be a serious offence as defined by section 306 of the Sentencing act 2020, I have considered in each of your cases whether to make an assessment of dangerousness. I have decided that I should not make such an assessment in any of your cases. I do not consider, particularly having taken into account the pre-sentence reports in each of your cases, that there is a significant risk that: (1) any of you will commit further specified offences; and (2) by doing so will cause serious physical or psychological harm to one or more people.

Sentence

90. In the light of all these features, I now have to decide what is the lowest sentence that is right for each of you as individuals and which is commensurate with the seriousness of the offence. As in the case of Nevardo, I thought about a lot of different things to help me decide what sentence to give each of you. Although you are all now 18, two of you were 17 when you committed the offence and you James were only just 18. I consider therefore that in your cases as well, although you are now all 18

years old, I must have regard to the guidance given to judges in the *Sentencing Council Guideline for Sentencing Children and Young People* and the *Children and Young People in the Crown Court Bench Book*. I have thought carefully about the things in that guidance and I must reflect this in sentencing you. I have also taken account of the sentencing guidelines for unlawful act manslaughter, which is your offence. I have to think about your welfare. I also have to think about what will help prevent you – stop you – from committing more crimes and what will help you to play a positive part in your community when you are let out of custody.

91. I have also thought carefully about all of the information I heard about you and that I read in each of your Pre-Sentence Reports, including the matters that I have already spoken about by way of your personal mitigation. These mitigating features in each of your cases have, I consider, broadly affected your levels of culpability equally. All of this information has persuaded me that, although your offences are very serious, your sentence should take account of each of your low levels of maturity and vulnerability at the time when you committed the offence, which bear upon your degree of culpability and that I should not simply sentence you as though you were adults, by reference solely to adult sentencing guidelines.

92. The offence which each of you committed is so serious that only a custodial sentence can be justified. The category starting point in the adult sentencing guidelines for unlawful act manslaughter is 12 years for an adult and you are all now 18 years of age and therefore adults. However, whilst I consider that there are significant aggravating features in each of your cases (which I have identified) there are also significant mitigating features in each of your cases, particularly your young age, your lack of maturity relative to your chronological ages and your individual, traumatic childhood

experiences, which in each of your cases I consider cancel out the aggravating features. That therefore brings me back to the sentencing starting point of 12 years according to the adult sentencing guidelines. However, I do not consider it is appropriate to sentence you as adults as I have explained; rather in all the circumstances I consider that your sentences should be in the range of 2/3 of the adult sentencing guidelines.

Will you each stand up, Moises, James and Thendo

93. In all the circumstances, I consider that the least possible sentence for the offence of manslaughter which I can impose in each of your cases, having regard to the seriousness of the offence, is one of 8 years' imprisonment.
94. That is, of course, the same sentence that I imposed on Nevardo, which I consider to be appropriate as I do consider that you are all equally culpable. Although Nevardo is, chronologically, between 18 months and 2 years younger than the rest of you, I consider that the emotional and development age of each of you is similar; you are all similarly immature relative to your chronological ages and that you were all subject to peer pressure to the same extent. Indeed, that is no doubt why you were all friends and why you met, played and committed crimes together as a group on the night in question.
95. So far as time in custody is concerned, taking each of you in turn:

Moises

96. I am told that you have already spent [253] days in custody for this offence (this is called remand). Those days count as part of your sentence. Those [253] days will be taken from the eight year sentence. This means that you

have [7] years and 112 days of your sentence left. Any mistake as to time on remand can be corrected without you having to come back to court.

James

97. I am told that you have already spent [253] days in custody for this offence (this is called remand). Those days count as part of your sentence. Those [253] days will be taken from the eight year sentence. This means that you have [7] years and 112 days of your sentence left. Any mistake as to time on remand can be corrected without you having to come back to court.

Thendo

98. I am told that you have already spent [188] days in custody for this offence (this is called remand). Those days count as part of your sentence. Those [188] days will be taken from the eight year sentence. This means that you have [7] years and 177 days of your sentence left. Any mistake as to time on remand can be corrected without you having to come back to court.
99. You will each be released from custody no later than two-thirds of the way through your sentence, namely after 5 years and four months - although you have already been in custody for 253 days (in your cases Moises and James), which is about 8 ½ months; and 188 days (in your case Thendo), which is about 6 1/3 months, which count towards that - and the remainder of each of your sentences of 8 years 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.

Count 3 (having a bladed article in a public place)

100. On count 3, having a bladed article in a public place, in view of your convictions of manslaughter and the related circumstances of that offence with this, I am going to impose no separate penalty in each of your cases. I consider the fact of your conviction for the much more serious offence of manslaughter and the sentence which I have imposed for that offence, which already takes account of the fact that you each knives with you as well as your young age and lack of maturity, exceptionally justify the court in not imposing a separate sentence for the serious offence of carrying a knife in public. This is despite the fact that, in your case James, this is your second such offence, with the offences committed within 3 months of each other, and so this offence would otherwise have been subject to the statutory minimum sentencing provisions. I consider that it would be unjust in each of your cases, looking at your total sentence, to impose any further penalty for this offence. What this all means is that your conviction on this count will not lengthen the sentence that I have already imposed upon you of 8 years.
101. Finally, I revoke the 6 month referral order in Moises' case and I revoke the 12 month referral order in James' case.
102. I should also make it clear that the appropriate victim surcharge will also be payable by each of you.

Each of you may go with the dock officer

Postscript

103. I would like to mention two final things. First, I find it astonishing in the light of the alarming rise in knife crime in our cities, that a shop in Leicester

was prepared to sell the murder weapon in this case, being a very large knife, to a 16 year old boy. Those retailers who choose to turn a small profit by selling large knives like the one in this case to children under the age of 18, turning a blind eye to the safety and lives of others, need to know that the full force of the law will come down on them to punish their disreputable behaviour. Prosecutions should, if at all possible, follow as night follows day, in such cases. Whoever sold the knife in this case to Nero should have the taking of Junior Osborne's life forever on their conscience.

104. Second and last, I would like to place on the record, at the conclusion of this case, the Court's gratitude for the outstanding professionalism shown by the Crown Court staff, the 12 advocates before me, and the Leicestershire Police and the East Midlands Special Operations Unit. I wish to commend in particular DC David Masters – OIC; DC Richard Gamage - CCTV officer; DC Zoe Stowell - disclosure officer, DS Mark Wesley and DI Mark Parish - supervising officers and Mary Beck - the police analyst.
105. An enormous amount of hard work and experience has gone into the preparation for, the running of, and the skilful and fair presentation of this complex murder trial and each and every one of them is to be highly commended.

Mr Justice Calver:

11 June 2024