



JUDICIARY OF  
ENGLAND AND WALES

**IN THE CROWN COURT AT WORCESTER**

**THE KING**

**— v —**

**ANTHONY ROBERTS**

**SENTENCING REMARKS OF THE HONOURABLE MRS JUSTICE ELLENBOGEN DBE**

**10 OCTOBER 2023**

**The provisions of the Sexual Offences (Amendment) Act 1992 apply to the offences to which these sentencing remarks relate. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall, during that person's lifetime, be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the 1992 Act.**

Anthony Roberts,

1. At your plea and trial preparation hearing, on 30 August 2023, you were arraigned and pleaded guilty to offences of attempted murder; assault by penetration; and having an article with a blade or point in a public place. It is my duty to sentence you for those crimes.

## The offences

2. On 7 May 2023, at approximately 1:30am, your victim, then aged 71, to whom I shall refer as Ms A, was walking home from Worcester city centre. She had walked part of the way with a friend, but they had separated shortly before Ms A was to encounter you. It was a route which she had taken many times, without any concern for her safety, and she made sure that she kept to areas which were well lit. As she walked along the riverside footpath, she saw a man whom she thought to be acting strangely. He appeared to be lurking and had removed his top. That man was you, a stranger to her. Ms A quickened her pace, but, as she passed you, she felt an arm come up from behind her, across her throat. You told her, *'I'm going to kill you'*, and called her a *'whore'*, continuing with a tirade of further abuse. You then subjected her to a brutal, sustained and ferocious attack, which has had life-changing consequences for her, to which I shall come. You pummelled her, on her head and body. She tried to fight you off, but could feel that you had a sharp implement, with which you began to stab her, again to her head and body.
  
3. Ms A told the Police that she could not begin to describe the sheer terror which she felt. You pushed her against the river wall, with a force which caused her to fall to the ground. You then pinned her down, with your full weight on her lower legs. She could not move. She tried screaming for help and told you, *'I'm a 71 year old pensioner... What have you got against me? I'm a 71-year-old grandmother; why would you want to kill me?'* She thought that she was going to die. She tried to appeal to your humanity, by telling you that she had throat cancer, at which you laughed and said, *'What do I care?'* You continued to refer to her as a *'whore'*, a *'bitch'*, and a *'tramp'* and the level of your violence increased. When Ms A screamed, you told her, *'No-one will hear you, or help you.'* You then slashed her clothes and stabbed her countless times, in a frenzy, with a kitchen knife which had a five-inch blade, apparently aiming for her head and chest area. Despite her best efforts to fight you off and to grab the knife from you, you persistently overpowered her. At one point, Ms A attempted to use her mobile telephone to call the Police, but there was so much blood on her hands that it slipped from them. You told her, *'No-one will come; you are wasting your time'*, before taking her telephone and throwing it in the river, saying, *'I told you; you're wasting your breath...It's gone now. No-one's coming.'*

4. Whilst Ms A was still on the ground, you tore at her clothes, before stabbing her face, in a way which she described as 'hacking'. Throughout this time, she continued to scream and shout, in the hope that someone would hear her. She described your apparent gain in determination, momentum and confidence, as you inserted the knife to increasing depth, and bit her chest and breasts. Ms A was petrified and believed that you were going to kill her, though you appeared to be taking your time to do so and to be deriving pleasure from your actions, telling her, *'If you let me rape you, I will let you live.'* You then moved the knife into your other hand, so that you could use your original hand to take her trousers and pants down, exposing one of her buttocks. You inserted your fingers into her anus, whilst telling her, *'Let me rape you, and I won't kill you.'* Ms A continued to scream and shout for help, and you mocked her, saying, *'It's no good screaming and shouting; no-one's gonna help you.'*
5. In fact and mercifully, Ms A could then hear footsteps and knew at that point that help was coming. A witness described her screams as *'deathly'*. He observed you kneeling over her on the ground, stabbing her *'continuously'*. He called the Police, who arrived within minutes, at a time when your attack was ongoing. You were shirtless and covered in blood. As the officers approached, you ran away, still holding the knife. They pursued you and repeatedly told you to drop the knife, which you did when threatened with a Taser. You were arrested.
6. A subsequent search of your flat revealed an open, near empty, 35cl bottle of vodka; a note pad which contained references to sexual chat rooms; pornographic sexual chat; a list of films having extreme sexual content, or entailing violence towards women, consistent with certain films also found at your address; two further notepads, containing notes to the effect that you did not trust authority, especially women. One such note read, *'I'm ready to go. They (women) all deserve to get what's coming to them. Good for nothing. Don't trust anyone especially authority. Women are always making fun of me.'* Amongst other items found on your telephone were multiple video files having pornographic and violent content, including those with titles such as 'Gang Rape Death Wish'; 'Raped During Party'; and 'Violent Interrogation and Torture'. Multiple searches, including those for 'forced rape', 'gang rape'; 'rapist'; and 'torture' had been made.
7. In circumstances to which I shall come, you were recalled to prison, having previously been released on licence for offences which included attempted murder and wounding

with intent to do grievous bodily harm, where you have since remained. Since 8 May 2023, you have also been remanded in custody in connection with the offences for which I now sentence you.

### **Ms A's injuries**

8. Ms A was taken to Queen Elizabeth Hospital Major Trauma Centre, in Birmingham. One of the paramedics who attended the scene stated that he had thought that Ms A, *'was going to die from the sheer amount of stab wounds and because of her age. Any one of those wounds inflicted on her could have been one millimetre to either side and it would have caused her to die immediately'*. As recorded in a statement provided by Mr Alastair Marsh, Consultant Orthopaedic and Trauma Surgeon, on 30 June 2023, Ms A had sustained over 50 stab wounds, of various lengths and depths, to her face; neck; back; chest; abdomen; and legs. A CT scan revealed air in the soft tissues around her right eye and in her eye socket, as a result of a penetrating injury. There was air in the soft tissues around the back of Ms A's skull and neck. There were penetrating wounds to her right and left cheeks; to the left and right of her upper chest, which had penetrated the chest cavity, causing a collapse of both lungs, with some blood in the chest cavity; to the left kidney, causing bleeding around the kidney, at the back of the abdomen; at the back of her spine, with bruising and swelling; multiple neck wounds, the most significant of which measuring approximately four centimetres; a deep cut in front of her right ear, exposing fat or gland tissue; cuts to the right forehead, right chin, both hands and left elbow; and over 50 cuts across her right buttock, flanks and back. I have seen photographs of a number of those injuries.
9. On the day following your attack, Ms A endured a 10-hour operation, in which all lacerations were explored and closed. A chest drain was required, to re-inflate her lung. Two days later, the drain was removed; Ms A had a blood transfusion; and she was moved from intensive care to the ward, from where she was discharged, on 2 June 2023; just short of four weeks after your attack. A consultant in rehabilitation medicine considered that she was then suffering from an acute trauma reaction, causing disordered sleep; difficulty concentrating; and loss of short term memory. She had a persistent headache and dizziness with nausea, all to be expected after an assault following which she had lost consciousness and had had a period of low blood pressure. In Mr Marsh's stated opinion, Ms A will have lifelong scars and could have psychological injury, as well.

## **Victim Impact**

10. With tremendous fortitude and poise, Ms A chose to read her own victim personal statement. She spoke of the way in which you have fundamentally changed her life. She described, movingly and without self-pity, the independence which she had enjoyed prior to your attack and how active her life had been. She had enjoyed a full and active social life, had volunteered for charitable activities and had been recognised for her volunteer work in the community. As a result of your barbaric attack, she has become confined to her home, unable to go anywhere unaccompanied. Her severe concussion and other injuries preclude her from driving, thereby removing her ability to participate in any of the activities from which she formally derived pleasure. All spontaneity has gone from her life. She is unable to manage basic housekeeping activities and is wholly reliant upon the availability and goodwill of family and friends. At your hand, she has sustained concussion; numbness; deterioration in her eyesight and memory; dizziness; and ear and kidney pain. In addition to the disfiguring physical scars which she bears, to her face, neck, chest, arms and hands (which cause people to stare and ask questions), she is in constant significant pain, which, together with nightmares, affects her ability to sleep, notwithstanding the strong medication which she has been prescribed, and she experiences terrible anxiety attacks and flashbacks, triggered by a variety of stimuli. She is sensitive to noise; is hyper-vigilant when outside, adding to her constant tiredness; requires regular nursing care; physiotherapy; outpatient and counselling appointments; and special aids to assist with everyday tasks. Amongst her life-changing injuries, the damaged nerves and tendons in her left arm have left her with permanent damage to her left hand, the use of which she will never recover. She has been unable to use her right hand properly, following damage to her wrist. On some days, she feels unable to get out of bed. Ms A states that, her daughter, too, has been traumatised by the attack. Ms A states that she does not want you to have a lasting impact on her, but knows that you have done so. With extraordinary courage and resilience, she told the court, *'This man tried to take my life, but he failed and I will continue to live my life and get back to doing what I love.'* It is my fervent wish that she succeed in that aim.

## **Material background**

11. Before turning to consider the appropriate sentence for your horrific, unprovoked attack on Ms A, it is necessary to say something of your history.

12. At the time of that attack, you were 56 years old. You had six convictions for 12 offences, six of which having been of a sexual nature and four of violence. When you were 15, you, committed an offence of gross indecency with a child (aged 11); and, ten months later, offences of indecent assault on a female aged over 16 and indecent exposure with intent to insult a female. Your record includes several offences of indecent exposure; two instances of sending an offensive or indecent message by telephone; and assault. Aged 17, you were convicted of assault occasioning actual bodily harm and exposure with intent to insult a female. You had exposed yourself to a 15-year old girl, then punched and hit her in the stomach, crotch and head. There followed further offences of exposure, including when (aged 18) you exposed your penis to a woman in a telephone kiosk, then opened the door of the kiosk and grabbed hold of her. She screamed and you ran off.
13. Most significantly, on 25 June 1991, you were sentenced for three separate offences, committed over a two-month period, respectively: wounding with intent to do grievous bodily harm; attempted murder; and possessing an offensive weapon, in a public place. In June 1990, you had entered an underpass and waited until a lone female had approached. Your victim had been 19 years old. You had struck her on the back of the head, with a ratchet spanner. She had screamed and run away. The following month, you had waited in the same underpass, looking for a victim. You had lunged, with a knife, at a 16-year old girl and told her that she was going to die, slashing her on the breast and arm, with the intent to kill her. Less than one month later, you had returned to the same underpass, seeking women to attack, and had been detained by police officers, who had been patrolling the area by reason of your prior attacks. You had been found with a knife, having an eight-inch blade. A second knife had been found in your car. The total sentence imposed for those offences was life imprisonment, with a minimum term of eight years. That sentence was imposed on each of counts 1 and 2, to run concurrently, with no separate penalty imposed on count 3. In 2019, you escaped from custody. Police were called, following a report of a man walking into a garden, picking up a knife and waving it around. On 17 April 2019, you were convicted of escaping from lawful custody, receiving an eight-month custodial sentence, to be served concurrently with the sentence then being served.

### Parole Board assessment reports

14. I have read six parole assessment reports, respectively dated 11 February 2013; 4 February 2016; 10 May 2017; 26 March 2019; 21 May 2020; and 21 May 2021, which, I am informed, comprise all of the reports which the Probation Service has.
- 14 In the first of those reports, the author stated that she did not support your release or re-categorisation. She stated that you recognised the benefit of further interventions before you would be confident enough to be released. She stated her view that, *'...to do otherwise would effectively lead to Mr Roberts being unable to cope in the community and increase his risk of re-offending'*.
- 15 Each of the subsequent reports was written by the same probation officer, to whom your case was allocated in May 2015:
- a. In her report of 4 February 2016, she described you as a predatory sex offender, whose victims were 'opportunistic'. It was said that you did not target specific characteristics in females, and that your behaviour was influenced by a chromosomal condition which manifested itself in suppressed development of genitalia, ejaculatory problems; smallness of stature and related psychological impact. She further noted that you had come to resent women, following your social isolation at school, aggravated by exposing yourself to female pupils, and that your purpose in offending was sexual power and the degradation of representatives of the individuals who ridiculed you. The officer further stated that, in 1993, you had been diagnosed with a psychopathic personality disorder, and, in 2003, with a severe personality disorder, which were deemed untreatable, and that you had been assessed as unsuitable for Dangerous and Severe Personality Disorder intervention. From the outset of your offending, you had undertaken a significant number of psychotherapy and cognitive based therapies. There had been little evidence that those interventions had served to reduce the risk which you posed, though they had developed your ability to discuss your offending in depth, and openly to discuss the causal and influential factors. Having absconded from a medium secure unit, you had been at large for a very short period, but your purpose had been to find a woman, murder and rape her. Having left the grounds of the unit, you had telephoned your father, who had raised the alarm. Whilst, it was said, such behaviour had

evidenced some degree of control and a willingness to prevent harm, the concern was that, had the opportunity presented itself to you before fantasy detachment, it was likely that you would have committed a further serious offence. The officer concluded that you remained assessed as posing a high risk of harm towards female members of the public, including female children. Whilst noting that you had been re-categorised as a Category C prisoner, and had made key progress in understanding the motivation for your offending and in developing techniques to reduce the risk of re-offending, she observed that there was no immediate recommendation for release at that stage.

- b. The officer's report of 10 May 2017 repeated much of the earlier material and noted that you remained assessed as posing a high risk of sexual, physical and psychological harm towards women. There was no immediate recommendation for your release, but a recommendation for your re-categorisation to D status, as part of a gradual, supported integration into the community, with an appropriate risk management plan.
- c. The next report which I have seen post-dated your absconding in March 2019, following which you had been returned to closed conditions. At the date of the report, being 26 March 2019, you had yet to appear in court. It was noted that your regression was very disappointing and that the officer's prior recommendations could no longer be supported.
- d. On 21 May 2020, the probation officer reported again. She confirmed that there had been no changes in the risk assessment. She proposed that the most appropriate pathway for you was to be transferred to a progressive Category C setting, in which you could move forward, to *'a much more holistic setting and be able to address [your] negative schemas should they manifest themselves and recognise what [you have] learnt in previous settings'*.
- e. In the final report with which I have been provided, dated 21 May 2021, the probation officer noted that you had made progress. She stated that the risk of harm which you posed to the public was specific to females and that, based upon the age of your victims and your self-disclosure, you were specific in targeting women aged between 16 and 30. The harm she identified as being *'serious sexual violence with the ultimate conclusion of death'*. The officer also



assessed you to pose a serious risk of psychological harm, given the serious abuse which you had perpetrated; the number of victims whom you had self-reported; and the number of your convictions. She assessed that risk to be imminent and high given the fact that you had yet to undertake release on temporary licence, *'in order to ascertain the application of [your] risk management strategies and support from professionals during that transition'*. Whilst noting that your recent absconding had not resulted in the commission of any further offences, it was said to be concerning that you had been in possession of a weapon, *'which is paralleling his index offences'*. The probation officer stated that statistical tools used by the National Probation Service had assessed you as posing a medium risk of re-offending and the impact of that being serious. She set out her assessment that, at that time, given that you had not been tested in the community environment whilst subject to a robust and well-formulated risk management plan, your risk remained high. The escalation of your sexual offending had been evident, in that you had become more determined in your abuse and needed heightened sexual arousal, resulting in the death of victims. The case file review had highlighted the areas of risk as being your physical health and management of your chromosomal syndrome; self-harm; absconding; and personality disorder traits. Those were all areas in which you were said to have undertaken considerable work and of which the management would be key in order to reduce your risk of re-offending and harm. The officer noted, however, that they had yet to be tested in the community and afforded the basis for her assessment that the risk which you posed at that time remained high and that the type of re-offending would be of a sexually violent nature, resulting in serious injury and, potentially, death of any female victim who fitted your sexual preference. She concluded her report with a recommendation that you be released pending the successful completion of the stage 3 element of the progressive regime at your prison and under what she termed a *'robust risk and resettlement plan, with appropriate, proportionate licence conditions all work[ing] in conjunction to facilitate [your] future release and enabl[ing you] to engage in reducing [your] risk and returning back into the community in a productive way'*.

16 As I have said, I have been shown no subsequent report. You were released on licence, subject to a number of conditions, on 12 December 2022. One of those conditions was

that you be subject to GPS satellite tagging for a period of six months. You were wearing such a tag when you attacked Ms A.

**Sentencing remarks to be provided to (1) the Chair of the Parole Board and (2) the Lord Chancellor and Secretary of State for Justice**

17 Against the background of your assessments, as summarised above, the circumstances in which you came to be released will be for others to examine, to which end, I direct that, as soon as reasonably practicable, a transcript of these sentencing remarks be prepared, at public expense, and sent to the Chair of the Parole Board and to the Lord Chancellor and Secretary of State for Justice.

**Matters leading to your most recent offending**

18 In an interview with your offender manager (being the author of all but the first of the reports to which I have referred), on 23 June 2023, you described the events shortly preceding your offences. You told her that you had been watching pornography, in particular that depicting male domination over women. You had been exposing yourself in public places. On the night of the incident, you had consumed vodka from a bottle, had watched pornography and had felt excited, sexually stimulated and merry. On having seen two women walking past, you had removed your clothes, exposed yourself at a window and masturbated. You told your offender manager that those women had laughed at you and that this had made you angry, as you had wanted them to watch you. You went on to tell her that, whilst you did not remember, you must have collected your knife and gone looking for them. You said that, if you had caught them, you would have assaulted, or scared them. Your offender manager recorded that you had also told her that, having come across Ms A, *'once he began attacking [her] he could not stop and stated that as he was committing the attack he felt the chains dissolve and was not able to stop. When asked what he meant by the 'chains dissolving', this was all the work that had been done with him on all the programmes/courses which had put those chains in place by others'*.

**Sentence**

19 I have been provided with no psychiatric or other report. Neither the Crown nor the Defence suggests that any such report is required for current purposes. On 4 June 2023

— the date on which your Plea and Trial Preparation Hearing had first been listed — Defence Counsel asked that you not be arraigned until a psychiatric report could be obtained, to consider both fitness to plead and whether you could have formed the requisite intent. For that purpose, the hearing was adjourned until 30 August 2023. On that date, the Defence, now in possession of a psychiatric report which was not disclosed, informed His Honour Judge Drew KC that you were fit to plead and could be arraigned. As I have noted, you then pleaded guilty to all offences for which you are being sentenced today.

20 In the sentencing remarks which follow, I shall refer to the various sentencing guidelines and statutory provisions to which the law obliges me to have regard. I am very conscious of how detached and tortuous that exercise might appear, to Ms A and the general public. Nevertheless, it is one which I must undertake and in no way minimises or loses sight of the human impact of your offending, at which no right-minded individual could feel anything but revulsion.

### ***Attempted murder***

21 I begin by considering your offence of attempted murder. I intend to treat your offence of assault by penetration as a factor aggravating that offence, and then to pass concurrent sentences on that assault and for your possession of a bladed article, to reflect the overall criminality of your offending.

22 I have regard to the sentencing guideline for attempted murder, under which, as Counsel agree, yours was an offence of very high culpability (A), involving sexual conduct, and you caused harm of category 1, resulting in permanent, irreversible injury which has had a substantial and long term effect on Ms A's ability to carry out her normal day to day activities. An offence so categorised has a starting point of 35 years', and a category range of 30 to 40 years', imprisonment. Your previous convictions for sexual offences and/or those of violence against female victims and, in particular, the offences of which you were convicted in 1991, constitute statutory aggravating factors. You gratuitously degraded Ms A by removing her clothes, biting her chest and breasts, and committing your vile sexual assault; you committed the offence whilst on licence; and under the influence of alcohol, all of which constituting further aggravating factors. There is scant mitigation. I bear in mind the material in the probation reports to which I have referred regarding your chromosomal condition and mental health, but

I have been provided with no medical report or submissions to the effect that there will be any additional impact of a custodial sentence by reason of any impairment or disorder, nor has counsel advanced any other mitigation on your behalf. Ultimately, the most powerful point in your favour is the fact that you pleaded guilty, to the significance of which I shall return in due course.

- 23 Having regard to all such matters, I consider that, following a trial, and subject to what follows, I would have imposed a determinate sentence above the top of the category range, being one of 43 years' custody. In the circumstances which I have previously described, and in accordance with the approach adopted in *R v Darren Murphy* [2013] EWCA Crim 1951, I would have considered it appropriate to treat you as having entered your guilty plea at the first opportunity and, thus, to give you full credit for it, which would have reduced that sentence to one of 28 years and 9 months (rounding down, in your favour).

#### *Dangerousness*

- 24 I turn to the issue of dangerousness, which I must consider in accordance with step 5 of the sentencing guideline, and with the approach set out in *R v Burinskas* [2014] EWCA Crim 334, a case concerned with predecessor statutory provisions.
- 25 Step 5 of the guideline obliges me to consider whether, having regard to the criteria contained in Chapter 6 of Part 10 of the Sentencing Code, it would be appropriate to impose a life sentence under (in this case) section 285, or section 283, of the Sentencing Act 2020 — to which I shall refer as 'the 2020 Act' — and whether to impose an extended sentence, under section 279 of the 2020 Act.
- 26 I begin with section 285, in accordance with which, where the conditions for which sub-sections 285(1) and (2) provide are satisfied, if the court considers that the seriousness of your offence, or of your offence and one or more offences associated with it, is such as to justify the imposition of a sentence of imprisonment for life, it must impose such a sentence. I first have regard to the qualifying conditions: you were over the age of 21 at the time of your conviction; attempted murder is an offence identified at paragraph 24(1) of Schedule 19 to the 2020 Act; your offence was committed after 4 April 2005; and I am of the opinion that there is a significant risk to members of the public (in particular, women) of serious harm occasioned by your

commission of further violent and/or sexual offences, as specified in, respectively, Parts 1 and 2 of Schedule 18 to the 2020 Act. In accordance with the provisions of section 308 of the 2020 Act, in so concluding, I have taken into account, as I must, all information which is available to me about the nature and circumstances of your offences against Ms A. I have also taken into account, as I may, all of the information which is available to me about the nature and, where known to me, circumstances of any other offences of which you have been convicted, as previously summarised, and of the pattern of behaviour of which all of your offending forms a part. For the purposes of sub-section 285(2) and section 30 of the 2020 Act, in the circumstances of this case, which speak for themselves, I consider it to be unnecessary to obtain a pre-sentence report in forming that opinion. On your behalf, counsel does not suggest that such a report is required. Indeed, he submits that, *'Given the nature and the circumstances of these offences, coupled with the defendant's antecedent record, it is conceded that the Court has a clear evidential basis upon which a finding of 'Dangerousness' could be made.'* Having found you to be dangerous, within the meaning of section 285, I am satisfied that the seriousness of your offences of attempted murder and digital penetration of Ms A is such as to justify the imposition of a sentence of imprisonment for life. Accordingly, I must impose such a sentence.

27 I turn to consider section 283, which requires a court to impose a sentence of imprisonment for life in relation to a second offence listed in schedule 15 of the 2020 Act, if the stated conditions are met, unless, in accordance with sub-section 283(3), the court is of the opinion that there are particular circumstances which relate to either offence, or to the offender, which would make it unjust to do so, in all the circumstances. Both wounding with intent to do grievous bodily harm and attempted murder are schedule 15 offences. The offence for which I now sentence you is your third such conviction; acquired after the relevant date, being 3 December 2012. You were over the age of 21 when convicted. As is clear from my earlier remarks, but for section 283 I would have imposed a sentence of imprisonment greater than 10 years for that offence, from which it follows that the so-called 'sentence condition' is met. For each of your previous offences of wounding with intent and attempted murder, you received a life sentence which is 'relevant' for the purposes of sub-section 283(5)(b), meaning that the so-called 'previous offence condition' is also met. Pragmatically, for the purposes of sub-section 283(3), counsel does not seek to persuade me, on your behalf, of the existence of particular circumstances which would make it unjust to impose a life sentence for your attempted murder of Ms A and I am

satisfied that none exists. It follows that, independent of the requirements imposed by section 285, section 283 would have obliged me to impose a life sentence.

28 Having found that I am required to impose a sentence of life imprisonment for attempted murder under section 285 and/or section 283 of the 2020 Act, an extended sentence of imprisonment is not available, by operation of sub-section 280(1)(d).

29 Under section 321 of the 2020 Act, where a court passes a life sentence, it must make an order for a minimum term, unless required by sub-section 320(3) to make a whole life order, that is an order that the offender will never be released and must spend the rest of his or her life in prison. That is the most severe sentence which a judge can pass. The requirements imposed by sub-section 320(3) are (for current purposes) that the offender was aged 21 or over when the offence was committed, and that 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. I bear in mind that, where a discretionary sentence of life imprisonment is imposed for a crime other than murder, the statutory scheme *'does not shut the door'* on the possibility of a whole life order, but that such a case would be *'wholly exceptional'*: see *R v McCann* [2020] EWCA Crim 1676, endorsed in *R v Stewart* [2022] EWCA Crim 106. With those principles in mind, having given the matter anxious consideration with regard to the gravity of your heinous offending, I have concluded that a determinate term of appropriate length will meet the proper requirement of punishment in this case. I bear in mind that you entered pleas of guilty at the earliest opportunity and that the minimum term which you will serve will mean that you will only be released, if at all, at a time when you are elderly.

30 As the sentencing guideline makes clear, when sentencing an offender to a life sentence under section 285 or 283 of the 2020 Act, the notional standard determinate sentence should be used as the basis for setting a minimum term. I have previously found that notional determinate sentence, after credit for your guilty plea, to be 28 years and 9 months. A person serving such a sentence would have been released on licence having served two thirds of it, that is after 19 years and 3 months, less any time spent on remand, where applicable. Under section 240ZA(4) of the Criminal Justice Act 2003, if, on any day on which the offender was remanded in custody, he was also detained in connection with any other matter, that day is not to count as time served. Accordingly, as you had been recalled to prison in relation to your 1991 convictions,

you would not have been entitled to credit for time spent on remand, and the minimum term which I set for your offence of attempted murder is 19 years and 3 months. By the end of that period, you will be almost 76 years old. I shall return to the effect of that order at the conclusion of my sentencing remarks.

### ***Assault by penetration***

31 I turn to consider your offence of assault by penetration, by reference to the sentencing guideline applicable to that offence and bearing in mind that all offences arise out of a single incident. As counsel agree, yours was a category 1 harm, culpability B offence — category 1 harm because of the extreme impact caused by a combination of category 2 factors, being severe psychological harm and violence, or threats of violence, to a victim who was particularly vulnerable by reason of her age. The starting point for such an offence is 12 years' custody, with a category range of 10-15 years' custody. Your previous convictions are a statutory aggravating factor. Other aggravating factors are the timing of your offence, in the early hours of the morning, making it less likely that you would be observed and that someone would come to Ms A's assistance; your use of a weapon to frighten or injure Ms A; and the fact that your offence was committed whilst you were on licence and under the influence of alcohol. Once again, no real mitigation has been advanced. My earlier remarks in relation to any additional impact of custody on your chromosomal condition and/or mental health apply equally here. Further, I have seen nothing to indicate that you were unable to exercise appropriate judgement; make rational choices; or understand the nature and consequences of your actions, when committing this offence. Had it stood alone, and subject to what follows, I would have sentenced you to 15 years' custody, after a trial. Giving you full credit for your guilty plea, that would have reduced to 10 years, meaning that you would have been released after six years and eight months. For reasons which I have previously outlined, you would not have received credit for time spent on remand.

### ***Dangerousness***

32 However, assault by penetration is both a Schedule 19 and a Schedule 15 offence. My earlier conclusions in relation to sections 285 and 283 of the 2020 Act apply equally to this offence, for which it follows that I must also impose a life sentence. For the reasons previously canvassed, I am satisfied that it does not constitute a wholly exceptional

offence which ought to attract a whole life order and that a determinate term of appropriate length will meet the proper requirement of punishment. Having regard to totality and the fact that your sentence will be imposed concurrently with that which I have imposed for attempted murder and shall be imposing for having a knife, I consider that the minimum term which you should serve is six years and eight months, and that your total sentence is just and proportionate to your offending as a whole.

***Having a bladed article in a public place***

- 33 Finally, I must sentence you for your offence of having a bladed article in a public place. Under the relevant sentencing guideline, I assess that offence as being culpability A (by reason of your possession of a bladed article), causing category 1 harm (serious alarm/distress); an assessment with which both counsel agree. An offence so categorised has a starting point of 18 months' imprisonment and a category range of one year to two years six months' imprisonment. Here again, your prior convictions, in particular those involving the use or possession of one or more knives, constitute a statutory aggravating factor. Additional aggravating factors are the fact that your offence was committed whilst on licence and under the influence of alcohol. My earlier comments in relation to your chromosomal condition and mental health continue to apply here; once again, scant mitigation is afforded. Having regard to all of the above, I consider that the appropriate sentence after a trial would have been at the top of the category range, being two years six months' imprisonment. Allowing full credit for your guilty plea, that reduces to one of 20 months, to be served concurrently with the sentences imposed on counts 1 and 2. As previously indicated, I am satisfied that your total sentence is just and proportionate to your offending as a whole.
- 34 Counsel agree that a deprivation order in relation to the knife, under sections 152 and 153 of the 2020 Act, is appropriate, and it is not suggested, on your behalf, that the knife is of any intrinsic value, or that such an order will have any significant effect upon you.



## **Summary of sentence and its effect**

Anthony Roberts,

35 For your offence of attempted murder, I sentence you to life imprisonment. You will serve a minimum term of 19 years and 3 months.

36 For your offence of assault by penetration, I sentence you to life imprisonment. You will serve a minimum term of 6 years and 8 months.

37 For your offence of possessing a bladed article in a public place, you will serve 20 months in custody.

38 All sentences will be served concurrently.

39 Thus, your total sentence will be one of life imprisonment, with a minimum term of 19 years and 3 months. In relation to counts 1 and 2, it is important that you, and everyone else concerned with this case, understand the effect of a minimum term. I emphasise that it is not a term after which you will be released automatically; it is, as its description indicates, the minimum period which you must serve before the Parole Board can undertake its first review of your case. There is no guarantee that you will be released after you have served that minimum term, or at any time thereafter. If, after that term, the Parole Board determines that you are fit to be released, you will be released. If and when that happens, you will remain subject to licence for the rest of your life, meaning that you may be recalled, to continue your life sentence, if you re-offend or otherwise breach the conditions of your licence.

40 For reasons which I have already explained, as a matter of law you will receive no credit for the time which you have spent on remand for your offences.

41 In light of the sentences which I have imposed on counts 1 and 2, the release provisions which would otherwise apply to the determinate sentence which I have imposed concurrently on count 3 will not entitle you to be released on licence at any earlier stage.

*Ancillary orders*

42 I certify that you have been convicted of a sexual offence (count 2), so that you must, for the rest of your life, keep the Police informed, at all times, of your personal particulars, the address at which you are living and any alteration in the name which you are using. Following this hearing, you will be given a form containing full details of those requirements.

43 I direct that you be deprived of the knife the subject of count 3, under sections 152 and 153 of the 2020 Act.

44 The statutory surcharge will be imposed.

That is all.