

IN THE CROWN COURT AT NOTTINGHAM

CASE No: U20231322

REX

v

VALDO CALOCANE

SENTENCING REMARKS

Valdo Colocane I will say at the outset that the sentence I am about to pass upon you will result in you being detained in a high security hospital, very probably for the rest of your life.

I will now tell you why.

In the early hours of 13<sup>th</sup> June last year, you committed a series of atrocities in this city which ended the lives of three innocent people. You went on to attack three more; fully intending, but failing, to kill them too. Your sickening crimes both shocked the nation and wrecked the lives of your surviving victims and the families of them all.

Over the last two days in this court, the harrowing details of what you did have been fully recounted and explored by the advocates and expert witnesses.

At four o'clock in the morning of 13<sup>th</sup> June last year, Barnaby Webber and Grace O'Malley-Kumar, both just 19 years of age, were walking back to their student accommodation after a night out in the city centre. They were almost home when you attacked them. What followed was truly shocking. You first pulled out a dagger from the bag you were carrying and set about Barnaby in a frenzied and relentless stabbing attack. With astonishing bravery, Grace tried to save him by pushing you away. She sacrificed her life in the attempt as you then dealt with her in the same brutal fashion before turning back to Barnaby to resume your attack on him. The injuries which you inflicted upon them both were unsurvivable.

An hour later, you were trying, unsuccessfully but with determined persistence, to gain access to a hostel for the homeless. You were intending to attack those inside but an occupant managed to fend you off.

Shortly after, you attacked Ian Coates, a school caretaker, who was in his van on his way to work. You stabbed him to death with the same merciless ferocity with which you had earlier attacked Barnaby and Grace. You left the scene driving his van; on the look out for yet further victims.

Your next was Wayne Birkett who was crossing the road in the city centre. You deliberately swerved to hit him at speed from

behind and intending to kill him. He survived the attempt but suffered life changing injuries in the collision. He sustained serious brain damage as a result of which he lost the ability to carry out even the most straightforward of tasks. He still struggles to look after himself. His personality has changed and not for the better. He has lost interest in many of the things which had made his life worth living such as socialising and football. His physical injuries were also very serious and included a dislocated right shoulder; injuries to his chest and back and a fractured pelvis. He is in constant pain. He is unlikely ever to be able to work again. There are times when he feels it would have been better for everyone if he, too, had died that morning.

Your final two victims were Sharon Millar and Marcion Gawronski who were both standing on a pedestrian central reservation. Again, you deliberately aimed the van at them and struck them at speed from behind intending to kill them. They were extremely lucky to survive. Mr Gawronski sustained broken ribs, an injury to his left leg and cuts all over his head and body. He continues to suffer flashbacks. Ms Miller sustained injuries to her body and legs which left her in severe pain and housebound for several months. She remains afraid to go out and may never be able to return to work.

You were eventually stopped and contained by police vehicles. When confronted by officers, you produced a knife which you dropped only after you had been tasered. You later made no comment to all questions asked of you in interview.

The court has both heard and read heartbreaking statements from those of your victims who survived and the families and friends of those who died. You have sentenced them to a life of grief and pain.

This is a roll call of just some of those whose lives you have devastated:

Emma Webber, Barnaby's mother;

David Webber, Barnaby's father;

Charlie Webber, Barnaby's brother;

Thomas Yap, Barnaby's close friend;

Emily Yap, another of Barnaby's close friends;

James O'Malley-Kumar, Grace's brother;

Sinead O'Malley-Kumar, Grace's mother;

Dr Sanjoy Kumar, Grace's father;

Catherine O'Malley, Grace's aunt and all of Grace's maternal relatives in Ireland;

Dr Shashi Kumar, Grace's grandmother;

Sunil Kumar, Grace's uncle;

Emma Kumar, Grace's aunt;

Helen Prescott-Morrin, Grace's school housemistress together with many other family friends;

James Coates, Ian's son;

Susan Coates, Ian's sister;

Elaine Newton, Ian's partner;

Wayne Birkett, your fourth victim;  
Tracey Hodgson, Wayne's partner;  
Sharon Miller; and  
Marcin Gawronski, your final victims.

I pay tribute to the extraordinary dignity and restraint which they have all shown both in this court and indeed over the last six months. The statements which were so bravely read out in court will resonate with those who heard them for many years to come.

We learnt that Barnaby was a loving son, brother and friend with an infectious joyfulness and positive outlook on life. He was making the most of the time he was spending at Nottingham University and showing such great promise for the life of which you robbed him.

Grace was a treasure to her family and friends. She was as successful academically as she was in her sporting achievements. Studying medicine, she had already been involved in vaccinating against the covid virus and I do not doubt that she would have been an exemplary practitioner. She was a shining example to all who knew and loved her.

Ian was only five months short of what should have been a long and happy retirement. His son, sister and partner have been robbed of a kind and humble man who always found time to help others.

There was never any doubt that it was you who had committed these appalling crimes and it was inevitable that you would be facing three counts of murder and three of attempted murder. It soon became clear, however, that the central issue in this case would relate to whether, at the time of committing these offences, you were suffering from severe symptoms of mental disorder and, if so, what part they played in what you did.

You are clearly an intelligent man having taken a degree in Mechanical Engineering at Nottingham University. However, in 2019 you started to show symptoms of mental disorder as a result of which you were admitted to inpatient hospital treatment the following year. There followed a period of three years over which you were hearing voices which you believed were threatening and controlling you. You became convinced that you were being spied on by your flatmates and by the intelligence services. At one point, you even presented yourself to M15 headquarters in the hope that they might stop the voices. You were prescribed anti-psychotic medication but you stopped taking it because you continued to believe that you were not unwell and the voices were real. Your behaviour deteriorated to the extent that you began attempting to gain access to other flats in the block where you lived causing criminal damage and, in September 2021, you assaulted a police officer who was attempting to gain access to your property so that a mental health assessment could be carried out. By the time you committed these offences, a warrant had been outstanding for your arrest for many months. By August

2022, you had disappeared from your address and had disengaged from the community mental health team. Your condition, however, did not improve. By May of last year you had started working at a warehouse but five days later you physically attacked two fellow employees and lost your job.

This court has seen detailed reports from no fewer than five distinguished consultant psychiatrists. Three of those, Professor Blackwood, Dr McSweeney and Dr Mirvis, gave evidence to this court yesterday and were questioned on behalf of both the prosecution and defence about their conclusions. I must, of course, factor their opinions into the process of sentencing although I am not bound by them.

As most people now appreciate, judges do not sentence in a vacuum. For the majority of crimes, there are Sentencing Guidelines often subsequently interpreted by decisions of the Court of Appeal. This is the case here. I must have regard to the sentencing guidelines not only in respect of the specific offences to which you have pleaded guilty but also those of more general application. In this case these include: Sentencing offenders with mental disorders, developmental disorders or neurological impairment; and Totality.

The first three counts to which you have pleaded guilty are of manslaughter by reason of diminished responsibility. Naturally, the prosecution wanted and were afforded all reasonable opportunities to ensure that the foundations of this plea had been properly established. These opportunities were provided and the

prosecution is now satisfied that the evidence taken as a whole demonstrates that your ability to understand the nature of your conduct, form a rational judgment or exercise self-control was substantially impaired. Otherwise you would have found yourself facing a trial on the original three counts of murder.

This decision is obviously one of the utmost significance and it is important that the basis of the reasoning behind it is fully understood. I must say, however, that none of the evidence relating to your mental state detracts from the horror of your actions or the disastrous impact which they have had upon so many people.

This what the five psychiatrists had to say about you in their written reports:

Dr McSweeney was instructed by the defence on 23 June last year. He concluded:

*“His history of mental illness and his own explanation of the offences indicate that he was experiencing hallucinatory voices, persecutory delusional beliefs among other psychotic symptoms. He was under the false impression that his thoughts and actions were under the control of artificial intelligence and that his family may be in grave danger. By definition, a person experiencing acute psychosis is not able to accurately test reality or distinguish reality from an abnormal perception. It seems likely that Mr Calocane’s decision-making was largely governed by his psychotic experiences...”*



*It is my opinion that Mr Calocane's abnormality of mental functioning significantly contributed to his perpetrating the alleged offences. That is to say that, in my view, had he not been labouring under symptoms of acute psychosis, which resulted in his interpretation of reality being grossly distorted, he would not have perpetrated the acts..."*

In a follow up report of 12 January this year he concluded:

*"Mr Calocane has an established diagnosis of paranoid schizophrenia. This is a chronic and enduring psychotic mental illness. His illness will never be "cured", and he will require long term, very cautious management with antipsychotic medication and appropriate psychological and supportive interventions (almost certainly for the remainder of his life)."*

Dr Shafiulha was also instructed by the defence. In his report of 19 November last year, he said:

*"In my opinion, Mr Calocane is highly likely to have suffered from a mental disorder most likely a psychotic condition namely paranoid schizophrenia, at the time of the index offence and this state of mind appears to have substantially impaired his ability to understand the nature of the conduct, form a rational judgment and/or exercise self-control that led to the abnormal behaviour. Such was Mr Calocane's illness, that he was "divorced from reality".*

Professor Blackwood was instructed by the prosecution. He spent five hours interviewing you and prepared a report dated 20<sup>th</sup> November of last year. He concluded:

*“If convicted of manslaughter and attempted murder, I would consider that his degree of retained responsibility for his acts was at the lower end of the spectrum. He retains some responsibility in that he was not insane at the time of the index assaults. However, there was substantial impairment of his ability to form a rational judgment and to exercise self-control, and the assaults would not have occurred but for his psychotic symptoms. The offending was in my view entirely attributable to his mental illness.”*

When the matter last came before this court on 28 November, the prosecution stated its intention to place the accumulated medical evidence before a fourth consultant psychiatrist for his consideration.

Dr Latham duly reported on 12 December. He said:

*“The partial defence of diminished responsibility is the proper conclusion in each of the expert reports. There is relatively consistent evidence that he knew what he was doing and that he knew he was committing crimes...The basis however for his behaviour is very likely to have been psychosis in the form of hallucinations (voices), delusional beliefs and other disturbances in his thoughts. This psychosis has been described by all three experts as likely to have substantially impaired his ability to form a rational judgement and exercise self-control. Any other*

*conclusion with respect to diminished responsibility would be highly unusual in the circumstances...*

*I have specifically considered from the information available whether Mr Calocane's account appears that it might have been fabricated by him. It is of course possible but the nature of the beliefs and experiences he described are consistent with what has been known about his illness since 2020. The three experts who have interviewed him have all found what he described to be consistent with his mental illness. It is unlikely that he has fabricated symptoms.*

*It is very clear, in my opinion, that the ultimate conclusion with respect to diminished responsibility has been properly reached. I have not interviewed Mr Calocane, but it is very difficult to foresee a situation where I could reach a different conclusion."*

Finally, a fifth report, dated 14<sup>th</sup> January this year, has been obtained from Dr Mirvis who has been your responsible clinician at Ashworth High Security Hospital since you were transferred there from Manchester prison on 1<sup>st</sup> November. Ashworth is one of the three high security hospitals in the country; the others being Broadmoor and Rampton. He said:

*"In my opinion Mr Calocane's offences appear to be highly attributable to his illness. There is no evidence of antisocial behaviour or significant substance misuse in his background. All episodes of previous aggression and violence appear to be closely*

*linked to psychotic symptoms at the time. Similarly he reports that the purchase of a knife was in response to hearing voices.”*

It follows that, on the basis of the material before me, I am entirely satisfied that the prosecution were right to acknowledge that your mental condition satisfied the criteria giving rise to the partial defence of diminished responsibility. This defence does not, however, apply to offences of attempted murder and to those three counts you have pleaded guilty.

The Sentencing Guideline for diminished responsibility manslaughter requires the court to follow a step by step analysis. Step one involves the determination of what level of responsibility you retained at the time of your attacks: high; medium; or lower.

It is to be noted that those consultant psychiatrists who expressed a view on the issue unanimously concluded, but for your schizophrenia, you would not have committed these dreadful crimes. Indeed, you had no other motive for committing them. None of your victims was known to you and, but for the control or pressure exercised by the voices inside your head, you had no reason to harm any of them. You have no previous convictions although you were certainly laying the foundations for accumulating a criminal record by your past conduct. There is no evidence to suggest that you were liable to be violent prior to the onset of your condition. You have no relevant religious, ideological or political affiliations. You believed at the time of

your offences that the voices were controlling you and had the power to harm your family if you failed to comply with their orders and, notwithstanding the treatment you have since received at Ashworth, you still labour under the strong impression that the voices are real and you still believe that you do not suffer from any mental disorder whatsoever. You have a history of failing to take the drugs prescribed for you but this arises not from the exercise of a rational choice but from your confidence that the voices were directing you not to take them. This, of course, is a factor inextricably bound up with your mental disease. The prosecution, perfectly properly draw attention to a number preparatory acts which preceded the period over which you perpetrated your appalling crimes. However, I am satisfied from the evidence of the psychiatrists that taken as a whole these acts were also governed by your paranoid delusions.

In all the circumstances, I am satisfied that notwithstanding the extreme gravity and the appalling consequences of your crimes the level of responsibility you retained was at the lower end.

If all other things were equal, the relevant sentence under the guideline of one offence of diminished responsibility manslaughter would attract a starting point of seven years and a range of between three to twelve years imprisonment. This would be subject to a very significant upward revision to take into particular account the number of victims involved here and the three counts of attempted murder. A life sentence would be appropriate with a long minimum term. Taking into account the

principle of totality, the starting point for the minimum term would have been thirty years but this would have fallen to be reduced by one third to reflect your guilty pleas and by a further third to reflect what would otherwise have been the date of your eligibility for parole in respect of a determinate sentence. The minimum term would therefore have been 13 years and four months.

But all other things are not equal.

I consider that, regardless of the level of your personal responsibility, you were and remain dangerous. Indeed those who represent you realistically and inevitably concede that this is the case. I would therefore be failing in my public duty not to reflect this factor in my approach to sentencing you.

It is in this context that I must consider the appropriateness of a mental health disposal. Again, I must approach the issue in stages. First, I must assess whether the evidence of the medical practitioners suggests that you are currently suffering from a mental disorder. This is undoubtedly the case. You have been detained at Ashworth High Secure Hospital since last November but you are still having paranoid delusions: hearing voices and believing that you are being controlled by some advanced technology.

Your condition is resistant to treatment but some treatment is available which at least mitigates, without curing, your condition. The medication which you are likely soon to be taking is Clozapine which is indicated for the treatment of schizophrenia

in patients unresponsive to, or intolerant of, conventional antipsychotic drugs. It is a drug of last resort the administration of which requires careful supervision and which carries with it a catalogue of potentially serious side effects.

I firstly have to consider whether you require treatment for the mental disorder from which you suffer. All the expert evidence before me shows that you require such treatment and it is necessary and appropriate to make a hospital order. I go on to consider the extent to which your offending was attributable to your psychosis. The expert evidence is to the effect that but for your mental illness you would not have committed these appalling crimes. I must further consider the extent to which punishment is required. In this context, I must, of course, bear fully in mind the devastating impact which your offending has had upon your victims and their families.

I note in passing, however, that the diagnosis of treatment resistant schizophrenia means that, in any event, it very likely that you will never be released.

The sentencing options which remain are limited to a hospital order combined with a restriction order or a section 45A hospital and limitation direction (sometimes referred to as a hybrid order) which would provide for the possibility that some part of your sentence may later be served in prison. I remind myself of the importance, where appropriate, of reflecting a penal element in the sentence but note, in passing, that the psychiatric evidence

including that of Dr Mirvis your responsible clinician is that you are unlikely ever to be released in any event.

The choice is ultimately a matter for this court but will inevitably be substantially informed by the psychiatric evidence. In this regard, the approach of Dr Blackwood, instructed on behalf of the prosecution is worth setting out in some detail:

*“Were Mr. Calocane to be convicted of manslaughter and attempted murder, the appropriate disposal would be that of the imposition of a Hospital Order (section 37 of the Mental Health Act 1983) together with the additional imposition of a restriction order (section 41 of the same Act) given the seriousness of the alleged offences and the risk of serious harm to the public if Mr. Calocane is returned to the community. There is a significant risk to members of the public of serious harm occasioned by the commission of further offences if his psychosis is not appropriately treated. The reduction in the risk to the public posed by the defendant is dependent upon his response to psychological and psychiatric treatment. It is not known at this stage how complete that response will be or how complete his recovery will be. There is no evidence from the materials available to me to suggest that, save for his mental condition, he would pose such a danger. His risk to others is driven by his psychotic illness, and such risk is best managed by forensic psychiatric services in the years ahead. A bed remains available for his continuing care at Ashworth high secure hospital.*



*The defendant if so detained will then remain in secure hospitals for many years, or indefinitely if there is limited response to treatment approaches and no reduction in the risk he poses to others. Periods of leave and progress through the secure hospital system will be effected by his responsible clinician in close communication with the Secretary of State. If the defendant makes a good recovery and there is a prolonged period of stability, he will then be transferred to conditions of medium security and tested with gradually increasing periods of escorted and unescorted community leave, including to a supported hostel setting which is the likely discharge destination, with a settled weekly structure of activities. Any potential discharge to the community would be subject to the careful independent consideration of the First Tier Tribunal. The Tribunal would determine whether to release him on condition that, for example, he met his supervising community forensic team regularly, was compliant with his medication, agrees to monitoring by his forensic team and lived at a particular address. Any period in the community would be subject to very careful scrutiny, and compliance with medication is assured by the restriction order framework, in stark contrast to the community regimen before the index offences. Any deterioration in his mental condition (the driver of his risk to others) would lead to a prompt recall to psychiatric hospital. It would be possible for him to apply for an unconditional discharge when in the community, but given the severity of the index offences, his condition and the chronic need*

*for medication and other treatment approaches, it is highly unlikely in my view that the defendant would ever be given an absolute discharge which would allow him to end contact with mental health services.*

*Such an order would ensure that any release and aftercare is properly focused on the mental health condition of the defendant, supervised by the responsible clinician. The extant scientific evidence suggests that a hospital disposal is associated with a reduced reoffending rates on ultimate release into the community in comparison to imprisonment and subsequent release from prison. This finding holds when comparison is made with individuals with violent index offences, with prisoners with longer sentences as comparators, and when rates of violent reoffending are specifically examined. Rates of repeat offending are consistently lower in patients released from hospital in comparison to those released from prison.*

*A period of imprisonment risks non-compliance with medication and a deterioration in his mental state and increase in risk to others. In the defendant's case there is no evidence to suggest that but for his mental condition he poses any risk to the public.*

*In these circumstances, the Parole Board would likely be bound to follow the recommendation of the clinicians and the tribunal as to release. The introduction of the Parole Board into the release procedure in the defendant's case would thus not materially enhance public safety. Monitoring in the community would principally be conducted by the defendant's probation*

*officer, and recall to prison (and subsequent transfer to hospital) may take some time. The sections 37/41 regime avoids situations in which the risk posed by the defendant may increase, or his mental condition worsen, because of delays in recalling and re-hospitalising him.”*

In the unlikely event you were ever to be released, I must consider which regime would provide the greatest level of protection for the public. The main concern is that, upon release from prison, you would not be supervised by a team of mental health experts reporting to the hospital and the Secretary of State for Justice but instead by a probation officer. Such a probation officer will not be trained to spot the subtle signs of mental health deterioration and, if they are identified, will not have the powers to intervene to arrest any such deterioration. Furthermore, there are significant concerns that a prison environment would give rise to a risk that, in the event of a relapse, you would present a real danger to prison officer and fellow prisoners alike.

As the relevant Sentencing Guideline states:

*“There will be cases where the protection of the public via a restriction order will outweigh the importance of a penal element and other cases where a greater public protection is provided by a hybrid order.”*

I am entirely satisfied on the evidence, in the particular circumstances of this case and for the reasons I have given, the proper sentence is a hospital order subject to a section 41 restriction order.

You will now stand for sentence to be passed.

Having heard the medical evidence which has been given in court by Professor Blackwood, Dr McSweeney and Dr Mirvis and having read the reports prepared by them for the court together with those from Dr Shafiullah and Dr Latham all of whom are approved by the Secretary of State under section 12(2) of the Mental Health Act 1983:

I am satisfied that:

- you are suffering from a mental disorder, namely, paranoid schizophrenia;
- this disorder is of a nature which makes it appropriate for you to be detained in a hospital for medical treatment; and
- appropriate medical treatment is available for you at Ashworth Secure Hospital.

I am of the opinion that:

- because of all the circumstances of your case including:  
the nature of the offences to which you have pleaded guilty and your history of mental illness;  
and having considered all the other available ways in which I might deal with you, the most suitable method of dealing with your case is by making an order under section 37 of the Mental Health Act 1983. I therefore make an order under all six counts of the indictment that you will be re-admitted to and detained at Ashworth High Security Hospital.

I have also considered whether this order should be subject to special restrictions which are specified in section 41 of the Act. In the light of the medical evidence which I have identified, I am satisfied that because of the nature of your offence and also having regard to your past (including your history of mental illness) and to the risk that you will commit further offences if you are not detained, it is necessary to protect the public from serious harm and it is not possible to say for how long that will be so.

Accordingly, I order that you will be subject to the special restrictions set out in section 41 of the Mental Health Act 1983.

Take him down.

The investigation into this case was both lengthy and complex, and those who played their part are to be commended for the extremely professional and skilful way in which they carried out their duties. The same applies to all those who helped in the aftermath of the shocking events of that morning. In particular, I would like to commend: the members of the family liaison team; the three members of the CCTV team; the Scenes of Crime Officer; the Files Officer; the police and medical staff who attended on the victims together with all other police officers involved in the investigation.

I would also like to thank all members of the counsel teams and their solicitor colleagues for their hard work, the skilful way in

which they presented their cases and for the positive and co-operative manner in which this case was conducted.

Last, but not least, I pay tribute to the members of the court staff whose hard work in accommodating and organising this challenging hearing has been exemplary.