



IN THE CROWN COURT AT WORCESTER

THE KING V. GRAHAM EVANS

19 FEBRUARY 2024

SENTENCING REMARKS OF THE HON. MR JUSTICE PEPPERALL

1. Graham Evans, you are now 67 and have been convicted by a jury of misconduct in a public office. This case is tragic; primarily for the family of Mesut Olgun but also, I accept, for you and your family.
2. On 6 June 2018, Mesut Olgun, was arrested. There were clear signs that he was mentally ill. He was behaving erratically when he was arrested and even tried to cut his own throat. He was assessed at the police station as a high-risk prisoner and kept under constant supervision. On 7 June, he was remanded in custody by the Magistrates' Court and subsequently transferred to what was then Her Majesty's Prison Hewell. At reception, he was again identified as a high-risk prisoner who should be allocated a single cell. A nursing assessment concluded that Mr Olgun was at moderate risk of self-harm. An ACCT plan, being an Assessment, Care in Custody & Teamwork plan, was opened. Mr Olgun was referred to the mental-health team for further review but meanwhile it was determined that he should be subject to four observations per hour.
3. Mr Olgun took his own life in his cell during the early hours of 8 June 2018. He did so by ripping his bed sheets to form a ligature and suspending himself from a screw that served as a ligature point. Mr Olgun was cut down and resuscitated but sadly died from a hypoxic brain injury on 14 June 2018.
4. Nationally, the Prison Service uses so-called safer cells for high-risk prisoners. A safer cell is one that does not have a ligature point. Prisoners accommodated in a safer cell are provided with anti-tear bed linen that also reduces the risk of hanging. I was concerned to hear in evidence that Hewell did not have any cells that could be classified as safer cells in 2018. Further, the cell allocated to Mr Olgun had a very obvious ligature point. It was common ground between a number of witnesses at the trial that the screw should have been identified and removed; and that this cell was not suitable for a first-night prisoner let alone a vulnerable prisoner who was subject to an ACCT plan. While the condition of this cell was particularly concerning, the evidence at trial was that there were widespread problems throughout the

prison in 2018. One experienced prison officer told the jury that in 2018 there was no cell in the prison that she would be happy to put a prisoner into.

5. These failings were, in my judgment, significant; but they were systemic failings of the prison for which you had no responsibility. His Majesty's Prison and Probation Ombudsman has delayed investigation of Mr Olgun's death until the conclusion of these criminal proceedings. Equally, His Majesty's Coroner has adjourned the inquest. Those two expert investigations will now proceed and are better placed than a judge sitting in the Crown Court to identify the extent to which further action is required to reduce the risk of self-harm and death in His Majesty's Prison Hewell.
6. In June 2018, you were working as an Operational Support Grade at Hewell. You were the OSG responsible for houseblock 3 on the night of 7/8 June 2018. There were three prisoners that night who were subject to ACCT plans. In accordance with those plans, you were required to check on two men hourly. Mr Olgun was subject to the more intensive four checks per hour. Such checks are carried out in order to reduce the risk of self-harm and ultimately suicide. Undertaking irregularly spaced observations on vulnerable prisoners allows staff to check on their welfare but can also provide prisoners with support and companionship such that they know that they are being cared for.
7. Between 21:00 on 7 June and 06:30 the next morning, you carried out just 15 of the 38 checks that you were required to undertake on Mesut Olgun. In respect of the other two prisoners on hourly observations, you only carried out half of the required checks. Furthermore, in respect of Mesut Olgun, you falsely recorded checks that you had not in fact made.
8. Mesut Olgun's parents, Mustafa and Gulay, and his brothers, Furkan, Hassan and Hussain, have made a joint victim personal statement. They describe their pain and devastation at the loss of Mesut and their anger that he was not properly cared for at a time when he was so obviously vulnerable.
9. You were originally also charged with gross negligence manslaughter. Following legal argument, I directed the jury to return a not guilty verdict on that more serious charge because the prosecution could not prove to the criminal standard that your failings made a substantial contribution to Mr Olgun's death. Being faithful to that ruling, I must now sentence you on the basis that you did not cause or make a substantial contribution to Mr Olgun's death. That said, the very purpose of ACCT plans is to reduce the risk of self-harm and suicide. It is therefore an aggravating feature of this offence that your failure to undertake checks as required by the ACCT plans increased the risk of self-harm and therefore ultimately death.

10. There are no sentencing guidelines in respect of this offence. I therefore consider the General Guideline and the Guideline for the Imposition of Community and Custodial Sentences issued by the Sentencing Council. In such circumstances, the General guideline requires judges to arrive at a provisional sentence taking into account the statutory maximum sentence; sentencing judgments of the Court of Appeal (Criminal Division); and guidelines issued for analogous offences.
11. Here, the reported cases invariably concern the actions of corrupt police and prison officers. In the case of prison officers, cases typically involve prison officers colluding to smuggle drugs or mobile telephones into prisons or officers forming inappropriate relationships with prisoners. Such cases are corrosive of the criminal justice system and call for condign punishment both to punish the individual corrupt officer and to deter others. Sentences of immediate custody are usually inevitable for corrupt officers who betray the trust reposed in them by the public.
12. The current case is very different and the combined researches of counsel have been unable to identify a case on similar facts. You are not a corrupt officer; rather you were an OSG who failed properly to discharge the important duty that you had to three vulnerable prisoners on the night of 7/8 June 2018.
13. Your offence is aggravated by the following features:
 - (a) First, the ACCT plans were the most important part of your night duty as an OSG on 7/8 June 2018.
 - (b) Secondly, a failure to conduct the ACCT checks increased the risk of a vulnerable prisoner self-harming or even taking his own life.
 - (c) Thirdly, the scale of your deliberate non-compliance with the ACCT plans that night.
 - (d) Fourthly, your dishonest actions in falsifying the log.
14. Against that, I have carefully considered the mitigation powerfully advanced by Simon Csoka KC; the pre-sentence report; and the eloquent letters from your wife, Carolyn, and your adult children, Gordon and Alison. There are a number of powerful mitigating factors:
 - (a) First, you are a man of positive good character. Not only do you have no previous convictions but you have an otherwise exemplary record of public service. You served as a police officer for some 33 years before joining the Prison Service.

- (b) Secondly, I accept the evidence of Custodial Manager Andy Whittle at trial that you were, other than on the night of 7/8 June, an excellent and meticulous OSG. He said that he could not find fault with you and that you were always organised and prepared.
- (c) Thirdly, I accept on the basis of Mr Whittle's evidence, that your wholesale failure to comply properly with the ACCT plans on the night of 7/8 June was out of character. There is independent and contemporaneous evidence to corroborate your account that you were suffering from a bad back. I accept that such condition led you to cut corners on the night of 7/8 June.
- (d) Fourthly, I take into account the delay in this case. You were first interviewed by the police in 2019 but the prosecution was not brought until 2022. You now fall to be sentenced over 5½ years after this offence was committed. It has, I accept, been hanging over you and your family.
- (e) Fifthly, although you fought this case, I accept that you are genuinely ashamed that you did not do more to protect these vulnerable prisoners on that night in June 2018.
- (f) Sixthly, I take into account the impact of immediate imprisonment on four generations of your family. It is clear that you are a thoroughly decent family man who is much loved. In particular, you provide essential care to your elderly parents and you help your adult children and their partners with the care of your grandchildren.
- (g) Seventhly, I accept that prison would be particularly tough on you as a former police and prison officer.
- (h) Eighthly, I take into account your deteriorating health in that you now suffer from sciatica.

15. In my judgment, your offending is so serious that it can only be dealt with by a sentence of imprisonment. The least sentence that I can pass is one of 9 months' imprisonment. That sentence will be suspended for a period of 12 months. You will be required to complete 80 hours of unpaid work. If you complete your hours and commit no further offence punishable by imprisonment then that will be the end of the matter. In the unlikely event that you commit an imprisonable offence during the next 12 months then the court may order you to serve the sentence that I am now suspending in addition to any sentence for that new offence.

16. Further, I order that you should pay the statutory surcharge and the sum of £7,500 by way of prosecution costs.