



Courts and Tribunals Judiciary

IN THE CROWN COURT AT NOTTINGHAM

Date: 27 September 2024

Before :

Mrs Justice Tipples DBE

R v BGI & CMB

SENTENCING REMARKS

1. Before I start it must, of course, be remembered that the defendants in this case are children and, pursuant to orders made under section 45 of the Youth Justice & Criminal Evidence Act 1999, the publication of anything likely to lead members of the public to identify either defendant as a person concerned in these proceedings is prohibited.
2. Shawn Seesahai had a unique personality, was a humble person, who loved to help others and cared deeply about his family. His mother has described him as a brave soul who was generous and compassionate. He was born and brought up in Anguilla and that is where his family live. Shawn came to the UK for treatment for his eyesight and to improve his education. He was adored and loved by his family and, as a young man aged 19, his whole future was ahead of him.
3. On 13 November last year he was murdered by the two defendants who acted together and killed him with a machete in a park in Wolverhampton. The defendants are children who were aged 12 in November last year, and still aged 12 when they were convicted by a jury at Nottingham Crown Court in June. They are now aged 13. The first defendant pleaded

guilty before trial to the possession of the machete in a public place, and the second defendant was convicted of this separate offence by the jury.

4. Today I have to sentence the defendants for the murder of Shawn Seesahai. I also have to sentence them for the possession of a knife in a public place although that offence adds nothing to the offence of murder in this case.
5. Murder is the most serious criminal offence and the sentence is fixed by law. There is only one sentence I can give the defendants in this case and, because of their age, it is called detention during His Majesty's pleasure. This is a custodial sentence which means that the defendants will remain in the secure accommodation where they have each been living since they were arrested.
6. I am required to determine the shortest length of time each defendant must stay in custody before they can be considered for release by the Parole Board. This is called the minimum term. It is then for the Parole Board to decide when a defendant can leave custody and their decision depends on a defendant's behaviour in custody and whether it is safe for that person leave custody.
7. The law requires all judges sentencing children or young people, however serious the offence, to have regard to the principal aim of the youth justice system (which is to prevent the offending by children and young people) and the welfare of the child or young person. The Court of Appeal has made it clear that sentencing children and young people requires an entirely different approach than that which the courts routinely apply to adult offenders¹. One aspect of that is that, in communicating sentences to children in a case like this, the court can break the sentencing remarks down into stages. That is what I have done in this case. The first stage is for the judge to inform the child of the sentence and tell them the reason for that sentence in brief and simplified language which they can easily understand. The second stage is for the judge to provide sentencing remarks so that everyone can understand the judge's reasons and be sure that all relevant legal and factual considerations have been taken into account. These remarks are that second stage of the process. I dealt with the first stage earlier this morning.

¹ *R v ZA* [2023] EWCA Crim 596, para [82].

8. The facts of this case are horrific and shocking and can be explained very shortly. The first defendant bought a machete from a friend in October last year for £40. He kept it under his bed. On 13 November he came home from school, got changed out of his school uniform into a track suit, picked up with the knife, left home and met up with the second defendant, a friend from school. They then met up with other friends and, by early evening, they headed to Stowlawn field where they were soon after 8pm.
9. Shawn Seesahai was visiting Wolverhampton with a friend and earlier in the evening they were sitting on a bench in Stowlawn field chatting about their plans for Christmas. Around 8.15pm Shawn and his friend left the bench and walked away from it past the defendants. The defendants were then at the bench. Shawn returned after a few minutes, spoke to the defendants and asked them to move. Moments later he was dead. The defendants jointly attacked Shawn and killed him. The defendants immediately left the field together, the first defendant picking up the machete, which he returned home with, cleaned it with bleach and put it back under his bed. The defendants were arrested the next day.
10. Shawn was killed by a stab wound to his back caused by a machete which almost went through his entire body, was 23cm deep and penetrated his lungs and heart. There were also injuries to Shawn's head, arm and thigh. The cut to the head was caused with such force it went through Shawn's scalp and into his skull resulting in a bone-flap. I am sure from the nature of these injuries that the defendants intended to kill Shawn. They acted together to do so, although I cannot be sure which one inflicted the fatal stab wound. It was an attack which happened on the spur of the moment and was not pre-meditated.
11. I have explained that the only sentence I can pass on the defendants is detention during His Majesty's pleasure and I have to set the minimum term that the defendants must serve in custody before they are considered for release.
12. I must set the minimum term by reference to Schedule 21 of the Sentencing Code as Parliament has enacted. This case falls within paragraphs 5A and 4 of the Code which means that, as the defendants were 14 or under at the date of the offence, the starting point is 13 years. That starting point reflects the seriousness of the offence.

13. I then have to approach the task of setting the minimum term by looking carefully at each defendant on an individual basis both in terms of what they did, together with the information I have about them as people, their backgrounds and experiences. I am required to undertake this exercise by reference to the *Sentencing Council Guidelines: Sentencing Children and Young People*. This guideline identifies in detail the very many important considerations and factors that I am required to take into account. I also have to look at the list of aggravating and mitigating factors set out in Schedule 21. There is some aggravation because this was an attack by two people, but the relevant mitigating factors are the lack of pre-mediation and the age of the defendants, all of which I have taken into account. The barristers in this case also have assisted me with their written Sentencing Notes provided in advance of the hearing, together with their oral submissions at yesterday's court hearing.
14. I turn to each defendant.
15. The first defendant was much closer to 12 in age than 13 at the date of these offences.
16. The pre-sentence report for the first defendant has been prepared by the two social workers who were allocated to work with him from when he was remanded in Youth Detention Accommodation in November 2023. The report is dated July 2024 and has been prepared in accordance with the National Standards for Youth Justice Services and relevant guidance. It is a detailed and comprehensive report in which the social workers have collated information in relation to the first defendant from all relevant sources, both in terms of documents and speaking to the relevant people, including the first defendant. I have read all of this report with care, and taken all that it says into account.
17. Part of the report deals with the assessment of the first defendant, including consideration of safety and welfare issues. This section describes in detail the extensive involvement of Children's Services in the first defendant's life and the reasons for that. The report also explains, amongst other things, that the first defendant has been referred to mental health services and there have been instances of self-harm. He was diagnosed with ADHD in 2022.
18. It is in this context, and against this factual background, the report says this:

“... having spoken with [the first defendant] and consulted records held about him, we would assess that [the first defendant] seems to function at a lower level than his chronological age both in terms of understanding and his emotional literacy. [The first defendant] is a child with extremely complex needs... He has experienced violence from within the home from an early age ... It is clear he has experienced change, loss and unpredictability, which must have an ongoing impact on his sense of identity and belonging. His experience of such developmental trauma is highly likely to have had a negative impact on his cognitive development, his ability to regulate his emotions in the moment, and to take informed decisions... He was made even more vulnerable though this ADHD diagnosis...”

19. The report continues by say:

“There is a professional consensus of opinion that [the first defendant] was being groomed and exploited and in our view his experiences in this respect contributed indirectly towards his participation in Shawn’s murder. ”

20. Another part of the report assesses the risk to the community, including the likelihood of reoffending and risk of serious harm to others. This explains that at the time of the offences there were significant concerns about, amongst other things, the first defendant’s access to knives, exploitation and how easily he was influenced which meant that the likelihood of offending and serious harm were very high. The authors of the report note that this has to be seen in the context of the first defendant’s very many adverse childhood experiences. He is now in a safe place where people will help him and he has undertaken meaningful work which is helping him to make positive changes to his thoughts and behaviours. They are hopeful that his secure placement will result in further reducing his risks in the future.

21. The report also explains that the first defendant has spoken about what he did, that he said it is not fair that someone lost their life, and he feels sad about it. He said that he feels bad that he took the knife out with him and he wished things had gone differently.

22. There is a pre-sentence report dated 11 September 2024 which up-dates the court. The first defendant continues to do well at the secure unit and the conclusions set out in the original report remain the same.

23. I have also been provided with and have read the report of a consultant clinical psychologist in relation to the first defendant. That report also explains that the first defendant is particularly vulnerable and immature, identifies further diagnosed disorders beyond ADHD, and explains that his verbal reasoning abilities are equivalent to those of a ten-year old. The report also records that the considerable progress made by the first defendant where he is now living.
24. Finally, I have a letter from the National Counter Trafficking Centre dated July 2024 which explains the first defendant was a victim of child criminal exploitation and it is accepted he is a victim of modern slavery.
25. The starting point of 13 years needs to be adjusted downwards because the first defendant's chronological age was that he had relatively recently turned 12 at the date of the offence. I then have to take into account that at the time of the offence his emotional maturity and developmental age were less than that. He has been adversely affected by multiple traumas throughout his childhood for which he is and cannot be responsible. These are all factors which diminish the culpability of the first defendant. The first defendant always accepted he bought the knife and took it to the field and he has shown some insight into the harm he has caused. But I agree with the authors of the pre-sentence report that he does not, at this stage, have the maturity to fully appreciate the consequences of his actions. On top of that he is making progress with his behaviour and education in the stable and settled environment where he is living, and that should continue to progress. The first defendant did not have any previous convictions, but he was known to the police and had been carrying knives. But that has to be considered in context that he was the victim of trafficking and extremely vulnerable.
26. I have taken into account everything I know about the first defendant and what he did. In my judgment the minimum time he should spend in custody is eight years six months. From that must be deducted the 315 days that he has already spent in custody.
27. The first defendant will remain on licence for the rest of his life. This means that there are conditions that will be decided when he leaves custody. He will have to follow those

conditions for the rest of his life and, if he does not do so, he may have to go back to custody.

28. I now turn to the second defendant. The second defendant was much closer to 12 in age than 13 at the date of these offences.
29. The pre-sentence report for the second defendant has been prepared by the two social workers who were allocated to work with him from when he was remanded in a secure unit in November last year. It is dated July 2024 and is a detailed and comprehensive report which has also gathered information about the second defendant from all relevant sources, both in terms of documents and speaking to the relevant people, including the second defendant. I have read all of this report with care, and taken all that it says into account.
30. The report explains in detail the second defendant's background and upbringing, the upheaval caused to his childhood by moves in the location of his family home, some of which was spent in a refuge and the disruption this caused to his childhood. The second defendant has a supportive and loving relationship with his parents and his brother. He was not known to social services or the police at the time of the offence. The report explains that the second defendant expressed that he feels remorse for what happened and he feels sorry for Shawn's family and understands that they are suffering greatly having lost their son. It is possible that the second defendant has dyslexia but that has not yet been confirmed.
31. In terms of risk, at the date of the report the second defendant was assessed as a medium risk of re-offending and a high risk of serious harm to others. The report then says that it is important that that he continues to engage with the support and interventions where he is living as that will give him something positive for his long-term future.
32. The authors of the report accept the serious nature of the offences and what the second defendant has done but comment very positively on his behaviour since he has been on remand, his motivation to do well and to achieve qualifications. The report also makes clear that whilst he is "physically mature for his age, he is still young, and it will take time for him to mature emotionally and developmentally, in an environment where he feels safe ...".

33. I have an up-dated pre-sentence report dated 5 September which confirms the conclusions in the earlier report. This further report provides more information as to how well the second defendant is doing where he is living and that he continues to behave in a positive and mature manner. He is on graduate level and recently received an award to commend him for what he has achieved where he is living.
34. The starting point of 13 years needs to be adjusted downwards because the second defendant's chronological age was that he had relatively recently turned 12 at the date of the offence. His emotional maturity and development age is not below his chronological age. He does not have any mental health problems but may have dyslexia. I then have to take into account that he is now showing maturity beyond his years, is responding very well in custody, was of good character and has shown remorse for what has happened.
35. I have taken into account everything I know about the second defendant and what he did. In my judgment the minimum time he should spend in custody is eight years six months. From that must be deducted the 315 days that he has already spent in custody.
36. I appreciate that is the very same as for the first defendant but, having applied the Guideline, the factors that have led me there are different. But when I have considered and balanced the individual features of each defendant that is the clear conclusion I have reached for each defendant.
37. The second defendant will also remain on licence for the rest of his life. This means that there will be conditions decided when he leaves custody which he will have to follow for the rest of his life. If he breaks those conditions, then he may go back to custody.
38. I order no separate penalty for the first defendant on count 2: possession of a bladed article in a public place. I order no separate penalty for the second defendant on count 2.
39. I order forfeiture and destruction of the machete.
40. I make no order for costs and no order for compensation. The victim surcharge applies.

41. Finally, I would like to extend the Court's condolences to Shawn Seesahai's family and to thank them for the dignified way in which they have conducted themselves during the trial. I would also like to thank the police, all Counsel, the intermediaries and all court staff involved.

42. That concludes these sentencing remarks.

Mrs Justice Tipples
27 September 2024