

Sentencing remarks

His Honour Judge Melbourne Inman KC Recorder of Birmingham

1. Meshaq Berryman you were convicted by the jury of three counts of attempted murder.
2. Sadly this is yet another case of very serious violence involving the use of firearms between street gangs within this city. Gang violence is a scourge of this city as it is elsewhere.
3. This was a planned attack.
4. During the afternoon of the 24th February 2023 a funeral service was taking place, followed by a wake, at St. Mary's Church Hall on Hampstead Road in the city,
5. The funeral was of a child who had been murdered as a result of a gang feud. I make it clear the victim was a wholly innocent victim and was not a member of any gang. You, however, knew that members of a rival gang would be in attendance at the funeral and you and others planned an attack.
6. A car was stolen and replated. A gun and ammunition was obtained. The car was positioned in a quiet residential area away from prying eyes. In the afternoon of the 24th February you made your way to the car. You left your top coat and your phone with another gang member to avoid being tracked or otherwise identified and you then made your way to your target. You clearly were not alone. You were the back seat passenger and

the gunman. You left fibres from your clothing on the back seat and gunshot residue on your gloves.

7. Whoever was driving the car drove to St. Mary's Church and you drove past to make sure everyone was there. They were. There was something in the order of one hundred people outside the hall together with those inside. You turned the car around and drove back the hall. The car slowed down and you then, as graphically shown on the CCTV, fired four times at the crowd from a distance of no more than the width of half the road.
8. You then accelerated away.
9. Of the four shots you fired, three struck home.
10. Jack Kabeya was shot to the left side. The bullet passed through his left arm before entering his chest where it lodged. Two of his ribs were fractured. There was damage to the lung tissue and an associated muscle. There was bleeding into his chest. An operation had to be performed to remove the bullet.
11. Hasan Khan was shot to his right shin. The bullet was lodged in his shin bone which had a small fracture. An operation was required to remove the bullet.
12. Ashon D'Aguilar was more fortunate although still injured. He received a shot wound to his left foot causing wounds to 2 of his toes.
13. The scene at the funeral was one of utter terror. Everyone tried to run to safety inside the hall causing some to be near trampled underfoot. Others tried to help the wounded. Some fortunately applied a tourniquet to Mr. Khan's leg to stem the bleeding.
14. The effect upon the mother and loved ones of the child whose funeral it was, can scarcely be imagined.
15. You and your accomplice returned to where the car had been, recovered your telephone and coat and were taken away from that area by another gang member. The car was subsequently moved and abandoned elsewhere. The gun – scientific evidence relating to the spent cartridges

indicate it was likely a rebarrelled 9mm pistol – has never been recovered.

16. There was overwhelming evidence that you were a member of a street gang in Newtown and part of drill videos that threatened to shoot and kill rival gang members and particularly those who you believed were connected to the funeral. In your own evidence you accepted you were a part of the gang. You were photographed a few weeks later making hand gestures intended to show rival gang member had been shot.
17. I make it clear, in the case of Mr. Khan he had nothing to do with gangs and was simply attending as a mourner.
18. The effect upon Mr. Khan was significant. His injuries affect his walking and become painful. He was only 19. Unsurprisingly he has flashbacks. The funeral was of his best friend. He is now reluctant to socialise and suffers significant psychological effects.
19. The mother of two girls who were at the funeral has vividly described the effect of her children being near trampled at the scene and how they have suffered with nightmares and are frightened of going out or even hearing sudden bangs.
20. When you were arrested you were also found to be in possession of class A drugs and you pleaded guilty on the first day of your trial to two counts of possessing class A drugs – a little over 100g of cocaine and a similar amount of heroin- and also cannabis - class B - with the intention to supply. That also related to your gang activities.
21. I now turn to the Sentencing Council Guidelines. Each of the three counts of attempted murder involved the use of a firearm and are therefore of very high culpability.
22. As to harm it is submitted on your behalf By Mr. Pinnock that each case should be category 3. I agree with that submission in part. The injuries to Jack Kabeya were not within the very serious injuries within category 1

but his physical injuries were undoubtedly serious and therefore category 2 harm. Mr. Khan and Mr. D'Aiguilar were more fortunate but nevertheless suffered significant harm and those two offences fall within category 3.

23. The starting point therefore for count 1 is 30 years imprisonment and 25 years for each of counts 2 and 3.

24. There are significant aggravating factors.

25. As is clear this attack involved significant planning both to commit and to try an escape detection. It is right that the public know that this involved a long and very detailed police investigation involving over a thousand hours of viewing CCTV in order to identify and track you. It was painstakingly and accurately done such that at your trial challenge only a few moments of it.

26. The circumstances of the attack speaks for itself. This was an attack on those who were mourning the death of a child. Not only were you aware of that – it was chosen for the attack.

27. As to the drugs it is agreed that in relation to the class A drugs they are category 3 significant role with a starting point of each of four and a half years and one year in relation to the cannabis. The aggravating factor are your previous drug convictions.

28. I now turn to mitigation. I have read the letter you sent to me but despite the overwhelming evidence you continue to deny involvement and show no remorse. You have previous convictions but I accept they are for supplying drugs and not for violence.

29. However, as Mr. Pinnock has correctly submitted, there is mitigation in relation to your age and overall maturity. You were twenty years of age when you committed these offences. As I have described, by then you were deeply immersed in gang culture. I have read the moving letter from your grandmother which describes a depressingly familiar situation of

how you became drawn into gang culture when you were very young and have remained within it. I have seen and heard you give evidence. I have to assess your overall maturity. It is clear from what I have described that you had many problems as a child which were not of your making. You received no consistent education and the influences that operated upon you were malign. As Mr.Pinnock has correctly observed, even by the time of these offences you were still living in what he properly described as squalid circumstances.

30. It is well established that young men of twenty have frequently not full matured and most adults only reach full maturity when they are about twenty five. Having considered all of the evidence and having seen you give evidence I consider that you remain some way from full maturity. That reduces your culpability and therefore must be reflected in the sentence passed.

31. I now have to balance all of those factors.

32. In relation to count 1 there is a 30 year starting point. There are significant aggravating factors that I have identified. Apart from your age the only mitigation is that you have no previous convictions for violence but that can only have a small effect given the offences you have committed. Before reduction for age the shortest sentence on count 1, standing alone , would be 34 years. In relation to counts 2 and 3 the sentences would be 27 years on each.

33. I then have to have regard to totality. Adding all of those sentences together would lead to an obviously disproportionate sentence. I accept also that whilst they are separate offences they were committed within seconds of each other and were part of the same incident. The shortest total sentence to reflect the overall criminality in the case of a mature adult would have been 42 years.

34. For the reasons I have set out, I reduce that sentence by one sixth to reflect your age and maturity at the time you committed these offences.
35. That means that the total determinate term for these offences would be 35 years
36. In relation to the class A drugs offence the overall sentence would have been 5 years, reduced to 4 having regard to those factors. You eventually pleaded guilty to those offences and are therefore entitled to a reduction of one sixth which would result in a total sentence of 3 years and 4 months. The sentence in relation to the cannabis will be 12 months.
37. However, I have to again have regard to totality. Given all of your offending arises from gang membership I would increase the total sentence for the shootings by one year to reflect the totality of the criminality for the associated drugs offences.
38. I now have to consider whether you represent a danger to the public, namely a significant risk of you causing serious harm to the public by committing further specified offences.
39. I have to consider first the nature of the offences. This was a determined attempt to murder a number of people. You in fact fired four shots although only three struck targets. You fired from very close range into a large crowd of people. It is remarkable one or more were not killed. To make such an attack demonstrates that you had no regard for human life. The offences are undoubtedly so serious that a life sentence would be appropriate. I accept you have no previous convictions for violence but your drug convictions also reflect your deep involvement in gang culture. Given your involvement in these offences you clearly represent a very great danger to the public and, given the gravity of the offences, no realistic estimate can be given of the time for which you will remain a danger. I am satisfied that there is no available alternative sentence.

40. In those circumstances I am satisfied that the only sentence that can be imposed on each of these counts is one of life imprisonment.
41. That means what it says. You will remain in prison for life unless the parole Board are satisfied that a time has come when you no longer present any danger to the public. In that regard I have to set a minimum term that you must serve before the Parole Board can consider your case.
42. I am required to set the minimum term as representing two thirds of the notional determinate term which, as I have explained, would have been 36 years.
43. Can you stand please. The sentence on counts 1, 2 and 3, concurrently is one of life imprisonment with a minimum term of 24 years. You have been in custody for 680 days. That will count towards the term and I am required by law to state what the minimum term is now taking into account time already served. The minimum term from today is therefore 21 years and 150 days.
44. There are concurrent sentences of 3 years 4 months for counts 5 and 6 and 12 months on count 7.
45. The victim impact surcharge will apply.