

## **McKenzie Diccico**

You may sit down for the moment:

James Hitchcock was aged 32 when you killed him. He was a husband, son, grandson, brother and the father of a six month old baby. He was a friend to many and liked by all.

You attacked him at York railway station on the 15th December 2024. He died three days later as a result of that attack.

You have described the events of that evening as a split second wrong decision, but it was not.

It is clear that on that evening you are acting aggressively towards several people, you were heavily intoxicated and in particular you selected James Hitchcock to be the centre of your attention.

That day you were in the group together with your girlfriend and two others. You had travelled by train from Middlesbrough to York where you visited various bars and consumed sufficient alcohol whereby you were significantly intoxicated.

By 6:30 PM you were in a bar in Museum Gardens where you became involved in an altercation with bar staff and a security guard. You are described as drunk and shouting and were refused service. Whilst in the bar at one point you got to your feet and shouted, "I'm gonna fight anyone... anyone want to fight me?".

This was approximately 2 hours before the event which caused the death of James Hitchcock. At that time you were both drunk

and looking for a fight. You were asked to leave and went to another bar with your friends. It is of note that throughout the 2 hours leading to this incident, a variety of people were trying to dissuade you from using violence.

You then went to the railway station, arriving shortly after 8:00 PM.

Together with your girlfriend you went into Sainsbury's where you bought some food and water. You were described by the security guard as being "very drunk" and you behaved aggressively towards another member of staff as you entered the store.

Shortly after 8:15 PM James Hitchcock entered the station together with two friends. There was an exchange of words between James Hitchcock's group and you as a result of which James Williamson intervened and separated you from James Hitchcock. That should have been the end of matters. James Hitchcock was happy to leave matters where they were. James Whittington tried to calm you down but you were in a frame of mind whereby you plainly wanted to fight. That is what you meant by the expression "do you wanna go?"

After James Hitchcock said something else to you and put his arm around you, seemingly to try to diffuse the situation. You tried to move towards him in order to engage. You took your coat off, ready to fight, got yourself into a boxing stance, ready to fight and became involved in an argument with James Whittingham before pushing James Williamson away. James Hitchcock had

his palms open and towards the floor. His friend was trying to calm you down.

In fact, you ignored various people who tried to calm you down as we have seen from the CCTV footage. As described by the prosecution you remained in a highly agitated state. Although you and your group walked away for a moment or two, you returned to the concourse area pointing at James Hitchcock and shouting abuse towards James Hitchcock and his group who remained in Sainsbury's thereby putting distance between themselves and you, whilst you shouted abuse towards them, gesturing for them to come out and fight. You were intent on not letting this matter go. It is clear to me that you were intent on violence.

Together with your girlfriend you then walked up the stairs and across the lines away from the concourse area towards the platform at which your train home would arrive, but not before you found out where James Hitchcock and his group were, by then, standing.

That ought to have been the end of this incident. It was not and it was your actions which caused it to continue.

Once on the platform where your train was to arrive, at the other side of the station, you urinated against the back of a vending machine before setting off back towards James Hitchcock and his group. You jogged along the platform and ascended the stairs with purpose. You went back across the bridge to where James Hitchcock and his group were standing, just outside Burger King.

You approached their group, rotating your wrist before arriving at the group and delivered a punch with full force with your right fist to the right side of the head of James Hitchcock who had no chance of seeing either you or the punch coming. He was therefore defenceless and had no chance to brace himself. He was not acting in any way aggressively towards you. The punch that you delivered caused a traumatic tear to the right intra-cranial vertebral artery. This resulted in a traumatic Basal sub-arachnoid haemorrhage which, despite the best efforts of all around him including the medical team at 2 hospitals, led to his death. You had knocked him unconscious causing him to fall to the ground where he also incurred a fracture of the skull and brain damage.

He never regained consciousness and died on the 18th December 2024.

You left the scene immediately, returning to platform 10 where an off duty police officer, PC Head, confronted you. He was filming you as you left the scene. PC Head told you that he was a police officer but you were aggressive towards him, you claimed, falsely, that you had been attacked first, after which you physically engaged with PC Head, causing his phone to drop to the ground where you picked it up and threw it onto the railway tracks. You then left the scene through the main entrance and called a taxi to take you to your home in Middlesbrough.

You were traced and arrested two days later. When you were interviewed by the police you refused to answer any questions.

This was a cowardly, deliberate and vicious attack, the blow being with full force against a man who had no chance to defend or even brace himself.

You appeared at York Magistrates courts on the 19th December 2024 following which, on the 20th December, you appeared before This court for the first time. On that date, I have noted that you offered a guilty plea to unlawful act manslaughter, subject to the issue of causation since the cause of death had not by then been established.

At the PTPH hearing on the 5th February 2025, you accepted throwing the punch and a timetable was set with a trial date of the 14th July 2025.

Your guilty plea to manslaughter was entered on the 6th June 2025 when you were arraigned for the first time. After proper consideration by prosecution, that plea is acceptable, a course with which I agree.

Before I move to the sentencing process, I will review the effect that your actions on that day have had towards others. I have read all of the 15 victim personal statements. They have been either read in full or summarised in court. I will do no more than summarise them briefly in these remarks.

The loss of those who were close to James Hitchcock is immeasurable.

His wife, April, has lost her soulmate, her first love, her husband. Her life has been shattered. At the date of his death, their child, Freddie was aged only six months. He will never know his father.

April is his child's only remaining parent. Their family lives will never be as planned or expected.

Common themes emerge from all of those who have provided statements to describe James Hitchcock.

A family man, an honest man, someone who was loving, caring and selfless. He had energy, an enthusiasm for life, he was an adventurer and entertainer, always smiling with an infectious laugh. Someone who was always there for his friends, who would offer a helping hand someone who was the life and soul of everything they did, a man who brightened up the room, a true gentleman, calm and gentle. A best friend to many.

He leaves behind a heartbroken family, not only April, but also his large extended family, his mother and father, his brother, aunts, uncles and cousins and their children.

Their lives are devastated, their loss cannot be measured, Idolised by his brother, loved by his parents, Adored by his wife .

He was hard worker, a contributor to society in every way. Someone who loved everyone and everyone loved him.

I turn now to the sentencing process and I will follow the stepped approach as set out in the Sentencing Guidelines for Unlawful Act Manslaughter.

At Stage 1, I have determined that you fall into culpability category B since the death of James Hitchcock was caused in the course of an unlawful act which, I find, involved an intention by you to cause harm falling just short of grievous bodily harm. Although you contend that your culpability is medium, in other

words you fall into category C, I have concluded, on the evidence, that your culpability is high. I have reached that conclusion because it is clear to me that in the early evening on that day, you were looking for trouble, behaving aggressively, not only towards James Hitchcock but towards many. You were determined to fight someone, that evening. The centre of your attention, when you arrived at York station, was James Hitchcock. For whatever reason, you would not let this go. You were aggressive towards him repeatedly and determined to find him and engage in violence towards James Hitchcock, even to the extent whereby, shortly before your train arrived, you ran back to the area where you thought he would be, in order find and attack him. That shows your mindset. It was a determined effort to assault him in a serious manner.

When you did so you used full force in order to strike him. You put your bodyweight into the punch.

When you struck him you did so with a clenched fist.

You struck him to the head rather than anywhere else, albeit once and once only after which James Hitchcock fell immediately to the ground.

James Hitchcock could not know that the blow was coming since you struck him from the side or slightly behind. He had no chance to defend himself or protect himself.

In my judgement there is ample evidence both from the statements and your actions on the CCTV to indicate that you intended to cause him harm falling just short of really serious bodily harm.

In terms of the category of Harm, it is, of course, of the utmost seriousness. You caused his death.

Accordingly, at Step 2 the starting point is 1 of 12 years imprisonment with a range of 8 to 16 years.

In terms of **aggravating factors**, you were intoxicated, the offence was committed in a public place and you took steps afterwards to avoid apprehension by seeking to destroy the telephone belonging to PC Head, partially removing your clothing to avoid detection and leaving the scene. I have taken care to avoid double counting when considering the aggravating factors.

In terms of **mitigation**:

I take account of your age, you are still young, only 22 years.

You are not fully mature. That may well have affected your decision making on that day.

You have no other convictions, you have never been in trouble with the police before.

You are of positive good character. I have read each of the references supplied on your behalf and your letter to me. You are a good worker, described as being polite, kind and compassionate, someone who is decent and respectable, quiet and supportive. Someone who is not naturally aggressive but is gentle and doesn't normally look for trouble. This night showed another side to you, not previously seen and out of character.

I have read the PSR. It seems to me that whilst accepting responsibility, you have been minimising your actions, perhaps in order to seek to justify what you did. I have set out my



findings, based upon the evidence and the inferences that I am entitled to draw from it.

I accept that you are remorseful and that you did not intend to kill James Hitchcock although, as I have set out, I find on the evidence that your intention was to cause harm falling just short of grievous bodily harm. This was a full force punch, against a background of your aggressive behaviour against a man who you knew could not see you coming or defend himself.

You still have prospects for the future. You are intelligent and a good worker.

Steps 3 and 4 are not relevant in your case.

At step 5, I must consider the appropriate reduction for your guilty plea. In my judgment, you are entitled to full credit for your guilty plea. Throughout, you have accepted that you threw the punch and any delay was caused by the investigation into the cause of death. Once resolved, you entered your guilty plea to the appropriate charge. This was at the first available opportunity.

I have considered whether, having regard to the criteria contained in part 10 of the sentencing code it would be appropriate to impose a life sentence or an extended sentence. In order to do so I would have to make a finding that you pose a high risk of causing serious harm either to members of the public or to known adults through the Commission of further specified offences.

In determining this step I have taken into account everything that I know about you, including the contents of the pre sentence report, your antecedent history, the references provided on your behalf and the facts of this matter.

This appears to me to be a single incident which is out of character. I do not consider, looking forward, that you do pose a high risk of causing serious harm in the future. Therefore, I do not find you to be a dangerous offender.

I move to sentence:

You are to be sentenced for one count of manslaughter.

After taking into account the aggravating and mitigating factors I consider that the appropriate sentence is 1 of 10 years imprisonment.

From that I deduct 1/3 in order to provide you with the appropriate credit for your guilty pleas.

Accordingly the sentence is one of 6 years 8 months imprisonment.

You will serve some 2/3rds of that sentence in custody after which you be released on licence.

Dependent upon the regime then in place, if you breach the terms of your licence, you can be returned to custody to serve a further term of imprisonment.

Counts 1 and 3 – will lie on the file.

Judicial commendations: PC Head and Jacob Richardson.