

IN THE CENTRAL CRIMINAL COURT

R

v

**ERROL WOODGER**

SENTENCING REMARKS

HHJ Rebecca Trowler KC

24.7.25

*Preliminary Matters*

1. I ask that there is silence during the whole of my sentencing remarks. It may well be that emotions will be running high in all parts of the Courtroom, but it is very important there are no interruptions so that everyone is able to hear, concentrate and understand the reasons for the sentences that I will shortly pass.
2. EW you may remain seated until I say otherwise.

*Sentencing Remarks*

3. EW, on 15<sup>th</sup> April of this year you were convicted by a unanimous jury of the Manslaughter of Marc Allen (MA). The jury acquitted you of his Murder. You were also convicted of the robbery of MA's Mercedes car.
4. I must sentence now you for these offences.
5. MA was 51 years old at the time of his death. The loss and desolation visited upon the whole family, including his father, Charlie Allen, his son, Brandon Allen, his sisters Kim Johnson, Amanda Powell and Lisa Allen, and his brother Gary Allen, is made clear in the victim personal statement his mother, Jennifer Allen. MA was, plainly, deeply loved and his death has taken a heavy toll on various members of the family in different ways. There is no punishment in terms of years which can bring him back or undo the irreparable harm caused by his death.

There are no words which I can use which will provide comfort to his grieving family. All I can do is to recognise the dignity and courage with which MA's family endured the trial.

6. At the time of his death, MA was living in Flat 3 on ground floor of 39 Pearsewood Road in Erith.
7. Mr Allen had suffered from diabetes and this had led to an amputation below his right knee and he wore a prosthetic foot which he would wear when out, but not always when at home. If he needed to move around the house he would need to put it back on.
8. MA drove a Mercedes car which had been adapted to accommodate his disability. It had been fitted with a twin folding left foot accelerator, so it could be driven either with right or left foot. MA's neighbour, Linda Rumsey, gave evidence that the Mercedes 'was his pride and joy, he was always out cleaning it'.
9. *On 29<sup>th</sup> December 2019 in the early hours of the morning you entered 39 Pearsewood Road via an open window to the other flat on the ground floor, no 4 which was unoccupied. You were dropped off nearby property but out of view of CCTV cameras by a car that was seen to drive along PW and leave shortly after, just as you were breaking in.*
10. MA had been sleeping or resting on his sofa nearby his front door when you broke into no. 39, a blanket, cushion and personal items were on the coffee table. There was evidence that he had got up and left the flat in a hurry, he left the trainer matching the one on his prosthetic foot by the sofa and was barefooted.
11. Within minutes MA's Mercedes which had been parked on the front drive to 39, facing the house, reversed out of the drive into the road and then drove away. You admit that you were in that car.

12. As the car left the property and drove away, the car hit Mr Allen. He suffered a very serious head injury which led to his death on 29<sup>th</sup> January 2020.

13. *The neighbour Linda Rumsey*, who lived just across the road from no. 39, was upstairs in her bedroom which faces onto PW Rd. She was watching tv in the bedroom. She heard someone shouting that's my f'ing car you're not taking my f'ing car.

14. She looked to see what was happening. Her recollection was that she pulled up the blind to look, it became clear from the trial that she must have looked through it as she watched. Having been shown the CCTV, she explained that in the CCTV it can be seen that the blind is halfway up and that it is possible to see through it. Through the blind she saw MA near his car on the drive of 39, at one point standing with his hands at the rear of the car as if he was going to give it a push, and at another point at the window on driver's side. He was repeating that is my car that is my car. Pausing there, no one suggests she did not see MA on the drive trying to stop the car or shouting at the occupants in the car. She clearly was able to see clearly through her window one way or another.

15. The driver moved the car backwards, MA moved or jumped to the side and the car caught him on his leg or foot. He remained standing up and he was still shouting. The car reversed out into the middle PW Rd. MA then stood in the road in front of the car. He was waving his arms and shouting towards the car 'that's my car that's my car' 'you are not taking my car'. The driver then revved the engine, drove forward and hit MA who went over the top and down the back as the vehicle drove away. She then heard the crack of his head hitting the road.

16. Mr A was found by a neighbour at the curb opposite his home a few minutes later.

17. I am quite sure that is what happened. From her home she had a bird's eye view. She gave a detailed and compelling account in the face of substantial

cross examination in which her reliability was challenged. Moreover, other evidence supported her account, particularly the CCTV footage which showed the vehicle reversing and leaving in the directions she described, the resting position of MA in the road was consistent with her account and there was pathological evidence that the head injuries could have been sustained in the way she described. Although MA cannot be seen the CCTV which records the vehicle leaving, this was in the early hours of the morning and it was dark, with really only the headlights of the car clearly visible, and there were branches from a tree across the camera's field of view. In these circumstances the fact there was no sign in the CCTV of MA being in front of the car, does not undermine LR's account.

18. It has been submitted on your behalf that in finding you not guilty of murder, the jury must have rejected LR's account. I do not agree. In accordance with the directions of law received by the jury, they may have returned a not guilty verdict in relation to Murder because they were not sure you were the driver of the car. The verdict though does not reveal the jury's conclusions on this issue and I must therefore decide it.
19. I rejected a submission of no case to answer on Count 1 Murder in this case because satisfied that a properly directed jury could, on one view of the evidence as it stood at the close of the prosecution case, be sure that you were driving the Mercedes. However, having heard all the evidence in the trial, I must ask myself whether I am sure that you were driving. Having considered all of the evidence with care, although you may have been driving, I cannot be sure if it. This is because, firstly LR also gave evidence that when the Mercedes sped past after the impact she thought she saw someone ducking down in the passenger seat. Having seen this, at the time she believed there might have been someone else in that car with the driver. In her evidence she did say that it was all so fast and, in effect, she might not be right, but she confirmed that each time she spoke to the police she had stated that she has seen someone in the passenger seat. I am not persuaded there is sufficient reason to wholly disregard her evidence on this issue. Another neighbour, Ben Dixon, heard two or three people in PW Rd, a fairly quiet residential road, in the minutes before the car was taken. The CCTV

coverage did not extend to where the car dropped you off nor did it cover the front of no 39. Finally, you gave evidence on this issue and in this regard your evidence was somewhat persuasive in its detail and in the way it was given. In these circumstances, take all of those aspects of the evidence together, for the purposes of sentencing I proceed on the basis there may have been another or others with you that night, who got out of the car that dropped you in PW, who may have got into the car on the drive of no 39 and driven the car into MA, carrying you as a passenger.

20. That being the case I cannot be sure that you personally intended harm should be done to MA, even as a secondary party.

21. It is unclear exactly how the keys to the Mercedes car were obtained. I am sure though that you or you and others did not simply come across them in the lock of MA's front door as you claimed in evidence. Your evidence was wholly incredible on that issue. I am sure that you either went into MA's flat and took the keys or they were taken when MA came out to investigate the disturbance. There was evidence from his sister, Amanda Powell, that MA would always clip his large bunch of keys onto his belt or jeans or otherwise he kept them in the pocket of his trousers or joggers so that he did not get locked out. This bunch of keys included the keys to his Mercedes as well as his house keys. Following my legal advice in relation to robbery, the jury must have been sure at the very least that you either used or threatened force, in order to steal the keys from MA or assisted or encouraged another or others to use or threaten force in order to steal them. I am quite sure of it, in light of Amanda Powell's evidence and MA's obvious attitude to you that night which was to stand up to you.

22. I have regard to the Sentencing Council Guideline in relation to unlawful act manslaughter against that background.

23. In my view, notwithstanding the findings I have made, your culpability for this offence is high within the meaning of the Guideline. The offence falls squarely within Category B. MA died in the course of you committing and escaping from

the robbery of a dwelling, a serious offence, in which you had played a significant role, namely climbing into the property through the window, making it possible for the keys and then the car to be taken. I reject the submissions made on your behalf that an element of lower capability is present which lessens your capability overall. If you were not the driver, as I have said, you may not have intended harm to MA, but there was plainly an obvious risk of more than minor harm to MA arising from the robbery. As the Mercedes was driven off the drive, MA was on the drive very near the car trying to prevent it being taken. You admitted seeing that he was present. I am sure you would have also heard him shouting. You nonetheless remained in the car to complete the offence by taking it and in order to escape. It would have been obvious both to you and to any reasonable person nearby that MA was at risk of more than minor harm as the car was driven away.

24. The starting point for a high culpability case of Manslaughter is 12 years imprisonment, within a range of 8 to 16 years. I adopt a starting point of 12 years.
25. This offence is made more serious by the fact that MA was particularly vulnerable by reason of his disability and no doubt was less able to move out of the way of the vehicle. I am also sure you would have been aware of this, you having seen him when the keys were taken from him and when he came out of the property.
26. In addition, you committed this offence whilst under the influence of drugs. You were seen to be taking nitrous oxide from a balloon in your mouth in the moments before you entered the property.
27. There was also planning involved in the breaking leading to the robbery.
28. These offences are made more serious by the fact that before MA died you had committed a number of previous relevant offences. You were convicted of battery on 14 April 2011. Probation records indicate that you punched victim multiple times in a night club. In 2012 you were convicted of using violence to enter premises and in 2013 a further offence of battery having pinned your ex-partner's mother to the wall during a dispute over child contact. In 2014 you were convicted of robbery at Woolwich Crown Court having pushed someone who was

withdrawing cash at a cash machine. You were subsequently convicted of dangerous driving and then in 2015 you pleaded guilty at Woolwich Crown Court to attempted robbery & possession of an offensive weapon in a public place. These offences were committed when you entered a shop wearing a balaclava and holding an axe, with which you threatened staff. You received a sentence of imprisonment of 4 years. You spent almost the entirety of that sentence in custody.

**29.** Turning to matters which provide some mitigation of the seriousness of this offence.

**30.** At the time of these offences, you were 33 years old. You are now 38. You have three children although you do not live with them.

**31.** In the opinion of the author of the very helpful pre-sentence report, Jessica Stephens, you have demonstrated some awareness of the impact of your offending upon MA's family. I have read your letter to the Court and I accept you have some remorse.

**32.** As a young man you served in the army for 7 years, including in as a gunner in Afghanistan, leaving in 2011. It has been confirmed today that you were diagnosed with PTSD arising from your service.

**33.** It appears that in 2011 you were absent without leave, then presented yourself to a medical barracks. You took sick leave thereafter. During your sick leave you tested positive for cocaine and were dishonourably discharged.

**34.** You admit that at the time of committing the instant offences you were a heavy user of crack cocaine and that you burgled no 39 PW Road in order to fund your habit. You have engaged in substance misuse over many years which has been the context in which much of your offending has taken place. But the fact that your offending is connected to your drug use does not make your offending any less serious. Nor does the fact that in the summer of 2019 you were briefly hospitalised for a psychosis induced by taking drugs.

35. I do though treat the psychological difficulties you have experienced as a result of service, your PTSD, and also the difficulties you had in transition to normal life, which is not uncommon, which may lie behind your drug taking, as providing some personal mitigation. You also have a history of self-harm.
36. I also note you have recently completed some work whilst in custody addressing your use of crack cocaine but such work at this stage, after the death of Mr Allen, cannot substantially mitigate the offences.
37. I have read a letter to the Court from Hilary Collings who has known you since 2014 through her work supporting army veterans living in the London Borough of Bexley and Bromley or who are serving sentences of imprisonment in HMP Thameside. She attests to the fact that when not in prison you have been in employment, and I note you were in casual employment at the time of the instant offences. I also note that after your release from prison in 2018 you gave some of your time to the charity Bounce Back.
38. I have read a letter from mother. It is very clear you are loved and supported by her, that you do have some positive personal characteristics and that your incarceration will impact upon you mother considerably. All of this I reflect in the sentence I will pass.
39. I am urged to reduce the sentence due to the passage of time between your initial arrest on 28<sup>th</sup> May 2020 and charge on 19 June 2024. I reject this submission, you were released under investigation a day after your first arrest, informed that 'no further action' would be taken on 25th March 2021 and not re-arrested until 18 June 2024 when proceedings took the usual course. In the circumstances it is difficult to see how you were unjustifiably impacted in any way by the time that has passed during the interim, for most of the period it was not hanging over you and you believed you had got away with it.
40. I must also sentence you for the offence of robbery. I have regard to the Sentencing Council Guideline in relation to the robbery committed at the victim's dwelling.



41. In assessing your culpability in the robbery for the purposes of the Guideline I have considered the fact that the Mercedes was used as a weapon against MA and with significant force. However, as I am not sure you were driving, I do not find that your culpability in the robbery was high. I am satisfied there was medium culpability because, as I have said, you certainly played a significant role, whether or not others present, and there is no lower culpability factor present.
42. The harm caused plainly falls into Category 1, MA having died as a result of the robbery
43. The starting point for a medium culpability Cat 1 harm case of robbery is 8 years withing a range of 6-10 years,
44. The seriousness of the robbery offence is aggravated by the high value of the vehicle, the fact that the break in was clearly planned, by MA's vulnerability and by your convictions for the offences I have already mentioned. I also have regard to the mitigation I have already referred to.
45. The fact of this robbery, and the associated culpability and harm, are already reflected in the sentence that I will pass for the offence of Manslaughter. For that reason, the sentence I pass for the offence of robbery will be concurrent to the sentence I pass for Manslaughter.
46. I am required to consider the issue of dangerousness, that is whether there is a significant risk of you committing further specified offences and, if so, whether there is a significant risk of you causing serious harm as a result.
47. I am satisfied that you do present such a risk. This is because of a number of factors taken in combination. Firstly, the nature and seriousness of the manslaughter offence. You were clearly prepared to remain a participant in the robbery even in circumstances where it was obvious that MA was at risk of more than minor harm.

48. Secondly I have regard to the offences I have already mentioned and also to offences you committed after the death of MA. Those recent offences include a number of acquisitive offences and also assault occasioning actual bodily harm, assault by beating of an emergency worker and possessing of a controlled drug of class A (cocaine) with intent to supply 22 April 2021. You were involved in the supply of class A drugs and on arrest you dislocated a police officer's shoulder by pushing him as you tried to get away. You told a probation officer at the time that you were in debt to dealers and could not afford to lose the drugs. You were also convicted of assault occasioning actual bodily harm and affray on 23 March 2022 at Woolwich Crown Court. These offences occurred in the context of a dispute with the neighbour of your mother who lived in SE2 which ended with you throwing your neighbour over a fence.

49. Thirdly, the author of the pre-sentence report, Jessica Stephens, has concluded that you pose a high risk of serious harm to the public, specifically as a result of the use of violence during acquisitive offending or during conflict with others.

50. In all the circumstances of your case I also take that view, even though you have not previously been convicted of causing serious harm. You are plainly impulsively violent and reckless as your counsel concedes, you have used physical force in past, you have caused physical harm to others in the past, you have carried and threatened with a dangerous weapon, namely an axe, when offending in the past, when not in custody you have continued to abuse drugs which are of course part of the reason for your offending, nothing I have been told today gives me confidence that your drug use will cease upon release, and now your offending has led to the death Mr Allen. In my view there is clearly a significant risk of you committing further specified offences and a significant risk that you will cause serious harm as a result.

51. Given that you may not have been driving the Mercedes and may not have encouraged the driver to drive at MA, I do not consider that the offences justify a life sentence.

52. However, a standard determinate sentence of imprisonment would not fully address the risk you present. I cannot say for how long this risk will persist but I note you are not a young person who necessarily will mature, there is no reason to be confident that your longstanding drug use will reduce, and so it may be that the risk you pose will endure for a long time. I do consider it necessary to impose an extended sentence in order to protect the public in the future.

### *Sentences*

53. Please stand up, EW.

54. For the offence of Manslaughter, I sentence you to an extended sentence of 18 years imprisonment. This extended sentence is made up of two parts: a custodial period of 13 years imprisonment, and an extended licence period of five years, making an extended sentence of 18 years' duration in total.

55. For the offence of robbery, I sentence you to 8 years imprisonment. This will be concurrent to the sentence I have passed for Manslaughter.

56. You will serve two-thirds of the custodial period of your extended sentence for MS in prison before the Parole Board will consider whether it is safe to release you, and if so on what terms. Once released, you will serve on licence any part of the custodial period which remains, and you will then be subject to an extended licence for a further period of 5 years, making 18 years in all. If, when you are subject to licence, you commit another offence or fail to comply with the terms of your release, you are liable to be recalled to custody and may serve the entire sentence in custody. The days which you have spent on remand in custody will automatically count towards the custodial term of your sentence.

57. Given that you may not have been driving I am not satisfied that it is necessary to disqualify you from driving, particularly in light of the length of sentence that you face. Any such concerns can be assessed by the parole board in due course and dealt with by way conditions attached to your licence if necessary.

58. The surcharge provisions apply.

59. Please take EW downstairs.