



Neutral Citation Number: [2025] EWCA Crim 1379

Case No: 202303010 B2

**IN THE COURT OF APPEAL (CRIMINAL DIVISION)**  
**ON APPEAL FROM Manchester Crown Court, Crown Square**  
**HHJ Conrad KC**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 31 October 2025

**Before:**

**LORD JUSTICE HOLGATE**  
**MRS JUSTICE STACEY DBE**  
and  
**HER HONOUR JUDGE LUCKING KC**  
**(Sitting as a Judge of the CACD)**

-----  
**Between :**

**LIAM O'PRAY**  
**- and -**  
**REX**

**Appellant**

**Respondent**

-----  
**Ms Nina Grahame KC** (instructed by **Tuckers Solicitors**) for the **Appellant**  
**Mr Michael Brady KC** (instructed by the **Crown Prosecution Service**) for the **Respondent**

Hearing date: 23 October 2025  
-----

## **Approved Judgment**

This judgment was handed down remotely at 10.00am on Friday 31<sup>st</sup> October 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

**Mrs Justice Stacey DBE:**

1. On 21 July 2023 the appellant was convicted after trial of murdering Rico Burton and wounding Harvey Reilly with intent to cause him grievous bodily harm on 21 August 2022. He had pleaded guilty earlier to having a bladed article and the possession of three wraps of the class A drug of cocaine.
2. On 4 August 2023 when he was approaching 23 years old the appellant was sentenced to life imprisonment with a minimum term of 28 years for the murder with a concurrent sentence of 12 years for wounding with intent, a 2 year concurrent sentence for having a bladed article and no separate penalty was imposed for the drug offence.
3. The appellant appeals against sentence with the leave of the full court on the single ground that it was arguable that the judge erred by failing to take sufficient account of the appellant's age and level of maturity resulting in a manifestly excessive sentence. At the end of the hearing, we announced our decision that the appeal would be dismissed with reasons to follow. These are our reasons.

**The facts**

4. On the evening of 20 August 2022, going into the early hours of the next day the appellant had been taking cocaine and drinking in various bars in and around Goose Green in Altrincham, Manchester. Goose Green is a small courtyard in Altrincham that contains a number of bars. He had a lock knife with him throughout the evening. Sometime between 9 and 10pm he was denied re-entry to Tiki's Bar in Goose Green where he had been earlier and told the head doorman that he would be back and cause him an issue. He went back to Goose Green sometime before 3am. Mr Burton was already present with a group of friends and family, as was Mr Reilly with his friends. The appellant was not known to any of them.
5. At around 2.50 am, the appellant tried to enter the King Pong bar but was told nobody else was allowed in due to a previous, unrelated incident. The appellant reacted aggressively to this and made threats to the manager and continued to try to gain entry. At one point he managed to push his way in past the barrier and was then punched by a customer and dumped over the barrier at around at 2.55 am. A few seconds later he got back in and was looking for something on the floor and shouting that he had lost his phone. Mr Burton and his cousin, Chasiah were stood in the doorway as he did so and Mr Burton helped the appellant to find his phone. The appellant was escorted out at 2.57 am.
6. He immediately attempted to enter the premises again. A friend of the appellant, Malachi Hewitt-Brown, became involved and they were both asking about the appellant's telephone. The appellant was aggressive and had to be physically restrained by a member of door staff. A melee ensued. The appellant then removed a lock knife from his pocket or belt and exposed the blade. Mr Hewitt-Brown made his way towards Mr Burton and Chasiah, and was punched twice to the head by Chasiah. The appellant moved forward and delivered a blow to the left side of Mr Burton's neck. He stabbed him causing a 2 centimetre laceration to the neck which was almost vertical in orientation and 6 centimetres in depth described as deeply penetrating. He

had almost completely divided Mr Burton's left carotid artery of neck. The injury led to massive, fatal haemorrhage.

7. The appellant was then punched to the head by another person. Mr Reilly moved towards the appellant, who was bent over indiscriminately waving the knife around. The appellant slashed Mr Reilly twice; once to the arm and once to the abdomen. He caused a large 14 centimetre gaping wound to the left anterior chest wall which exposed his ribs and a large wound to the flexor aspect of his left arm.
8. The appellant was arrested at the scene and described as intoxicated. 15 hours after the incident cannabis, cocaine, ketamine and their metabolites were detected in his blood and urine and alcohol in his urine. Three wraps of cocaine were found in his pocket.
9. The appellant had 5 convictions for 10 offences between 24/04/2017 and 06/03/2023. These included possession of a bladed article for which he received a 4 month Detention and Training Order on 11/04/2019. There were also convictions for simple possession of controlled drugs.

#### **The sentence.**

10. The case was adjourned for two weeks for sentence. The judge refused a defence application for a six week adjournment to obtain a psychological report to address the question of the appellant's maturity and nor did he accede to a request for a pre-sentence report from the probation service. For the sentencing hearing, in addition to the evidence from the trial, the judge had the appellant's social services records, extracts from his Youth Offending Service file and letters from the appellant and members of his family.
11. In the two weeks available the forensic psychologist instructed by the defence, Dr Adlard, was unable to arrange to see the appellant in detention to assess his maturity and could not therefore produce the full report that she and the appellant's instructing solicitors had intended. But Dr Adlard had prepared an earlier pre-trial report after a three and a half hour assessment in which she had concluded that he had mild to moderate PTSD and overlapping symptoms of ADHD, but a formal diagnosis of ADHD was not possible in the absence of any childhood onset of ADHD. Whilst she was not able to give an expert opinion of his maturity without an assessment, she was able to provide a further report dated 26 July 2023 that identified a number of factors that may have affected his maturity, such as his exposure to several incidents of violence from adolescence – both seen and experienced - and that he had head injuries that were not properly treated as he had declined to go to hospital. She noted that the appellant appeared to have a number of factors that could potentially influenced his psychosocial development but could not be more specific without an assessment.
12. There were moving victim personal statements from Mr Burton's family about the effect of his death on them. The life changing consequences to Mr Reilly from the assault were described in his personal statement. He was 17 years old at the time and worked as an apprentice engineer. His injuries had been life threatening and it was only because of the swift and effective first aid and tourniquet applied to his arm by the police first responders that he survived the assault. The slash wound to his left arm from the elbow to the wrist had severed his tendons, muscle and ulnar nerve. He

underwent 6 hour surgery the next day to repair his ulnar artery and nerve and flexor belly repair, and vein and underwent a nerve graft operation. Three years on from the assault, the impact of his injuries was still devastating. He has been unable to pursue his career as a civil engineer and now works as an administrator in the civil engineering firm where he was an apprentice. He cannot grip with his left hand and still experiences great pain from his injuries. He has required further treatment including another 6 hour surgery which resulted in 4 months off work and the problems from the wounds still persist. The psychological effect of the assault has also been profound on Mr Reilly and on his family.

13. In his sentencing remarks, the judge noted that the appellant demonstrated pity only for himself, and not the victims of his offending. He observed that during the course of the evening the appellant had behaved in an aggressive and threatening way towards a number of bar staff in his determination to get his own way. Neither Mr Burton or Mr Reilly had used any physical violence towards him, indeed Mr Burton was helping him to find his lost phone moments before the attack and Mr Reilly had approached him courteously to warn him of his behaviour. The judge was satisfied that the appellant's friend, Mr Hewitt-Brown, was intent on causing trouble and when he became involved in a fight, the appellant chose to go into the thick of it with his knife out and exposed instead of walking away as he so easily could have done. The judge found that the appellant had aimed the knife at side of Mr Burton's neck which severed his carotid artery causing the immediate and prolific blood loss that caused his death. Immediately after that he twice slashed at Mr Reilly causing the devastating injuries from which he was only saved by the police officer first responders.
14. Since the appellant had taken a knife to the scene which was used in the commission of a murder the starting point for the minimum term to be served for the mandatory life sentence under paragraph 4 of Schedule 21 to the Sentencing Act 2020 ("the Act") was 25 years. The judge noted that under section 322 of the Act the minimum term must take into account the seriousness of the offence and any offence associated with it.
15. In mitigation the judge could not be sure that murder was intended, but the appellant's actions caused a very high risk of death and there was therefore limited reduction for intending only really serious harm to Mr Burton. The judge also accepted that this was not a planned or pre-meditated use of violence, but by the appellant's behaviour in the build up to the assault over the course of the evening and by carrying of the knife the judge described it as "a stabbing waiting to happen".
16. The judge also said this:

"I take into account in mitigation, to some extent, your relative youth and the evidence as to your mental functioning and as to your lack of maturity. Having seen you throughout the trial and read what I have about you I reflect some limited weight in reducing your culpability as a result of these matters."
17. The judge found that there was no real provocation or element of self-defence since the appellant had chosen to become involved.

18. The judge noted that the appellant's previous conviction for carrying a knife was an aggravating feature and that he regularly carried a knife. A further aggravating feature was that the appellant was affected by drink and drugs when he committed these offences.
19. The judge also noted that the appellant had ignored the attempts of his partner and many others to help him turn back from an escalating pattern of violent behaviour and criminality.
20. The judge concluded that the wounding of Mr Reilly with intent to cause grievous bodily harm was a category 1A offence involving the use of a highly dangerous weapon where particularly grave or life-threatening injury was caused, with a starting point of 12 years with a range of eight to 16 years. The judge noted that it would ordinarily warrant a consecutive sentence of 12 years, eight years of which would be served, but that would not be the case here because of the life sentence for the murder of Mr Burton. The judge considered that the appropriate term for the murder alone would be 23 years, but that the wounding of Mr Reilly must have the effect of substantially uplifting the minimum term for Mr Burton in accordance with s.322 of the Act and the totality principle that the overall sentence should reflect the totality of the offending. He therefore increased the minimum term by five years to reflect the wounding with intent making a total of 28 years.

### **The ground of appeal and pre-appeal report**

21. Leave to appeal was granted solely on the grounds that the judge had failed to have sufficient regard to the appellant's relative youth and immaturity. Since there had been no pre-sentence report on granting leave this Court ordered a pre-appeal report from the probation service to include an OASys assessment.
22. The pre-appeal report was prepared on 15 July 2025 by the court probation officer, Mr Erin Fagan, who had previously conducted an OASys assessment of the appellant in July 2019, when he was subject to a licence and community order. Under the OASys assessment tool any score over 10 indicates low maturity relative to chronological age. In 2019, the appellant scored 16 on the assessment tool and in 2025, the score had reduced only slightly to 15. The PSR author assessed that substance abuse, peer relationships and low maturity were all likely influences on the appellant's behaviour and that low maturity, neurodiversity and adverse childhood experiences may affect his impulse control and emotional regulation. There were however some indicators of growing maturity in his behaviour in custody in a report from his prison offender manager. From an unpromising start, the appellant's behavioural record whilst in custody had improved in late 2024. He achieved enhanced prisoner status in late 2024 and had been given the trusted positions of serverly orderly and wing cleaner. Lapses in his behaviour are now only occasional.
23. The report's overall conclusion was that low maturity was one of the influencing factors to the appellant's offending, but there were early signs of maturation over the last 12 months.

### **Maturity assessment**

24. It is universally acknowledged that the brains of young people are still developing beyond adulthood and that the factors to be considered set out in the Sentencing Council Guideline on Sentencing Children and Young People and discussed in the Judicial College Publication, Children and Young People in the Crown Court Bench Book (“the Youth Bench Book”) continue to be relevant when sentencing young adults up to the age of 25 (*R v Kamarra-Jarra* [2024] EWCA Crim 198 Lady Carr CJ at [50]).
25. The sentencing court must therefore consider the offender's level of maturity at the time of the offence and assess the extent to which young age - both chronological and developmental - and lack of maturity reduce the offender's culpability in committing the offence (*R v Popoola* [2021] EWCA Crim 842 at [36]). It is also known that adverse childhood experiences, educational difficulties and mental health issues negatively affect the development of adult thought processes and may result in lower maturity (*R v ZA* [2023] EWCA Crim 596 at [52] May J). As noted in Chapter 15 2E Age of the Youth Bench Book:

“...levels of culpability may be affected as much by their [young person’s] emotional or developmental age and levels of maturity as by their chronological age. Levels of immaturity or vulnerability may continue to have an effect on culpability even after the offender has reached adulthood.”
26. Expert psychological evidence and pre-sentence reports can be useful in assisting a court to form a view of whether a child or young adult offender’s maturity is consistent with their chronological age and to assess their emotional and developmental age. However, in order to be of use to the court the opinion expressed in the expert evidence must be tethered to the evidence (see *R v BRM* [2022] EWCA Crim 385 per William Davis LJ at [39] and Rule 19.4 Criminal Procedure Rules 2025). Put simply, the report must tie in to the facts of the offence.
27. The two obvious areas in which an expert psychological report can be of most assistance will be firstly in the assessment of an offender’s immaturity relative to their chronological age. The expert should be able to consider the external factors that may have affected behaviour, such as time spent as a looked after child; exposure to drug/alcohol abuse; familial criminal behaviour or domestic abuse; disrupted accommodation or education; lack of familial support; victim of neglect or abuse; experiences of trauma and loss (see paragraph 19 of the Youth Bench Book). Secondly to consider and form an expert opinion on any psychological conditions that an offender has and relate any such conditions (in this case mild to moderate PTSD and perhaps ADHD) to the facts of the offence. There may be other areas specific to particular cases.
28. In this case Dr Adlard was not able to do this because in the short time available the prison had not been able to arrange an appointment for her to conduct a maturity assessment. She quite properly therefore limited her report to general observations. Although she was able to identify factors which might have impacted on the development of his psychosocial maturity, that she knew of from her previous assessment of him for a different purpose, she was not able to express an opinion about whether they had done so.

## **Conclusions**

29. The applicable starting point pursuant to Schedule 21 paragraph 4 of the Act was a 25 year minimum term for the mandatory life sentence for the murder of Mr Burton alone. There can be no criticism of the judge's conclusion that the wounding of Mr Reilly was a category 1A offence which justified a 5 year addition to the minimum term. The question is whether, given the considerable number of aggravating features identified by the judge, the two year downward adjustment to the minimum term starting point for the murder offence was insufficient to reflect his age and immaturity resulting in a manifestly excessive sentence.
30. It will often be preferable to adjourn a sentence for a pre-sentence report and an OASys assessment and, if requested, a psychological or psychiatric report where there are indications of specific neurodiversity issues that may be relevant to sentence. In this case the appellant's had already secured legal aid funding for a report from Dr Adlard on maturity and the six week adjournment sought by the defence would have resulted in only a four week further delay. The appellant was just under 22 years at the time of the offence, had diagnosed mild to moderate PTSD and a number of known adverse childhood experiences relevant to maturity. It is important for the court to have the information necessary to make appropriate findings of an offender's culpability and level of maturity.
31. However, in this case given the number of aggravating factors that applied that justified an uplift to the starting point, by making a downwards adjustment to arrive at a minimum term of two years below the starting point the sentencing judge had taken full account of the appellant's lack of maturity that is now evident from the OASys assessment provided in the pre-appeal report. As the judge explained, the risk of death from the stabbings was so very great that the lack of intention to kill provided very little mitigation. Similarly, the lack of premeditation had to be seen in the context of the appellant carrying the knife around all evening and his escalating pattern of confrontation and aggression as the night wore on. There was nothing else in the way of mitigation. The pre-appeal report refers to a threat perceived by the appellant which can sometimes be linked to ADHD, but the judge found that the two victims had been helpful and courteous to the appellant and they offered no violence or provocation to him. A significant reduction for age and immaturity had thus been made, and we do not find the sentence to have been manifestly excessive and the appeal is dismissed.