



**IN THE CROWN COURT AT LUTON**

7 George Street  
Luton LU1 2AA

41B22117525

**Before:**

**HIS HONOUR JUDGE SIMON**  
**The Honorary Recorder of Luton**

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**THE KING**

**Prosecution**

**- v -**

**DAVID LEWIS**

**Defendant**

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**Mr J Mole for the Prosecution**

**Mr J Ryder KC for the Defendant**

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**SENTENCING REMARKS**  
**25 March 26**

***Preface***

1. The night of 24 October 25 at Hemel Hempstead Football Club was meant to be one of charity and community spirit, but instead it became one of tragedy and communal mourning.
2. The victim in this case was Mr Jack Frogell, universally known as Olly and I will, if his family will forgive me, refer to him as such in this introductory section,

because it is Olly to whom so many have come to court today to pay tribute and to support his grieving family. Olly was 48 years old. His sudden death in such tragic circumstances came as a great shock to family and friends and the wider community through his close association with the Football Club. The moving victim personal statements speak volumes for the special qualities that Olly possessed, for his important role in the lives of his immediate and wider family and for all that he did for the benefit of others, making his loss felt even more keenly by all those privileged to have known him.

3. In extending the Court's condolences to all who have been affected by Olly's death, I recognise the limitations of the Criminal Justice process; there is nothing that the Court can say or do to repair the void in the hearts and minds of those who loved and respected Olly. The court can only dispense justice dispassionately according to the law and hope that the conclusion of the criminal proceedings will in some small way allow family and friends to move on from this distressing chapter. It is important to emphasise for all those in court and for the public in general that the length of any sentence bears no correlation whatsoever to the true worth of Olly's life or the magnitude of the loss caused to so many.

### ***Factual background***

4. Mr Mole in his opening, and Mr Ryder KC on your behalf, have set out the circumstances of the offence in some detail and I do not intend to repeat it all, but rather to summarise the offending for which you, David Lewis, fall to be sentenced at this hearing.
5. On 24 October 2025, a charity evening event took place at Hemel Hempstead Football Club. You had arrived at the start of the event, around 6.45pm, and, although you maintained in interview with Probation that drinking to excess was not a problem for you, during the course of the evening you did precisely that. You reported to Probation that you were drinking Guinness and Tequila Rose throughout the night, indicating that you had drunk some eight pints of beer in

your police interview. Asked by the author of the Pre-Sentence Report (PSR) to self-assess your level of intoxication, you scored it as eight out of ten by the time of the incident with Mr Frogell, as I shall now refer to him.

6. Mr Frogell had only arrived at the venue shortly before midnight to collect his wife and children who were attending the event. He can be seen on the CCTV jovially greeting many others, playing pool with a young child and doing nothing but acting in the way that would have been expected of him by anyone who knew him.
7. It was after midnight, the charity event having concluded and as people were being encouraged to leave the premises, that there was a disturbance of some type that did not involve Mr Frogell at all. It did not initially involve you, but did involve a friend of yours, a Mr Jarman. The nature of the disturbance is not material, but I accept that the CCTV shows that you appeared to be calming down a further individual, a Mr Stacey.
8. Thereafter, you went outside and were with a small group of other people by the car park. Shortly afterwards Mr Frogell exits the building and can be seen talking to various people. At one point, he is standing right next to Mr Jarman without a hint of any difficulty or issue between them. There may in fact have been no direct interaction despite their physical proximity; it is said that they were not known to each other. Mr Jarman then starts to walk towards the exit. Some distance behind, Mr Frogell walks in the same direction, which is the exit in any event, but he stops again to talk to someone. You had followed, you say, because of a concern about Mr Jarman's earlier behaviour and overhearing someone making a comment that made you think Mr Jarman might be at risk. Mr Jarman did not seem too concerned by what one can see on the CCTV and there is nothing in Mr Frogell's actions to give cause for concern, indeed he can be seen walking towards and then past Mr Jarman, which is when you accost him and after a brief interaction, you swing the fatal punch.
9. It was at best a monumental, alcohol-fuelled misjudgment with catastrophic consequences.

10. You told Probation that you expected Mr Frogell to get back up again after you punched him, but as is obvious from the CCTV and not disputed, you did not actually stay to see what the outcome of your violence was. You were however in the vicinity long enough to appreciate that Mr Frogell was not getting up.
11. You attended the police station the following day and handed yourself in, following which you were interviewed.
12. Mr Frogell was hospitalised. It was some nine days later that Mr Frogell succumbed to the injuries you caused to him and you were interviewed for a second time. CCTV of the incident was shown to you during this interview.
13. You were charged with manslaughter and appeared before the magistrates' court on 26 November 2025. The Better Case Management form was completed by your then solicitors. Under plea or intended plea were entered the letters "TBC" (which one takes to mean 'to be confirmed') and the real issues in the case were noted as "causation potentially/possibly self-defence". The case was sent to the Crown Court for trial. At this court on 8 January 2026 you pleaded guilty to the single count on the indictment.
14. I have read the pathologist's report and that of the neuropathologist. It is unnecessary to record more than that Mr Frogell's tragic and untimely death was the result of severe, traumatic brain injury.

**David Lewis**

15. You are 38 years of age. You have one previous conviction for battery in 2009. There is also a caution for a s4 Public Order Act offence in 2013. Neither of these is recent enough to be relevant in terms of an aggravating factor and the twelve-year gap in offending provides some mitigation. You are married and have two children, aged 15 and 12 years old, and they, together, with your parents will of course be impacted by the court's sentence today.

16. I have read the numerous testimonials uploaded to section T of DCS on your behalf and I note the consistently positive comments about your general character from family and others who know you well.

***Offence guidelines***

17. The relevant offence-specific Guideline is that for unlawful act manslaughter (1 November 2018). The prosecution and defence agree that culpability, applying this Guideline, falls into Category C indicating medium culpability. This is for cases “where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability”. I agree with this assessment in the circumstances of this case.

18. Harm in terms of the loss of life is inherent in the starting point and category range, which for Culpability C is a starting point of six years, and a range of three to nine years’ imprisonment. To determine the sentence in this case as in any other comparable one the next step is to consider aggravating and mitigating factors, bearing in mind that those delineated in the Guideline are specified as forming a non-exhaustive list.

19. Mr Mole highlighted as aggravating factors the commission of the offence whilst under the influence of alcohol and the presence of Mr Frogell’s children in the immediate aftermath, seeing their father lying unconscious on the ground. The Crown also referred to your leaving Mr Frogell on the ground and walking away.

20. Mr Ryder acknowledged the influence of alcohol as an aggravating factor, although he emphasised it was in the context of affecting your judgment rather than rendering you violently disinhibited, seeking to distinguish this case from others involving alcohol. He took issue with the Crown’s suggestion about the presence of children being relevant. As to mitigation, Mr Ryder relies on the significant period of time since your sole previous conviction for violence and the law-abiding life you have led since then, looking after your wife who has a significant medical condition and your children. He describes your response to

the incident as exemplary in handing yourself in the following day, as well as your genuine regret and sorrow at your actions.

21. I have reprised the two sets of submissions on aggravating and mitigating factors in some detail as they are in conflict to a degree and I have considered them carefully before reaching my own conclusions. Dealing first with alcohol intoxication as an aggravating factor, more specifically your having drunk to excess, the additional information for this factor in the Guideline explains that it is concerned with whether the alcohol contributed to the offending. Precisely how it affected you matters not. There can be no dispute that your intoxication played a significant role in this offence. The Guideline goes on to state that “An offender who has voluntarily consumed ... alcohol must accept the consequences of the behaviour that results, even if it is out of character”.
  
22. As to the presence of children, I accept the submission that Mr Frogell’s children were not present during the short timeframe in which the punch was thrown. However, I am satisfied that the very public setting and location of this offence, with so many onlookers many of whom will have had some acquaintance with Mr Frogell, is an aggravating factor at least to a modest extent. In forming this conclusion, I have borne in mind the guidance contained in the General Guideline – Overarching Principles when dealing with location as an aggravating factor. Some might have considered as applicable the aggravating factor that the victim was providing a public service, which includes acting in a voluntary capacity, but to the extent that Mr Frogell was helping to get people to leave the venue and go home after the event, this is subsumed within the public setting factor to which I have already referred.
  
23. To describe your response to the incident as “exemplary” is, in my judgment, to put a very generous gloss on what you actually did. In your significantly intoxicated state, having on your case erroneously sensed some need to protect Mr Jarman and having floored Mr Frogell with a single punch to the head, you walked around briefly and then walked away, leaving Mr Frogell unconscious on

the ground. The presence of another who may have been ushering you away does not particularly assist. In all the circumstances your assertion that you just expected Mr Frogell to get up from the ground rings somewhat hollow. Though this is not specifically an aggravating factor, it does detract from any mitigation to be drawn from handing yourself in the next day.

24. The Guideline naturally refers to genuine remorse as a mitigating factor and I am satisfied that this is relevant in your case. It is also correct to recognise the extended period of time since you came to the attention of the police and/or the courts. I also take into account the positive testimonials.

25. The general dangers of drinking to excess are well-known, but this case so graphically illustrates the devastating consequences that can result from a single punch, a single act of violence. In this case that single act of violence was not only alcohol-fuelled but utterly unprovoked. It would seem that every aspect of your conduct in relation to Mr Frogell that night was seriously affected by your high level of self-induced intoxication.

26. The court is enjoined to pass a sentence that is the least sentence that properly reflects the overall seriousness of the offence. In determining the sentence in this case, I have assessed that the identified aggravating factors outweigh the mitigating factors to the extent that the notional sentence, before credit for guilty plea, would be one of six years and six months.

27. The Crown submit that the standard 25% for guilty plea at the PTPH applies in this case. Mr Ryder KC seeks to persuade me that the exception in section F1 of the Guideline on Credit for Guilty Plea is applicable in your case for the reasons he outlined in his written and oral submissions. This would give you one-third credit on your sentence.

28. Perhaps the most important aspect of the case to consider when determining the issue of credit is the chronology. Those familiar with proceedings in the Crown

Court will readily understand that this case, involving an incident in late October 2025 and a charge in late November 2025 and bearing in mind the overall circumstances, has come to Court very quickly. I note that the neuropathologist report and the pathologist's report are both dated after the PTPH when your guilty plea was entered. This is relevant because the BCM form had referred to causation which is bound to have come from your then solicitors. Although the pathological evidence had not been finalised you nonetheless pleaded guilty when advised by new solicitors and counsel. Mr Ryder tells me and I accept that this was always your intention. In all the circumstances, I have concluded that the exception in F1 does properly apply and that one-third credit is appropriate.

29. Applying one-third credit to the notional sentence produces a sentence of 52 months or four years and four months' imprisonment.

30. Given the careful risk assessment undertaken by the author of the PSR, I formally record that, in my judgment, dangerousness is not a relevant consideration in this case.

31. The qualifying tag days that are to count towards your sentence are 119, which are rounded up and divided by two in order to calculate the number of days that actually count against the sentence of imprisonment. By ordering that 60 days are to count towards the sentence that I am imposing, the overall sentence to be imposed is one of 50 months or four years and two months' imprisonment.

### **Sentence**

32. The sentence of this court is a total of four years and two months' imprisonment from today. You will serve two-thirds of that sentence in custody and then you will be released to serve the remainder of the sentence on licence in the community. You must comply with all the conditions of your licence and not commit any further offences, failing which you will be at risk of recall to prison for a further period of time.

33. In the circumstances it is not appropriate to make any order for the payment of prosecution costs.

34. I impose the statutory surcharge and a collection order.

35. I am grateful to both counsel for the obvious care and sensitivity with which they have dealt with their respective cases and for their very helpful written and oral submissions.