



JUDICIARY OF ENGLAND AND WALES

IN THE CENTRAL CRIMINAL COURT

THE KING

-v-

ASHLEY MALCOLM

SENTENCING REMARKS OF HHJ SIMON MAYO KC

(1 OCTOBER 2026)

Introduction

1. Ashley Malcolm, you have pleaded guilty to a number of serious offences across two indictments. The most serious offence is the manslaughter of John Burke. I also must sentence you for burglaries, attempted burglaries, an assault occasioning actual bodily harm and possession of cocaine with intent to supply.
2. During the night of 28 and 29 September 2025 you embarked upon a sustained course of criminal conduct which involved breaking into several residential properties.

3. At Mr and Mrs Burke's address you entered the home of two elderly and vulnerable occupants. The burglary took place over a prolonged period. You left the property and returned to it in order to steal further items. During the course of that burglary, you headbutted Mr Burke. The headbutt fractured his nose and caused intracranial bleeding and he later died as a consequence of those injuries.
4. You then continued your offending by burgling supported accommodation at Brooke Road, attempting a further burglary at Stamford Hill and assaulting the occupant, Leandro Marques.
5. In addition, there was another episode of offending reflected in the Wood Green indictment, including a further domestic burglary, an attempted burglary and possession with intent to supply cocaine.
6. Nothing I can say will lessen the profound loss suffered by the Burke family. John Burke was 86 years old. He was entitled to feel safe and secure in the home he shared with his wife. Instead, during the course of a burglary committed by you, he suffered a violent assault which ultimately caused his death.
7. I have read the prosecution sentencing note, the defence sentencing note, victim personal statements, and the pre-sentence report prepared by the probation service. I have listened with care to the submissions made by counsel on both sides today.
8. You are now 40 years of age. You have an extensive record of previous offending as both a youth and an adult extending over 25 years.

9. For reasons I will go on to explain I have decided to reflect all your offending in the sentence I impose for the manslaughter of John Burke, and I have decided that the appropriate sentence is an extended sentence of imprisonment of 23 years with a custodial element of 18 years imprisonment and an extended licence period of 5 years.

Impact of Offending

10. Before today's hearing I read the victim personal statements provided by members of the Burke family, and I have listened as some family members read those moving statements to the court today. They reveal the devastating consequences of your offending for his widow, Peggy, his children, his grandchildren, and his wider family.
11. The statements describe John Burke as a hardworking, gentle and devoted family man who was deeply loved and respected by those who knew him. Even in advancing age and declining health, he remained at the centre of family life and continued to provide support and companionship to his wife and family.
12. His death has deprived the family of a man whose quiet presence, guidance and affection formed an important part of their lives. The statements speak eloquently of enduring grief and of the loss of future years, memories, and family occasions which would otherwise have been shared with him.
13. They also speak of the trauma arising from the knowledge that an elderly and vulnerable man was violently assaulted in his own home, the place where he was entitled to feel most secure. They remain troubled by thoughts of his final hours, and describe ongoing anxiety, distress, and a lasting sense of a loss of security.

14. The impact upon his widow, Peggy Burke, has been particularly profound. She has lost the companionship, love and support of the man with whom she shared her life over many decades.

15. The loss suffered by the Burke family is immeasurable and will remain with them for the remainder of their lives.

Assessment of Seriousness and Guideline Categorisation

Manslaughter

16. I turn first to deal with the manslaughter. The applicable sentencing guideline is that relating to unlawful act manslaughter.

17. I accept the prosecution submissions concerning culpability and reject those advanced on your behalf.

18. It is argued on your behalf that this case falls within, or close to, culpability category C because the unlawful act consisted of a single headbutt and because there was no intention to inflict really serious injury. I do not accept that submission.

19. First, the headbutt was directed at an obviously elderly and physically vulnerable man. On entering the address, it would have been immediately apparent that the occupants were elderly and infirm from the condition of the property and the mobility aids present.

20. Secondly, although only a single blow was struck, a deliberate headbutt to the face of an elderly man carries an obvious risk of causing very serious injury. The argument that the resulting nasal fracture was comparatively modest does not answer the question posed by the guideline, namely the nature of the violence employed, and the level of harm intended.

21. In my judgment, a forceful headbutt directed at the face of an 86-year-old man necessarily carried a high likelihood of causing very serious injury and I am sure that the degree of intended harm fell only marginally short of grievous bodily harm.

22. Thirdly, and importantly, the death was caused during the commission of a serious offence. I reject the submission that this domestic burglary was not serious for the purposes of the guideline. This was a burglary of an occupied dwelling, committed at night, against exceptionally vulnerable householders and carried out over an extended period.

23. I therefore find the presence of two culpability B factors within the guideline, namely:

- a. death caused in the course of an unlawful act involving an intention to cause harm falling just short of grievous bodily harm; and
- b. death caused whilst committing a serious offence.

24. In accordance with the guideline, I have concluded that the combination of those factors elevates the offending into culpability category A. I therefore accept the prosecution submission that this is a case of very high culpability.

25. The guideline specifies a starting point of 18 years' custody and a category range of 11 to 24 years.

26. I also find that there are additional aggravating features, namely:

- a. the planned nature of the burglary;
- b. your extensive criminal record; and
- c. the fact that the offending formed part of a wider sequence of burglaries and related criminal conduct.

27. The particular vulnerability of Mr Burke and the fact that the offending occurred within his home have already been taken into account in my assessment of categorisation in the guideline. I therefore avoid double counting those matters as separate aggravating factors.

28. Against those matters I take account of your personal circumstances, mental health difficulties, substance misuse, traumatic background, and the expressions of remorse recorded in the pre-sentence report. I will also allow appropriate credit for your guilty pleas, namely 10%.

Domestic Burglaries and Attempted Burglaries

29. I turn next to the burglary offences. I accept the prosecution submissions as to categorisation.

30. The burglary of the Burke address and the burglary of the supported accommodation at Brooke Road both fall within Category 1 harm. In each case occupants were present. In relation to Fountayne Road the burglary

culminated in the violence inflicted upon Mr Burke. At Brooke Road vulnerable residents and staff were present.

31. In relation to culpability, I assess both offences as Category B. You were equipped for burglary and these offences formed part of a deliberate and sustained course of domestic burglary.
32. The guideline identifies a starting point for a Category B1 burglary of 2 years' custody with a category range of 1 to 4 years.
33. The attempted burglary at Stamford Hill also falls within Category 1 harm. Occupiers were present and the offence resulted in confrontation when you were challenged. I again assess culpability as Category B. The same guideline range applies.
34. In relation to the Wood Green indictment, I accept the prosecution submission that the burglary at Grandsen Avenue is properly categorised as Category 2 harm and Category B culpability. Property of significant value was stolen. The applicable guideline starting point is 18 months' custody with a category range of 6 months to 3 years.
35. The attempted burglary at Chardmore Road falls within Category 3 harm because the offence was interrupted before entry was achieved. I again assess culpability as Category B because the offence was planned and carried out using a screwdriver. The guideline provides a starting point of 12 months' custody with a range extending from a high-level community order to 2 years' custody.

36. Your extensive history of domestic burglary offending represents a substantial aggravating feature across all of these offences.

37. I have considered section 314 of the Sentencing Act 2020. You are a repeat domestic burglar, and the minimum sentence provisions apply to the completed burglaries. I have considered whether exceptional circumstances exist. Despite the matters advanced on your behalf, including your personal circumstances, addiction, and mental health difficulties, I am not satisfied that exceptional circumstances have been established.

Assault Occasioning Actual Bodily Harm

38. I turn next to the assault upon Leandro Marques. I accept the prosecution submissions as to categorisation and reject the suggestion advanced on your behalf that the circumstances materially reduce your culpability.

39. Mr Marques initially confronted you whilst holding a bicycle pump. However, having gained possession of that item, you repeatedly used it as a weapon against him. Your response went far beyond anything that could properly be characterised as defensive.

40. Applying the assault guideline, I assess the offence as Category 2 harm and Category B culpability. I take into account an element of excessive self-defence but also your use of a weapon and your leading role within the incident. Standing back and considering the offence overall, Category B most accurately reflects its seriousness.

41. The guideline identifies a starting point of 36 weeks' custody and a category range extending from a high-level community order to 18 months' custody.

42. The offence is further aggravated by your previous convictions for violence.

Possession with intent to supply

43. I turn finally to the offence of possession of cocaine with intent to supply. I again accept the prosecution submissions as to categorisation.

44. You pleaded guilty on a basis that places you within a lesser role and I accept that basis of plea.

45. It is agreed that the offence falls within Category 3 and your role is properly assessed as a lesser one. The applicable guideline provides a starting point of 3 years' custody with a category range of 2 years to 4½ years' custody.

Dangerousness

46. I must consider whether you are dangerous within the meaning of Part 10 of the Sentencing Act 2020. The question is whether there is a significant risk to members of the public of serious harm occasioned by the commission of further specified offences by you. Having considered all the evidence concerning your current and past offending and everything that I know about you, I am satisfied that that test is met.

47. First, the present offences are themselves highly significant. During the course of a domestic burglary, you used violence against a vulnerable householder, causing his death. Thereafter you continued your offending

rather than desisting. Within hours you committed further burglaries and associated offences.

48. Secondly, your criminal record reveals a long-established pattern of domestic burglary and repeated offending over many years. Although much of that offending is acquisitive, there is also a concerning history of violence. In 2018 you headbutted a prison officer and bit off part of his ear. In 2021 you committed an assault occasioning actual bodily harm upon a police officer. You have other convictions for offences of violence.

49. Thirdly, the pre-sentence report identifies a number of enduring risk factors. The author records your long history of acquisitive and violent offending, chronic substance misuse, association with criminal peers, limited personal responsibility for your actions, emotional instability, difficulty managing challenge, and a history of responding aggressively when your wishes are frustrated.

50. The report specifically notes that previous assessors considered that you struggle to respond appropriately to challenge, that your behaviour can escalate to aggression, and that on the night of the present offences you appeared willing to take whatever steps were necessary to achieve your objectives.

51. The actuarial assessments are also significant. Whilst you are assessed as presenting a medium risk of general and violent reoffending, you are assessed as presenting a high risk on both the Serious Violent Reoffending Predictor and the Combined Serious Reoffending Predictor. The report author expressly agrees with those findings.

52. The report further states that the risk extends to any person whose home you may target for burglary or with whom you may come into conflict and highlights the potentially catastrophic consequences of burglary-related confrontations.

53. I have carefully considered the submissions made on your behalf. I accept that much of your previous offending has been acquisitive in nature and that the present offence occurred in unusual circumstances. However, dangerousness is assessed by looking forward, not merely by looking backward.

54. When I consider the present offences, your previous violence, the persistence of your offending despite repeated periods of imprisonment, your poor response to supervision, the findings within the pre-sentence report, and the professional assessment of high risk of serious harm, I am satisfied that there exists a significant risk that you will commit further specified offences and there is a significant risk that would occasion serious harm to members of the public. I therefore find you dangerous.

55. I do not, however, conclude that the seriousness of the offending is such as to require the imposition of a life sentence. I have considered whether an ordinary determinate sentence of imprisonment will afford adequate protection to the public and have concluded that it would not. The appropriate disposal is therefore an extended sentence of imprisonment.

Totality

56. I have considered the Totality Guideline.

57. The manslaughter is plainly the lead offence. The burglary at Fountayne Road is inextricably linked to that offence and aspects of the burglary are already reflected in my assessment of culpability for the manslaughter. It would therefore be wrong to impose an additional consecutive sentence for that offence.

58. The remaining offences committed during the course of 28 and 29 September 2025 formed part of a sustained course of criminal conduct over a relatively short period. Whilst they do require additional punishment, I am satisfied that the proper course is to reflect that criminality by a proportionate increase in the custodial term imposed for the manslaughter rather than by imposing separate consecutive sentences.

59. I have also considered the offences contained in the Wood Green indictment. Those offences were not part of the same incident and are therefore examples of separate offending. However, standing back and considering the overall criminality, I am satisfied that the proper course is to impose a sentence in respect of manslaughter which adequately reflects all of the offending across both indictments whilst remaining just and proportionate.

Sentence

60. Taking the manslaughter as the lead offence, I conclude that the appropriate custodial term for that offence **alone** would have been 17 years' imprisonment.

61. I have then applied the Totality Guideline and considered the additional offending across both indictments. In order properly to reflect that further criminality, I increase the overall sentence to 20 years' imprisonment before

credit for plea. Allowing credit for your guilty pleas, which I assess at two years, the custodial term becomes 18 years' imprisonment.

62. For the offence of manslaughter, I therefore impose an extended sentence of imprisonment of 23 years consisting of a custodial term of 18 years and an extended licence period of 5 years.

63. All other sentences will be served concurrently. The least custodial terms in each case after allowing appropriate credit for plea is as follows:

- a. For the burglary at Fountayne Road, 3 years and 2 months' imprisonment.
- b. For the burglary at Brooke Road, 3 years and 2 months' imprisonment.
- c. For the attempted burglary at Stamford Hill, 2 years' imprisonment.
- d. For the assault upon Leandro Marques, I impose 10 months' imprisonment.
- e. For the burglary at Grandsen Avenue, 2 years and 8 months' imprisonment.
- f. For the attempted burglary at Chardmore Road, 16 months' imprisonment.

- g. For possession with intent to supply cocaine I impose 3 years' imprisonment.

64. All sentences will run concurrently.

65. You will receive credit for the time you have spent on remand. The precise calculation of that credit will be undertaken administratively.

66. Because this is an extended sentence your release will not occur automatically. You will become eligible to be considered for release by the Parole Board after serving two-thirds of the custodial period of the extended sentence. There is no guarantee that you will be released at that point.

67. Whether you are released at that stage will depend upon the Parole Board being satisfied that it is no longer necessary for the protection of the public that you remain confined.

68. When you are released, you will remain subject to licence until the expiry of the custodial term and thereafter throughout the extended licence period which I have imposed.

69. The purpose of that extension period is the protection of the public. During that time, you will remain subject to supervision and to such licence conditions as are considered necessary to manage the risks that you present.

70. Should you fail to comply with those conditions, or should your behaviour demonstrate that your risk can no longer safely be managed in the community, you may be recalled to prison and detained for a further period.

71. The sentence I pass today reflects the very great seriousness of the offending, the devastating consequences which followed from it, your lengthy history of offending, the danger which I have found you continue to present to members of the public, and the need both to punish you and to protect others from the risk of serious harm in the future.

72. You must pay the statutory surcharge in the appropriate sum.

73. You may go down.

Final Remarks

74. Finally, I wish to address Mr Burke's family. I recognise that no sentence I can pass today will ease the grief and sense of loss caused by John's death. The statements I have read paint a compelling picture of a much-loved husband, father, grandfather, and great-grandfather, whose presence lay at the heart of his family. His death has left a void that can never truly be filled.

75. I hope that, in time, you may find comfort in your shared memories of John, in the love he gave to his family, and in the knowledge of the lasting impact he had upon the lives of those who knew him.

HHJ Simon Mayo KC

Central Criminal Court

1 October 2026