



JUDICIARY OF
ENGLAND AND WALES

District Judge Ashworth

In the Stratford Magistrates' Court

The Queen

-V-

Ashley Gill-Webb

This Defendant is charged with two alternative offences arising from the same incident although both charges have been considered separately:

- a. On the 5th August 2012 at the Olympic Stadium, Olympic Park, E20, with intent to cause the 100m finalists harassment, alarm or distress, used threatening, abusive and disorderly behaviour thereby causing spectators present at the Olympic Park harassment alarm or distress, (S.4A POA 1986).
- b. On the 5th August 2012 at the Olympic Stadium, E20 used threatening, abusive or insulting words or behaviour or disorderly behaviour within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby, (S.5 POA 1986).

The two charges relate to a period of 2-3 minutes before the start of the Olympic 100 metres men's final on the 5th August 2012. Mr. Gill-Webb made his way to the front of the spectator's stand immediately behind the starting blocks and shouted out comments aimed at the eventual winner, Usain Bolt and then, as the race was about to begin, threw a plastic bottle onto the track area which landed just behind where the runners were about to start.

The Defence accept that Mr. Gill-Webb's behaviour was abusive and disorderly shouting comments at Usain Bolt and throwing the bottle onto the track causing harassment alarm and distress to spectators nearby. The Prosecution accept that Mr. Gill-Webb at the time was affected by a manic episode.

It is for the prosecution who bring this case to prove it beyond a reasonable doubt or so that I am sure, it is not for the Defendant to prove his innocence.

The sole dispute to be resolved in this case is as to Mr. Gill-Webb's mental state: am I made sure he intended to cause harassment, alarm or distress to the competitors for the section 4A offence and that he knew or was aware that his behaviour may be abusive or disorderly (for the section 5 offence). If he was or may have been incapable of forming an intention, or may have formed no intention, then he would be not guilty of the

section 4A offence. If he may not have been aware that his actions were abusive or disorderly then he would be not guilty of the section 5 offence.

Background

The Crown is represented by Mr. King and the Defendant by Miss Crimmings. I am indebted to counsel who have presented the vast majority of the evidence by way of agreed witness statements and video evidence which saved court time and allowed a focus to be placed on the issue of intent.

From that agreed evidence read from the witness statements the following events at the stadium can be ascertained:

The Defendant somehow by-passed the stadium security to gain entry to the spectators stand. He had with him an empty plastic beer bottle. He made a persistent effort to get to the front of the stand next to the track, according to the statement of a steward Robert Spears, trying to jostle his way through the Dutch fans by using his arms and pushing one out of the way.

The Defendant was heard by Kiya and Farzin Mirshahi and Edith Bosch immediately before the bottle was thrown shouting repeatedly and very loudly at the line up of competitors such comments as:

“no Usain no,”

“Usain no, Justin you’re a druggy. Believe in Blake, No Usain No.”

“Usain, I want you to lose, Usain you are bad, you’re an asshole.”

This is said to have gone on for 2-3 minutes.

Whilst shouting the Defendant appeared restless, talking loud and fast, moving to the front of the stand. He appeared angry when a volunteer tried to get him to sit down, thrashing his arms around, something he did again after throwing the bottle, flailing his arms in the direction of the competitors as if to demonstrate he was finished.

The bottle was thrown at the point immediately before the race began as the spectators were intently watching for the start.

From the video footage the Defendant can be seen looking over first his right shoulder and then round and over his left shoulder before moving slightly to one side behind another spectator and throwing the bottle. The spectators’ attention was focused on the race about to start.

The bottle is thrown over the heads of the crowd and lands in the area behind the starting blocks only a matter of feet from the competitors.

When the defendant is quickly seized he resists the stewards, makes no apology for his actions and asks who won the race.

The Section 4A offence

I must here observe in respect of the Section 4A charge an important distinction between the impulse or desire to do something unlawful which is not an offence, and actually acting with the intention to do something unlawful which is. A mental instability (other than a legal finding of insanity which does not apply here) may prompt or exacerbate a desire to commit an offence. It does not provide a defence to the charge but may well reduce the culpability of that offender when it comes to sentence.

The factual decision I have to make, therefore, is does the prosecution make me sure that Mr. Gill-Webb intended to cause harassment, alarm, or distress to the competitors.

Miss Crimmings for the Defence has raised the issue of the Defendant's intent, and on his behalf called an expert psychiatrist Dr. Adams who treated Mr. Gill-Webb for a period immediately after the incident. For the prosecution Mr. King called an expert psychiatrist Dr. Latham who interviewed Mr. Gill-Webb on the morning of the first day of the trial.

The psychiatrists agree that Mr. Gill-Webb has a diagnosis of bi-polar disorder and that he was affected by a manic episode at the time of the incident. They agree that the effect of the disorder was to make his behaviour impulsive, overconfident and that it impaired judgement and self-control. They also agree that the effects of the manic episode contributed to the throwing of the bottle.

What they do not agree about and what is the only evidential dispute in the case is Mr. Gill-Webb's intention in throwing the bottle. On the one hand Dr. Adams who is an experienced adult therapeutic psychiatrist states in his opinion Mr. Gill-Webb's mania was so extreme that he could not form any intent because he could not appreciate the effect of his actions upon other people; therefore the throwing of the bottle was with no particular intent in mind. Mr. Gill-Webb in his opinion just got caught up in the excitement of the moment. Whilst he has interviewed Mr. Gill-Webb who told him that he did not remember the throwing of the bottle, he comes to his opinion, he tells me, due to his experience of the symptoms of bi-polar disorder and by his review of the statements and video film.

Conversely, Dr. Latham who is an experienced forensic psychiatrist is of the opinion that the manic episode contributed to the incident by making Mr. Gill-Webb impulsive and impairing his judgement, but that would not have rendered him incapable of forming an intention.

The two experts disagree on this fundamental issue, Dr. Adams saw Mr Gill-Webb very soon after the incident and treated him from the 8th of August and 7th September 2012 and has had access to his records and so his diagnosis carries some weight. There is however a tension between his opinion and the video evidence which I will turn to later. Dr. Latham whose specialism is in treating mentally disordered offenders did not have so long to observe Mr. Gill-Webb, only seeing him on the first day of the trial, nor did he

have access to as much information, however his evidence was impressive and his conclusions in line with other evidence in the case.

The expert reports and evidence have given me considerable insight into the effect of bipolar disorder, but Mr Gill-Webb was not able to give either psychiatrist an account of his actions in throwing the bottle stating he had no memory of it. He has not given evidence which is his right. This means, however, I have not been able to assess his credibility in relation to the accounts he gave to the psychiatrists about the effects on him of the disorder. This has made it difficult to accept Mr. Adam's firm position that Mr Gill-Webb could form no intention at all. He deduces this from the fact that Mr Gill-Webb's mania was so extreme as to prevent him from appreciating the effect of his behaviour on others. This conclusion is not one that I accept bearing in mind two things: firstly the agreed effect of the mania is to make people impulsive and to inhibit their self-control – not to make them psychotic or impair understanding, secondly the video evidence does not support Dr. Adam's conclusions.

I accept the evidence of Dr. Latham which was persuasive. His conclusion was in line with the agreed symptoms of the illness that the behaviour was contributed to by the effects of impulsivity and overconfidence but that ultimately he could not say what the intention of Mr Gill-Webb was, only that it was possible for him to act intentionally.

This is important because the law states that a person's intention has to be proved by evidence. A court should not automatically conclude that a defendant intended the natural consequences of his actions. However the natural outcome of an act will be evidence which points in that direction. The court has to determine the issue by looking at all the evidence including the experts' opinions and the facts. I therefore have to look carefully at the agreed course of events that led up to the bottle being thrown.

The facts I find are that Mr Gill-Webb whilst affected by his mania by-passed security to find his way into the stadium to an area very close by the starting blocks. He was annoyed at Usain Bolt and had with him an empty beer bottle.

Having got into that area he used physical force to jostle and push other spectators to get near to the track.

He shouted out loudly and repeatedly comments aimed at Mr. Bolt.

As the race was about to begin the noise of the crowd abated and the focus of the spectators became fixated on the starting blocks.

Mr Gill-Webb quite deliberately looked over his right shoulder and then round to look over his left shoulder to see if anyone was watching him and then stepped for concealment behind other spectators.

Satisfied that he was not under observation he threw the bottle very close to the competitors who were listening for the starting gun.

Mr. King argues this proves Mr. Gill-Webb was acting deliberately to check out if he would be caught before throwing the bottle and actually meant to upset and distress the competitors. For the Defence Miss Crimmings said that the effect of the mania prevented Mr. Gill-Webb from forming a specific intent. Such was the impairment of his reason that he was not thinking rationally or at all and that the overwhelming impulse caused by the mania was simply followed by an action as he was caught up in the palpable tension of the moment.

The video in my view clearly shows Mr. Gill-Webb checking to see if he is under observation before taking the risk of throwing the bottle. I am sure that he was at that point weighing up the chances of being caught before throwing the bottle in an effort to disrupt the start of the race and put off Usain Bolt.

I am sure therefore that he was at that point acting rationally and wrongly and that he intended to cause harassment, alarm or distress to the competitors and accordingly he is guilty of the S.4A offence.

Section 5

I turn next to the S.5 charge, here the issue is whether the Defendant knew that his actions were disorderly or was aware that they may be. It is a lesser charge but the parties have jointly asked that I return a verdict in relation to it notwithstanding the decision above.

I can deal with this quite briefly as the issues have been fully discussed above. The same burden and standard of proof applies.

The only issue is whether the Defendant knew his actions were abusive or disorderly, and for the reasons given above I am sure that when the Defendant looked around him and then stood behind another spectator to throw the bottle, it was because he knew what he was about to do was disorderly, he is therefore also guilty of this offence although no separate punishment is likely.