



JUDICIARY OF
ENGLAND AND WALES

NORTHAMPTON CROWN COURT

28 NOVEMBER 2013

R
-v-
ANXIANG DU

SENTENCING REMARKS OF MR JUSTICE FLAUX

1. Anxiang Du, you have been convicted by the jury of the murder of Jifeng “Jeff” Ding, his wife Helen Ding and their two daughters Xing aged 18 and Alice aged 12 at their house in Pioneer Close, Wootton, Northampton on 29 April 2011. By its verdicts the jury has rejected your defences of diminished responsibility and loss of control which might otherwise have reduced this to manslaughter. What is clear from the evidence and the verdicts is that these were cold-blooded murders which in my judgment were premeditated and were considered acts of revenge in which you wiped out the entire family of the couple whom you considered had ruined you financially in the acrimonious civil litigation in which you and they had been engaged for more than seven years.
2. The catalyst for these horrific crimes was twofold. First, on 20 April 2011 you heard that your petition to the Supreme Court for permission to appeal the decision of the Court of Appeal upholding the legality of the sale and leaseback arrangement whereby the Dings sold their house to Paul Delaney in May 2008 had been refused. That was essentially what you saw as the end of the road for you in your attempt to recover damages and costs from the Dings in the civil proceedings. Second, at about 10pm on 28 April 2011, you and your wife Can Chen were served at your home address with a freezing injunction obtained by Mr Delaney urgently at a without notice hearing at the High Court in Birmingham, restraining you from disposing of your assets including your house, which you or your son were in the process of selling to your niece to avoid the enforcement against you by Mr Delaney of the costs orders he had obtained before His Honour Judge Purle QC and the Court of Appeal.

3. You evidently brooded over those matters overnight, fuelling your hatred for and anger towards Jeff and Helen Ding and Paul Delaney. Although the predicament in which the litigation had placed you had caused you to have moderate depression, I am quite satisfied it was that hatred and anger and the desire for revenge they generated that motivated you to act as you did on 29 April 2011, not the moderate depression you were suffering which neither caused nor contributed to your carrying out of these killings.
4. On the morning of 29 April 2011, you travelled from your home in Coventry by train to your Chinese herbal medicine shop in Birmingham, where, so far as your wife was concerned, you were going to work, notwithstanding that it was a bank holiday, because your wife wanted to watch the Royal Wedding. However, you only stayed at the shop for about ten minutes. You wrote your wife a farewell note which you left inside the appointments book and picked up the kitchen knife which was the murder weapon and was in a bag at the shop. You already had your passport in your pocket. It is clear that, by the time you left the shop in Birmingham that morning at the latest, you had already formulated a plan to go to Northampton to kill the Ding family with the knife and then to flee the jurisdiction.
5. You travelled by train from Birmingham to Northampton and then took a bus to Wootton. You asked the bus driver for directions to Pioneer Close and although he sent you in the wrong direction, you found your way, asking a lady in the street for the directions. It is apparent from the CCTV of your movements on the day, confirmed by their evidence, that you were calm and methodical, evidently a man on a mission.
6. You arrived about 3.15pm and went through the open garage doors at the house into the garden then through the patio doors into the kitchen where Jeff Ding was minding his own business in his own home on a sunny bank holiday afternoon. You launched a frenzied attack upon him with the knife, stabbing him twenty three times. During the struggle that took place he tried to defend himself, sustaining defence wounds to his arms and hands, but the main stabs were to his chest and upper body, where you as a Chinese doctor would have known the vital organs were located. Those stab wounds to his chest indeed penetrated his heart and lungs and were fatal. There can be no doubt that this was savage butchery on your part with intent to kill.
7. In your interviews with the psychiatrists who have examined you, you have maintained that you lost your self control because when you asked him for your money, he laughed at you and called you stupid and a fool. Even if Jeff Ding behaved like that and said those things, which I very much doubt, he was in his own home and you were an uninvited intruder. If anyone had the right to be incensed it was him not you, but in any

event by its verdict the jury has rejected any defence of loss of self-control. You did not lose your self-control in killing Jeff Ding: in effect you executed the man you hated.

8. Having despatched Jeff Ding you then despatched Helen Ding who was also in the kitchen. If she was already there or came in when she heard the struggle, only you know, but even if she tried to stop you by grabbing your arm, as you suggested in your account to the psychiatrists, that was no more than a natural instinct and cannot have caused you to lose your self-control. The truth is that you attacked and killed her for the same reason you attacked Jeff Ding, as a pre-planned act of revenge for your predicament in the civil litigation which you blamed on the Dings and Paul Delaney. You stabbed her thirteen times, mainly to her chest and left arm, again penetrating her heart and lungs. There were no defence injuries, so she evidently did not even have time to defend herself. Once again you clearly intended to execute her, as you had her husband, as part of your campaign of revenge that day.
9. Not content with the slaughter of the parents downstairs, you then went upstairs to the back bedroom where the two young Ding girls were cowering. It is apparent from the fact that Nancy's mobile made the 999 call, that they had heard what was happening downstairs and she was frantically trying to ring the police for help. At that moment it seems you came into the room and within a short period of time you had also murdered those poor defenceless girls. It is clear from their terrible haunting screams on the 999 call that it was during that call that you murdered them. You stabbed Nancy eleven times, including a stab right through the hand she was evidently holding up in a desperate attempt to shield herself from your blows. Most of the stabbing was to the chest and left hand side of her body, again wounds some of which penetrated her heart and lungs. She died kneeling in the prayer position, on the floor next to the bed. Her little sister Alice, only 12 years old was on the bed curled up, no doubt in a futile attempt to get away from you. You grabbed her by the arm and stabbed her four times in the front right side of her chest, one of those wounds penetrating her heart and being fatal. There was no struggle.
10. Having executed your victims, you washed all the blood off the knife at the kitchen sink and left it on the work surface. You then drove off in the Vauxhall Corsa which the Dings had as a courtesy car, having stolen money from the house. Later that evening you bought a map book of Northamptonshire at the Northampton services at junction 15A of the M1, evidently because, not content with the execution of the Ding family, you were going to hunt for Paul Delaney whom you also hated and blamed for your predicament, with a view to killing him as well. Mercifully, either you could not find his house or he was not at home, so he escaped your continuing calculated revenge.

11. You then drove the car to London and abandoned it off the Edgware road. You then fled the jurisdiction to evade justice, taking a coach from Victoria Coach Station to Paris, then proceeding to southern Spain and taking the ferry from Algeciras to Tangier. There you evaded capture until your employer on the construction site at which you were working recognised you from the newspaper and reported you to the police in July 2012. You were arrested and extradited to the United Kingdom in February 2013 to stand your trial.
12. The psychological and emotional impact of the destruction of the entire Ding family upon Jifeng and Helen Ding's parents and the rest of their families has been truly devastating. I have read the moving victim impact statements they have provided to the court. In a very real sense you have destroyed their lives as well. At a time of their lives when they might have expected to enjoy the success of their granddaughters and nieces, both of whom were talented young people with a bright future, their lives have been senselessly cut short by your murderous attack.
13. The mandatory sentence for murder is life imprisonment and that is the sentence of the Court upon you. However, under Section 269 and Schedule 21 of the Criminal Justice Act 2003 I have to determine whether you should be subject to a whole life order under paragraph 4 of schedule 21 or, if not, the minimum term you should serve before you will be eligible to be considered by the Parole Board for release.
14. I have considered carefully and anxiously whether the sentence should be a whole life order. However, ultimately, I have decided that is not the appropriate order for two separate reasons. First, although it could be said with some force that the gravity of this offence is exceptionally high, given that it involved the murder of four people and was premeditated with a degree of planning, I have in mind what Lord Judge CJ said in giving the judgment of the Court of Appeal in *R v Oakes* [2012] EWCA Crim 2435 in relation to whole life orders at [29]: "the whole life order...is reserved for the few exceptionally serious offences in which, after reflecting on all the features of aggravation and mitigation, the judge is satisfied that the element of just punishment and retribution requires the imposition of a whole life order. If that conclusion is justified, the whole life order is appropriate: but only then. It is not a mandatory or automatic or minimum sentence".
15. Having reflected on all the features of this case and without in any way underestimating its gravity, it does seem to me that this is not a case in which a whole life order is appropriate, although for reasons I will come to a lengthy minimum term clearly is appropriate.

16. Second, like Sweeney J in his recent sentencing remarks in the case of *R v McLoughlin*, I consider that, in the light of the judgment of the European Court of Human Rights in the case of *Vinter and others* on 9 July 2013, particularly at [122], the passing of a whole life sentence within the current legislative framework, which gives no right of review of such a sentence, is in breach of Article 3 of the European Convention on Human Rights.
17. Nevertheless, although a whole life order may not be appropriate, the minimum term of years to be served before you are eligible for parole must be a very long one, even for a man of 54. Clearly this case falls within paragraph 5 of Schedule 21, since the seriousness of your offending is particularly high and involves the murder of four people, for which the starting point in determining the minimum term is 30 years. I emphasise though that is only the starting point and I have to consider what aggravating and mitigating factors there are in order to determine the appropriate minimum term. Paragraphs 10 and 11 of Schedule 21 set out some of the aggravating and mitigating factors which may be relevant to the offence of murder, but neither list is intended to be exclusive and what may aggravate or mitigate the offence will depend upon all the circumstances of the particular case.
18. In my judgment a number of the aggravating factors set out in paragraph 10 are present in this case. First, there was a significant degree of planning and premeditation. Clearly you brooded about the freezing injunction overnight on 28/29 April 2011 and if not then, certainly by the time you left your shop in Birmingham at about 11.15 on the morning of 29 April 2011, you had formulated a plan to go to Northampton to murder the Dings with the knife which you took with you to the house and then to flee the jurisdiction to evade detection. You carried out that plan with ruthless efficiency. The second aggravating factor under paragraph 10 is that two of your victims, Nancy and Alice, were particularly vulnerable because of their age, in particular Alice who was only 12 years old.
19. However, in addition to those statutory aggravating factors, the overall circumstances of these murders aggravate the gravity of your offending: the fact that they were considered acts of revenge, that they amounted to the savage execution of an entire family of innocent people and that you then went looking for a fifth victim, Mr Delaney, before fleeing the jurisdiction.
20. So far as the mitigating factors in paragraph 11 are concerned, despite the submissions on your behalf by your counsel, I am satisfied that none of those is present. You clearly intended to kill all your victims. The killings were premeditated. Although you were suffering from moderate depression, in my judgment, even if that was a mental disability, on the

facts of this case it did not lower your degree of culpability. Your defence of diminished responsibility based on the evidence of Professor Nigel Eastman, the defence psychiatrist, has been rejected by the jury and I accept the evidence of Dr Philip Joseph, the psychiatrist called by the Crown, that whatever depression you were suffering, it was incidental to the murders.

21. There is no provocation to be considered under paragraph 11(d). The predicament in which you found yourself on 29 April 2011 arose as a consequence of the due process of law in the civil courts. Although it is true that the Dings had not complied with various court orders in that civil litigation, your remedy lay in seeking further assistance from the court. Nothing they had done or failed to do could begin to amount to provocation such as could mitigate let alone justify your destruction of the entire family, including two innocent girls.
22. Whilst it is true that you were of previous good character, that can have little if any impact upon the severity of the sentence in view of the horrendous nature of these killings.
23. Your counsel has relied upon your remorse for these killings. Since you did not give evidence, the court can only go on what you said to the psychiatrists about being sorry and what your counsel says on instructions. I have some doubt whether you were showing genuine remorse as opposed to feeling sorry for the situation in which you find yourself, but even giving you the benefit of the doubt, the gravity of your offending is so serious that even genuine remorse could only play a very limited role in mitigation.
24. In sentencing you, I have borne in mind the fact that any minimum term of 30 years or more will mean that you will grow old, if not die, in prison. However, as Hallett LJ said in *R v Symmons* [2009] EWCA Crim 1304 at [21], having reviewed the earlier authorities on the age of the defendant: "the inevitable consequence of [a man of your age committing murder] is that he is going to grow old if not die in prison. His age, therefore, cannot be determinative of the finishing point: it is but one factor to be borne in mind as part of the sentencing process". Furthermore, as Sweeney J recognised in *R v McLaughlin* there will be cases of sufficient gravity where a very long minimum term is appropriate even though an almost inevitable consequence will be that the defendant dies in prison.
25. In my judgment, the present is such a case. Considering the particularly serious aggravating factors I have identified and in view of the absence of any real mitigation, the appropriate minimum term is one of 40 years.
26. From that will be deducted the days you have spent in custody in relation to this offence. What this means is that the minimum amount of time you

will spend in prison from today before the Parole Board can order early release is 40 years less those days on remand. If it remains necessary for the protection of the public, you will continue to be detained after that date. If the Parole Board does decide to direct release you will remain on licence for the remainder of your life and may be recalled to prison at any time.