



JUDICIARY OF
ENGLAND AND WALES

R v DOBSON & NORRIS

**For Mention
Central Criminal Court sitting at The Royal Courts of Justice
15 February 2012
Ruling of Mr Justice Treacy**

1. The case has been listed for mention today. It is to deal with a purely technical matter. There is no question of the sentences imposed on the Defendants being affected in any way. In the circumstances, the Defendants have waived their right to attend. All parties, however, have attended by counsel.
2. The case has been listed as a result of a matter noticed in the Attorney General's Office in reviewing the sentences and concluding that they should not be referred to the Court of Appeal Criminal Division under s36 Criminal Justice Act 1988 (unduly lenient sentences).
3. At the sentencing hearing on 4th January 2012, all parties proceeded on the basis that Schedule 22 of the Criminal Justice Act 2003 applied to a sentence of detention during Her Majesty's pleasure which is the appropriate form of life sentence in cases where an offender, who was under 18 at the time of the crime, is convicted of murder.
4. S277 of the Criminal Justice Act 2003 is the interpretation section relating to Chapter 7 of the Act, including s276 which brings Schedule 22 into effect. In S277 "life sentence" is defined for the purposes of Chapter 7 as including "(b) a sentence of detention during Her Majesty's Pleasure".
5. However, paragraph 1 of Schedule 22 also provides a definition of "life sentence" for the purposes of Schedule 22 which does not include a sentence of detention during Her Majesty's pleasure. This was overlooked by all concerned at the time of sentencing.
6. It follows that, strictly speaking, Schedule 22 does not apply in this case. All parties have considered the point and agree with this conclusion.
7. However, all parties agree that this in no way affects the sentences passed. It is expressly agreed on the part of the Defendants that the

minimum terms imposed were lawful and that they were determined in accordance with appropriate principles.

8. Although on a proper construction of the statute and the schedule, Schedule 22 does not directly apply to this case, it does apply indirectly because the principle of non-retroactivity (in relation to Schedule 21), and the matters identified in Lord Woolf CJ's Practice Statement (Juveniles: Murder Tariff) [2000] 1 WLR 1665 mandate a process which is effectively identical to that identified in Schedule 22.
9. Accordingly, although my sentencing remarks on 4th January 2012 were strictly in error in their reference at paragraph 15 to my being "required" to pass sentence by reference to Schedule 22 Paragraph 10(a), exactly the same principles as are referred to there had to be, and were applied in this case.
10. As already indicated, all parties agree that, the correct principles having been applied, albeit with an inappropriate reference to Schedule 22, there is no legal or factual basis upon which to reach any different length of minimum sentence from that which has already lawfully been imposed.
11. There is, therefore, no step that it is necessary for this court to take beyond clarifying the position in the terms of this ruling.
12. I direct that this ruling be appended to the transcript of my sentencing remarks made on 4th January 2012.

The Honourable Mr Justice Treacy
15 February 2012