



JUDICIARY OF
ENGLAND AND WALES

R v (1) Frankie Parker, (2) Gary Smith and (3) John Smith

Sentencing Remarks by Mr Justice Singh

Cambridge Crown Court

26 July 2013

[The defendants may remain seated for the time being.]

Introduction

1. Frankie Parker and Gary Smith have been convicted by the jury of the murder of Llywelyn Thomas on 17 December 2011. Gary Smith has also been convicted by the jury of robbery on the same occasion. Frankie Parker had already pleaded guilty to that offence. The third defendant, John Smith has pleaded guilty to a charge of assisting Gary Smith by providing him with a false alibi when interviewed by the police on 30 August 2012.

2. Mr Thomas was 76 years old and lived by himself at the Chapter House, on the edge of Chittering, on the A10 between Cambridge and Ely. Frankie Parker and Gary Smith had been observing the house for several days and had decided to burgle it. They were professional burglars who had prepared carefully for the part, wearing dark clothing and gloves. Frankie Parker was the older of the two, then aged 24, and was well aware of the need to avoid leaving forensic evidence. Gary Smith was then aged 19. Although Frankie Parker was carrying a crowbar, there was in fact no need to break into the premises. They went to the front door and knocked on it. When Mr Thomas answered, they gave him a concocted story and barged into the house: at least one of them punched him in that process. One of them put a blanket over the head of Mr Thomas. The house was ransacked both downstairs and upstairs. Not much of value could be found: only three watches, an ornamental egg and a wallet containing some money. The burglars were interested in finding any safe. It may be for that reason that they marched Mr Thomas upstairs.

3. Perhaps because Mr Thomas would not or could not show them a safe, or because the face of one or both of them had been seen by him so that he might be able to identify them later, they decided to launch a violent and brutal attack on him at the entrance to his bedroom. Having heard the evidence given at the trial, I conclude that both took part in that attack, which led to Mr Thomas' death. Frankie Parker used his crowbar to hit Mr Thomas on the head. When Mr Thomas fell to the

floor, Gary Smith kicked and stamped his head, no doubt egged on by Frankie Parker. In my view, they both shared an intention to kill Mr Thomas at that point, even if it was an intention that was formed during the attack.

4. Before this trial began both Frankie Parker and Gary Smith had denied that they were at the Chapter House that night. On the first day of the trial Frankie Parker for the first time filed his Defence Statement, in which he accepted that he had been present and indeed that he had taken part in a robbery. However, he blamed Gary Smith for the murder of Mr Thomas. This led Gary Smith to rethink what his defence was; he too now accepted that he had been at the scene but insisted that it was Frankie Parker alone who was responsible for the murder. Throughout this trial they have been at pains to blame each other. In fact they were both in it together.

5. I have no doubt that most of the evidence they gave at this trial was a complete pack of lies, as each tried to save his own skin and blame the other. However, there were moments when a glimmer of what really happened was revealed. One such moment was when Gary Smith said that Mr Thomas had kept saying that his son would be back soon. Mr Thomas' son had been with him at the Chapter House earlier that evening and this has the ring of truth to it. One can only imagine the desperation and fear that Mr Thomas must have felt in what turned out to be the last minutes of his life but Frankie Parker and Gary Smith showed him no mercy. They left him unconscious lying in a pool of his own blood.

Murder

6. The only sentence that the law permits me to impose for the offence of murder is life imprisonment. In imposing a life sentence I must set the minimum term that must be served before a defendant can be considered for release on licence. It is important to emphasise that this is not the actual term that will be served in custody. It is the minimum term that must be served before a prisoner can be considered for release by the Parole Board. The time that is actually spent in prison may well be longer. The Parole Board will only direct release on licence if it is satisfied that a prisoner is no longer a danger to members of the public. Even if he is released he will then remain on licence for the rest of his life and will be liable to recall by the Secretary of State.

7. It is common ground before me that, as Parliament has laid down, the starting point for consideration in a case like this, where a murder was committed in the course or furtherance of robbery or burglary, is 30 years: see para. 5(2)(c) of Sch. 21 to the Criminal Justice Act 2003. I must also take into account aggravating and mitigating features of the case, particularly having regard to the matters set out at paras. 10 and 11 of Sch. 21.

8. I have taken carefully into consideration everything that has been said at what has been a lengthy sentencing hearing, for example a psychiatric report in the case of Frankie Parker, and the numerous previous convictions that he and Gary Smith have: they are clearly professional criminals and have been from an early age. Their previous offences include not only a lot of offences of dishonesty but also the use of force or threatened use of force.

9. I have also taken into account the relatively large number of decided cases that have been shown to me. However, I do not intend to lengthen these sentencing remarks by referring to them in detail. The main points that were made to me can be summarised as follows.

10. Although the starting point is 30 years, the approach which the court should take is not a mechanistic or arithmetical one. What Sch. 21 does is provide guidance. One has to assess the

overall seriousness of the offence on its particular facts and also having regard to the circumstances of the particular offender.

11. I regard the fact that the victim was particularly vulnerable because of his age as an aggravating factor: see para. 10(b) of Sch. 21.

12. The main mitigating factors that, in my view, can properly be relied on are a lack of premeditation and the relatively young ages of the defendants: see para. 11(b) and (g) of Sch. 21. In the case of Gary Smith in particular, account has to be taken of the fact that he was still between the ages of 18 and 21 at the time of this murder.

Robbery

13. The appropriate sentence for a robbery of this level of seriousness after trial is 12 years. In Frankie Parker's case he is entitled to a small discount to reflect his guilty plea, which came at the start of this trial. The sentence in his case will be 10 years and 6 months. Those sentences will be concurrent to the sentences for murder.

14. Gary Smith is already serving a sentence of 5 years for another offence, committed on 9 February 2012, to which he pleaded guilty at Hull Crown Court on 4 May 2012 and was sentenced on 15 June 2012. I make the sentences in the present case concurrent to that earlier sentence.

John Smith

15. A written basis of plea was proffered on behalf of John Smith, which suggested that the reason why he provided his son Gary with a false alibi was that he feared he had committed the offence of burglary, not murder. That basis was not acceptable to the Crown. I do not regard it as sustainable, not least because, at the time of his two interviews by the police, John Smith was well aware that the offence for which Gary Smith had been arrested was murder.

16. My attention has been drawn to a number of decisions of the Court of Appeal about this sort of offence. Again it is accepted that these are simply examples of decisions as to the appropriate sentence on the facts of a particular case.

17. The fact that John Smith pleaded guilty to this offence means that he is entitled to some discount, albeit a small one (of about 10%) because his plea came only after the trial was due to start, when he discovered that the other defendants were no longer relying on a defence of alibi.

18. I have also taken into account the personal mitigation that was advanced on behalf of John Smith. He is now 67 years old. He is of poor health, suffering from angina and is the primary carer of his wife, for whom alternative arrangements will have to be made while he is in prison. Although he has previous convictions, many of them are old and the last time he was in prison was 1988.

19. Nevertheless it is accepted on his behalf that the offence he committed is a serious one, especially as the underlying offence that had been committed by Gary Smith was murder.

[The defendants should stand.]

Sentence of the Court

20. Frankie Parker, the sentence of the court is life imprisonment. The minimum term that you will serve is 24 years.

21. Gary Smith, the sentence of the court is life imprisonment. The minimum term that you will serve is 22 years.

22. John Smith, the sentence of the court is 2 years and 6 months. You will serve half of that sentence in prison and will then be released on licence for the rest of that period.

[The defendants may be taken down.]

Postscript

23. Before I finish, it is right to note the courage which many of the witnesses have shown in this case by being prepared to give evidence: they had to break what was described at this trial as a "code of silence" in their community.

24. I would also like to pay tribute to the police officers who investigated this difficult case, in which there was little forensic evidence and it took them over a year before they were able to bring charges. I thank the team led by Detective Chief Inspector George Barr for their hard work and determination to bring these offenders to justice.

25. Finally, I would like to extend my sympathy to the family of Mr Llwywelyn Thomas for their sad loss.