



JUDICIARY OF  
ENGLAND AND WALES

**R -v- Mohamoud Elmi**

**Birmingham Crown Court**

**5 February 2014**

**Sentencing remarks of the Honourable Mrs Justice Carr**

Saturday 15<sup>th</sup> June 2013 was a night that Mr Tahir Mumtaz, Mr Zakaria Bhayat and PC Adam Koch will never forget. You subjected them to a terrifying and unprovoked attack in Washwood Heath mosque with a large knife. Mr Mumtaz and Mr Bhayat were worshippers on a religious retreat peacefully going about their prayers in what should have been a safe and calm place. There were up to 30 worshippers in the mosque at the time. PC Koch, together with PC Stevens, arrived as the first police officers in response to emergency calls following the attacks on Mr Mumtaz and Mr Bhayat.

You yourself had attended ostensibly as a worshipper. You were noticed behaving unusually by the bay window in the main prayer room. You went to pray but, without warning, then drew a large knife from a sheath on your belt and went to attack Mr Mumtaz from behind. You stabbed him multiple times. You wounded Mr Bhayat as he went about trying to help Mr Mumtaz. After attacking Mr Mumtaz you retired to a washroom in the mosque and then returned to a kneeling praying position in the prayer room. PC Koch arrived and shouted to you to show your hands. You failed to do so. PC Koch then discharged a Taser gun unsuccessfully. You turned and proceeded to launch an attack on him, again with your knife. Despite the fact that PC Koch was wearing a protective police stab vest, your knife penetrated his abdomen causing him serious injury. Others in the mosque bravely intervened to stop you continuing your attacks and also tended to the injured. Many in the mosque were affected by what they saw, some left weeping in the aftermath.

During the attacks you were heard to shout variously at worshippers ordering them to stop mocking the religion of Allah and accusing them of making a mockery of God. You were repeating yourself. You shouted that Allah would kill everyone. You referred to worshippers as “kafirs”, meaning non-believers.

In the police station you referred to a police officer as “devil colleague” and gave your name as “Amir”, meaning “ruler”.

All three victims were badly hurt. Mr Mumtaz received surgery for multiple stab wounds to his upper body and left thigh area. Mr Bhayat received surgery for a long stab wound to upper thigh. PC Koch received surgery for a stab wound to the upper left side of abdomen and a superficial injury in his back just below his left shoulder blade.

The Court has the benefit of victim impact statements from all three victims. Mr Mumtaz describes how he has trouble sleeping. He is always thinking about what happened to him. He remains in pain, with a dull ache where he was stabbed. Nothing feels right in his body. He was an active person but everything has changed overnight. He feels very scared going out. He now always has his mobile phone with him. He believes that his life has been ruined. He had been planning to get married, but this has been put on hold. Mr Bhayat too has been affected both physically and mentally. Physically he has now healed, though he has been left with a large scar across his thigh. But mentally he has not. His prayers are affected. He takes more care when he is out and about. The attack will always be there in his life. PC Koch bears a scar on the left side of stomach which causes him permanent discomfort as well as disfigurement. It is a constant reminder of the day when he feels he nearly died. His other scar is also a permanent reminder. He is unable to take part in any regular intensive exercise as he previously did on a nearly daily basis before hand. But the psychological impact has been greater than the physical. He has still not yet fully come to terms with the attack. He is on restricted duties and confined to office work. His confidence has taken a massive blow, and the effects have placed a great strain on his personal relationships. He feels numb and emotionless on what should and would otherwise be special occasions. He remains under counselling.

On being apprehended and restrained you were taken to Stechford Police Station. Following a mental health assessment you were sectioned under s. 2 of the Mental Health Act 1983.

From the evidence that the Court has heard, it is clear that you were severely mentally ill at the time, suffering from paranoid schizophrenia.

You had in fact suffered from schizophrenia for many months and more prior to these offences. You were born in Somalia in 1981 and are now 32 years of age. With the outbreak of civil war you came to this country with your family to live in Sheffield. Your father died in 2002. You left school with no qualifications at the age of 17. At around this time you received a conviction for attempted robbery and two cautions for theft/offensive weapon in a public place. You have no other convictions. You obtained work in the security industry, moving to Bristol and then Birmingham in about 2009.

Like many other young Somalian males, you had a habit of chewing khat, a stimulant, until late 2012 or so. Khat has properties which can trigger mental illness. It is not clear what part, if any, the use of khat has played in the development of your illness.

In October 2012 you were seen by a psychiatrist at your brother's instigation. Your brother is a qualified and practising general practitioner. He was extremely concerned at your mental state. You harboured theories to the effect that there was a conspiracy to kill your brother. You were calling the security services in Saudi Arabia many times a week reporting that he was about to be kidnapped and tortured. You came under the care of the Birmingham and Solihull Mental NHS foundation Trust. On admission a diagnosis of paranoid schizophrenia was made but you were discharged after only some five 5 days or so on the grounds of your non-cooperation. You had no insight into your condition.

The Court has heard evidence that you did not receive the care that you needed. Your illness deteriorated following discharge. In February 2013 it appears that you married, but that marriage was never consummated due to your mental health problems. You were not able to contact or live with your wife. At the time of the offences you were living alone and without effective treatment.

Medical evidence has been adduced from Dr Dinesh Maganty and Dr Rafiq Memon, both consultant forensic psychiatrists qualified under s. 12 (2) of the Mental Health Act 1983. They are agreed that your offences occurred due to your paranoid schizophrenia, more specifically passivity phenomena. You believed that spirits were possessing your body. You were suffering with auditory hallucinations and delusional beliefs that the freemasons, together with these spirits, were somehow controlling you and were going to cause harm to others and to Islam in general. You suffered from grandiose delusions that you were the Emir of the Islam Republic. Dr Maganty was clear that you were genuine in your behaviour.

Dr Maganty could find no alternative motive for your actions on 15<sup>th</sup> June 2013 apart from mental illness. You were in a mental state where neither your actions nor your thoughts were in your control. You believed your actions to be morally and legally correct. In your psychotic state you were punishing those who were acting against Islam in your capacity as an Islamic ruler. Dr Maganty was in no doubt that you were legally insane at the time of the offences.

Dr Maganty's views were supported by those of Dr Memon, who agreed that you were legally insane at the time of the incident. You were psychotic with an illness characterised by delusional beliefs that were grandiose and persecutory in content.

It is in these unusual circumstances that that the jury has found you not guilty by virtue of insanity on the counts of attempted murder of Mr Mumtaz, wounding with intent of Mr Bhayat and the attempted murder of PC Koch.

S.5 of the Criminal Procedure (Insanity) Act 1964 is engaged by the jury's special verdict. By s. 5(2) the Court shall make a hospital order (with or without a restriction order) or a supervision order or an order for absolute discharge.

Both Dr Maganty and Dr Memon, together with the expert consultant forensic psychiatrist instructed for the prosecution, have agreed that the most appropriate disposal of this case is a restricted hospital order.

s. 37 of the Mental Health Act 1983 provides that a hospital order may be made only if certain specified conditions are met.

Having heard the medical evidence which has been given in this trial by Dr Memon and Dr Maganty, I am satisfied that :

- a) you are suffering from a mental disorder, namely schizophrenia,
- b) this disorder is of a nature which makes it appropriate for you to be detained in a hospital for medical treatment and
- c) appropriate medical treatment is available for you at the Tamarind Centre and a bed is available currently.

I am of the opinion that because of all the circumstances of your case, including the grave nature of the offences of which you have been found not guilty by insanity (which are ones of attempted murder and wounding with intent), and having considered your character, antecedents, and complicated history of mental illness, and having considered all the other available ways in which I might deal with you, the most suitable method of dealing with your case is by means of an order under s. 37 of the Mental Health Act 1983. You have a mental disorder of a nature and degree that requires inpatient treatment in hospital for your own health and safety and for the protection of others.

I therefore make an order that you will be readmitted to and detained at the Tamarind Centre, 165 Yardley Green Road, Bordesley Green, Birmingham. I am satisfied that arrangements have been made for you to be readmitted.

I have also considered whether this order should be subject to special restrictions which are specified in s. 41 of the Mental Health Act 1983.

In this regard I have heard additionally the oral expert evidence of Dr Maganty. He remains of the clear opinion that a restriction order is necessary for the protection of the public. There is a significant risk of serious harm if there is a relapse in your condition, and your condition is one that relapses and remits.

Having heard and considered all of the expert evidence I am satisfied that, because of the nature of your offences and having regard to your mental illness and to the risk that you will commit further offences if you are not detained, a restriction order is necessary to protect the public from serious harm. I take into account the serious and significant risks that you pose if you relapse, together with the strong possibility of a future relapse. You require lifelong follow up and monitoring to protect the public. This is not a punishment but necessary for the protection of the public.

Accordingly I order that you will be subject to the special restrictions set out in s. 41 of the Mental Health Act 1983. This order is unlimited in time.

I order forfeiture of the knife, its sheath and the belt.

In the circumstances of this case I make no compensation order.

The surcharge provisions apply and the order will be drawn up accordingly.