



JUDICIARY OF  
ENGLAND AND WALES

**LIVERPOOL CROWN COURT**

**R**

**-V-**

**JEWELL AND OTHERS**

**SENTENCING REMARKS OF MR JUSTICE OPENSHAW,**

**29 APRIL 2013**

After a trial which lasted nine weeks, the defendants Anthony Jewell, Mark Thomas, Barry Burke, Ryan Holden, Kyle Smith Milson and Sam Hughes fall to be sentenced following their conviction on count 1 for conspiring to possess firearms with intent to endanger life and on count 3 with conspiring to commit arson being reckless as to whether life was endangered. They also fall to be sentenced, together with the defendant Shaun Byrne, for conspiracy to supply Class A and B drugs. I must set out the facts, at least in summary; obviously in the course of sentencing remarks, I cannot review in detail the evidence in the case which took seven weeks to hear and nearly two days to sum up.

Despite their denials, all the defendants are members of a criminal gang known to themselves as the Croxteth Young Guns.

As it seems to me, they have no stake in society except membership of the gang, which is the only claim upon their loyalty. None of them has ever done a day's honest work in their lives, or seemingly has ever aspired to do so. Their families are largely dysfunctional. Each left school without any qualifications or skills. Their days are spent posturing outside the shops on Moss Way in Croxteth, dealing drugs, and proclaiming their claim to that territory then going back to their base on Stonedale Crescent, to deal more drugs, and to smoke cannabis with each other. It is as if they belonged to some separate outlawed tribe, which has rejected all of society's moral standards and conventions. Their main efforts and energies are directed towards feuding with a rival gang from the nearby area of Norris Green, the Strand gang and pursuing senseless vendettas against former associates.

Some criminal gangs use violence to defend their core criminal business, usually drug dealing, but I have formed the very clear impression that in this case the drug dealing was used not as an end in itself but was mainly used as a means of funding the gang's principle activity of feuding.

The prosecution of the offences committed by these defendants has presented the police with particular problems. It is part of the gang's code or culture that no one speaks to the police or 'grasses', as they would put it: no one calls the police; at the scene no one tells the police what happened; no one makes a witness statement or if they do, they do not name names and if called upon to give evidence they resort to the unconvincing device of not remembering what were obviously memorable events.

This code is ruthlessly enforced by the use of guns and firebombs, often brought to the scene by unregistered scrambler bikes, with the result that, despite the efforts of the police, parts of this city have been in thrall to criminal gangs. Victims and witnesses are reluctant to speak out and the absence of complaint makes prosecutions rare and convictions even rarer.

I have very helpfully been provided with what is effectively a community impact statement from Supt Richardson, the senior officer of the Matrix team of the Merseyside constabulary, responsible for the police operations directed towards reducing gun crime in this city. Between October 2010 and March 2013, there were fully 266 firearms discharges in this city; and 319 offences of arson with intent to endanger life. These are largely the result of tit for tat gangland violence. These offences have in the past resulted in a loss of confidence in the ability of the police and the criminal justice system. In less than 1% of shootings have the victim or the intended victim co-operated with the police; this is a truly shocking statistic, and it has severe consequences in the communities affected.

Despite that, in this case some witnesses – all women, I might observe - with obvious hesitation but with considerable courage they have spoken out, plainly weary of the conflicts raging round them and engulfing their families. I will not name these women, indeed I have given a direction that they should not be named in any press report, so as give them some further protection.

I very much hope that these convictions and may encourage others to speak out.

The firearms

The incidents

The discharge of firearms on the street, is intended to endanger those at whom the shots are fired but there is also an obvious and ever present danger to ordinary

passers by of being killed or injured by stray bullets; as we all know, that has happened in the past in such incidents in this city and elsewhere.

It is not uncommon for these drive by shootings not to hit the target; this seems to me to be the result of using poor quality weapons, with poor quality ammunition combined with bad marksmanship; this does not decrease the danger to passers by, indeed it rather increases it.

Those who are parties to the possession of firearms to endanger the lives of others and in doing so they commit grave crimes, which must be visited by condign punishment so as to deter others.

The evidence established that the gang, and these defendants between them, were responsible for 6 incidents in which firearms were charged, 2 further incidents where firearms mis-fired, and the possession of an arsenal of firearms and ammunition; all these events were encompassed within the conspiracy to possess firearms with intent to endanger life. I will deal with them in turn.

#### Shots fired on the Strand, Norris Green

On the afternoon of 19th October 2010 on the Strand, in Norris Green, two motorbikes drew up, each had a driver and a pillion passenger; each was masked, shots were fired at a group of young men, presumably they were members of the rival Strand gang, but no one has made a statement of complaint.

The ammunition used in this incident has a common source with the bullets later fired on Hollingbourne Road, to which I will come later and to the bullets later found on the open land off Stonedale Road, which was plainly under the control of the defendants.

Although I cannot safely attribute individual responsibility for this incident it was plainly committed within the scope of this conspiracy.

#### Shooting of Josh Keating

I move on to 13<sup>th</sup> March 2011, when a former associate of the defendants Josh Keating was shot through the knee; in what must have been some kind of punishment knee-capping. He told the police that he had been shot by a group of masked men on Maureen Walk, just outside his home. He said they had their faces masked by balaclavas. Beyond that he said nothing; he gave no explanation for his shooting, still less information as to who might be responsible.

The gun that fired that shot was later recovered from waste land off Stonedale Road, the same gun was used in the discharge on Hollingbourne Road, to which I will come

later. Since the shooting at Hollingbourne Road was plainly to result of these conspirators; the shooting of Josh Keating with the same gun is obviously also committed by them. Indeed the flurry of calls passing between Barry Burke, Ryan Holden and Kyle Smith Milson strongly suggests their direct involvement in this attack. There were also calls to Sam Hughes.

#### Attack on Anthony Jewell in prison 11 May

On 6<sup>th</sup> May following an incident of harassment against a former associate, the defendant Anthony Jewell was arrested. On 11<sup>th</sup> May, within half an hour of his being moved onto a different wing of Liverpool prison, he was assaulted by a member of the Strand gang, in what was plainly an incident of gang related violence. He was taken to hospital with a suspected fracture to his jaw.

For Anthony Jewell, a gang leader, to be attacked in prison by a rival gang member involved, in his eyes at least, a serious loss of face or caste; he wanted his revenge on the rival gang in general and on McMullen in particular and, from prison, he organised a reprisal. He must have used either an illicit phone in prison, which has not been traced, or used another as the messenger or go-between to deliver his orders and directions.

#### Shooting at Hollingbourne Road

The following evening, the 12<sup>th</sup> May, men on a motorbike fired shots at two members of the Strand gang on Hollingbourne Road. The shots missed their target but a stray bullet passed right through the front door of a completely innocent householder, who was at home with his partner at the time. The bullet lodged in the staircase. Plainly, they were exposed to risk of death or serious injury. Another shot had passed through the tyre of his car parked outside. Discharged cartridge cases found in the street had a common source as bullets later found on the waste land off Stonedale Road and were fired by the pistol later recovered from the same waste land.

I have no doubt that this was in revenge for the attack on Anthony Jewell in prison and that it was ordered and directed by him.

Sequence of Events chart page 18 plainly implicates Mark Thomas, Barry Burke and Ryan Holden in this shooting; this is one of those cases where text messages sent by Mark Thomas clearly demonstrate that he is going out on some criminal enterprise, indeed he actually texted that he was turning his phone off, presumably so that he could not be cell sited to the scene of the shooting.

Yet again there are calls to Sam Hughes, strongly suggestive that he was involved in some way.

#### Shots fired at Muirhead Avenue

In the early hours of the 17th May, two shots from a shotgun were fired from a motorbike at the house in Muirhead Avenue where the parents of Kevin McMullen lived: one shot shattered the glass pane in front the door, and another shot struck the sitting room window, just above the settee where Mrs McMullen was sitting. If she had stood up she could easily have been killed. The motorbike then raced off. Plainly this also was in revenge for the attack upon Anthony Jewell by Kevin McMullen in Liverpool prison some days before.

The phone traffic at page 25 of the Sequence of Events chart strongly suggests participation by Mark Thomas, Barry Burke Ryan Holden and maybe Kyle Smith Milson. Again Mark Thomas texted that he was switching his phone off in advance of the shooting.

#### Shots fired on Longmoor Lane

On 23 June, the defendant Sam Hughes was attacked in his own home and quite seriously beaten up; although he refused to make a witness statement, it is clear – and I find as a fact – that his assailants were all members of the Strand gang, some travelling in a silver Ford Focus.

On the afternoon of 14<sup>th</sup> July, shots were fired from a motorcycle at a member of the Strand gang as he drove in that silver Ford Focus on Longmoor Lane. I have no doubt this was a revenge for the attack on Sam Hughes. Two discharged cartridge cases recovered from the scene were fired from the Tokarev self loading pistol later recovered from the waste land off Stonedale Crescent.

Before moving on from this; I observe that texts messages sent by Mark Thomas (which are in the Sequence of Events chart at page 62) make very clear that Anthony Jewell had been speaking to the Heron brothers, who were members of the Strand gang, at least one of whom had been involved in the attack on Sam Hughes and as a result they were panicking, as well they might having been threatened by Anthony Jewell. This is clear evidence of Anthony Jewell directing operations in general, and this reprisal in particular from in prison.

The telephone traffic suggests a direct involvement of Mark Thomas, and Ryan Holden, with again calls made to Sam Hughes, before and after the shooting

### Josh Fitzsimmons

I move on to another incident. One of the guns recovered by the police was the Tokarev self loading pistol, to which I have already referred. Forensic scientists found DNA from one Josh Fitzsimmonds on the foresight of that gun, that is to say at the barrel end. Josh Fitzsimmonds is a former associate of the defendants.

The police asked Josh Fitzsimmonds to explain that finding when he was in custody in relation to other offences. I remind myself that I must be cautious before accepting his evidence, not least because he had every reason to exculpate himself. He told the police that one night, which can be dated to 17 October 2011, he had been chased by two young men, with guns. They were masked, he said, so he could not describe them. They caught up with him, and held a gun to him; that, he explained, must be how his DNA gave to be transferred to the gun; he heard a metallic click, which suggested that they were trying to fire the gun but there was no discharge, whereupon he ran off. During the course of his evidence, he told the jury that this account was quite true; I have no doubt that it was. He lived to tell the tale only because the weapons or the ammunition, or both, were of poor quality and the gun misfired.

I have no doubt that he was targeted precisely because he had decided to leave the gang.

### Joel Garrity

A few days later on in the early hours of 21st Oct, there was another very similar incident involving one Joel Garrity, who gave evidence at the trial. He came into court with a sinister entourage of camp followers. His evidence must also be treated with some caution, since I have no doubt that he was himself an active drug trafficker, but I do not doubt that his evidence about this incident was in essence true. He said that as he left home just after midnight, someone ran up to him with a gun; after a chase he was caught, the gun was held to his head, the trigger was pulled but the gun did not fire. Again he was saved only by a firearm malfunction. Mr Garrity managed to pull the hat from one of his assailants, the hat bore DNA from Barry Burke, plainly showing a close connection between him and the gunman if not with the shooting itself.

### Shots fired at 6 Galemead Close

On the evening of 21 December shots gun were fired from a shotgun from a motorbike at 6 Galemeade Close, where Josh Fitzsimmonds was then living, breaking some windows.

## Seizure of weapons

Let me then turn then to the firearms and ammunition which the police saw or recovered.

On 25<sup>th</sup> March 2011 a Police Community Support Officer saw a group of young men, including Barry Burke and Sam Hughes hiding an L-shaped package in the undergrowth of Stonedale road; she suspected it was a firearm. Since firearms were in fact found hidden nearby some months later, I do not doubt that she was right.

On 10 July a loaded sawn off double barrelled shotgun was found by the police in a locked external bin cupboard in an unoccupied house at 11 Stonedale Crescent. Such weapons have no legitimate use; they are easily concealed, terrifying in appearance and destructive in effect, particularly at short range. Text messages later recovered (this is at Sequence of Events chart pages 69 and 70) clearly show that Mark Thomas believed, wrongly as it turned out, that his DNA would be found on that gun. Both Mark Thomas and Barry Burke were living nearby at the time; they at least must have known of this weapon.

On 22<sup>nd</sup> July, a small revolver was found hidden behind panelling in the lavatory at Barry Burke's house in 22 Stonedale Crescent. It is not clear how long it had been there but I have no doubt that its whereabouts was well known to Barry Burke, whose DNA was found upon it and possibly also to others who were in the house at time.

On the 8<sup>th</sup> November, on the waste land off Stonedale Crescent, police found a quantity of firearms, namely (1) a CZ self loading pistol, with two bullets in the magazine, the gun was not in good condition but, as I have described, it had already been used to shoot Josh Keating and in the shooting on Hollingbourne Road; (2) A loaded Tokarev, a self loading pistol, which had been used to discharge the cartridge cases recovered from Longmoor Lane; this firearm also bore DNA from Barry Burke; (3) a loaded .45 calibre Colt revolver; (4) a loaded .410 shot gun pistol in poor condition; (5) a twin barrelled key ring firearm, which has been successfully test fired this is a weapon, handy no doubt because it is easily concealed, (but there is no evidence that it was ever used in any of the incidents that we have considered); all this together with a quantity of suitable ammunition. This find in itself is a typical arsenal of assorted weapons from which the gang members could draw as and when required.

## The firebombing

I turn then to the firebombings, the subject matter of count 3 in the indictment. The jury acquitted the defendants of conspiracy to commit arson with intent to endanger

life; they convicted of the alternative conspiracy to commit arson being reckless as to whether life was endangered. Firebombing causes fear and even terror in the communities in which it has become a favoured form of attack; conspiracy to commit arson by firebombing in the context of gang warfare is a very grave offence. When such a device is thrown, it is a matter of mischance whether the fire takes hold. I will describe the incidents encompassed within the conspiracy.

#### Arson at 11 Otterton Road 2 April

I start with the attack on 11 Otterton Road on 2 April, the home of a former associate, Lewis Redgrift. This is likely to have been a revenge attack for the smashing of the windows at 126 Hebden Road, Croxteth, the address of Ryan Holden. A fire bomb was thrown through the window; there was a separate seat of fire in one of the bedrooms upstairs, started by an intruder who had gone upstairs. The occupiers were out at the time but the house was nearly burnt out, as is clear from the photographs.

Calls passing between Ryan Holden, Barry Burke and Kyle Smith Milson strongly suggest their participation in this attack. Moreover Ryan Holden in particular had an obvious motive for seeking revenge for the attack on his home.

#### Arson at 7 Polperro Close

I move on to the firebombing on 4 April of 7 Polperro Close, Croxteth, the house address of Debbie Leather , who gave evidence about this. That afternoon she was standing in her living room, she saw two young men wearing masks, on a motorbike draw up and throw a brick through the window, followed by a firebomb in the form of a bottle with a burning rag on it. By the merest good fortune, the fire did not take hold but some damage resulted. It was deeply shocking to her.

She later told the police that she said she had been to a party the previous night, with Anthony Jewell, whom she had known for many years. She said that Anthony Jewell and one of her friends had had an argument; he told her that she had seen what had happened to Lewis Redgrift, who was the target of the fire bombing at Otterton Road, which I have just described. He told her and she was going to get the same. At the trial, she said that she had not said this to the police but I find as a fact that she did say it and it was true. This fire was set as a direct result of a perceived slight to Anthony Jewell.

Both these fires were set using fire bombs in the form of a lucozade bottle filled with accelerant, with a lighted rag. On 6 April, just such a bottle was found at 126 Hebden Road, where Ryan Holden lived. It is clear evidence of Ryan Holden's complicity in these matters.



Telephone traffic also strongly suggests the direct participation of Barry Burke and Kyle Smith Milson in this attack.

#### Arson at 17 Standard Road

I turn now to the arson at 17 Standard Road, on 27 May 2011; this was the home of Raymond Harrison, the grandfather of Josh Fitzsimmons, a friend of Lewis Redgrift. An eye witness, the grandmother of Josh Fitzsimmonds (whom I will not name) saw a gang of 8 or so young men on her path. She feared they were up to no good; her screams alerted the raiding party to the fact that they had been seen, so they changed targets, they went across the road; she saw them throw a lighted firebomb through the window at Raymond Harrison's house at 17 Standard Road, just a few yards away. The raiders then ran off. Raymond Harrison was not at home but the house did however suffer considerable damage, as shown in the photographs.

Before the commission of this offence there was highly suggestive telephone traffic passing between Anthony Jewell, Mark Thomas, Barry Burke, perhaps also Ryan Holden. Mark Thomas against texted that he was turning his phone off.

It is significant that within minutes of the fire being set, Josh Fitzsimmonds rang Ryan Holden, obviously believing that that he was at least one of those responsible.

#### The arson at 17 Alma Close

I come to the arson attack at 17 Alma Close on 4 November. I have no doubt that this was prompted by other two incidents, both fairly trivial in themselves; one was a confrontation between Josh Fitzsimmonds and Barry Burke, Ryan Holden and probably some others as well, which occurred in a school playground on 2<sup>nd</sup> October; the other was another confrontation by the Moss Lane shops on 3<sup>rd</sup> November, involving Barry Burke and others. Whatever had happened in those incidents, the gang decided that liberties had been taken with them and revenge was necessary.

17 Alma Close is a modern three bed-roomed terrace house, owned by Josh Fitzsimmons uncle. The prosecution suggest that the house was targeted because it was believed that he, or at least members of his family, were living there. Unknown to the arsonists, the house had in fact been let to a completely innocent young woman called Carla Evans.

On the night of the 3<sup>rd</sup>/4<sup>th</sup> November, she was sleeping there with her infant daughter, and an adult friend. At about 2 o'clock in the morning, they were awakened by smashing glass and by the smoke alarm sounding. They opened the bedroom door and they were met with clouds of smoke. They escaped only by

smashing the bedroom window and by climbing out onto the sloping roof below; the baby was passed down by hand and they then climbed down by ladder, which had been brought by a neighbour.

The photographs show the extent of the devastation. The house is almost burnt out. The occupants were extraordinarily lucky to get out alive. The fire investigator found a stone on the floor, which must have been thrown through the window; fire had been started deliberately by throwing a fire bomb through the window.

Although, as it turned out, this was the most serious fire, any one of these firebombs could have had this effect.

Barry Burke himself was on a curfew at the time; I am sure he was therefore not one of the raiding party but it is quite clear from his involvement in the incidents in the school and at the Moss Way shops, and indeed from the telephone traffic that he was involved in planning this reprisal.

#### Blake Brown run down

For the avoidance of doubt, I make clear that for the purposes of sentence, I will ignore the further incident of violence on 25<sup>th</sup> January when a gang rival Blake Brown was run down and grievously injured by a stolen car. The incident is not covered by the counts on the indictment; although it was plainly relevant evidence during the trial

#### The defendants as victims

There was, I accept, considerable violence directed at the defendants themselves. On 11<sup>th</sup> May, Anthony Jewell was attacked in prison. On 23 June, Sam Hughes was attacked in his own home. In the early hours of 17<sup>th</sup> July, intruders burst into 22 Stonedale Crescent, where Barry Burke lived with Mark Thomas; so terrified were they, that they jumped from their upstairs bedroom; Mark Thomas landed awkwardly and broke his neck. On 19<sup>th</sup> July, 14 Willow Way, the home of Ryan Holden's parents was firebombed, causing severe damage to the kitchen. On 21 November, a shot gun was discharged at 1 Stonedale Crescent, the home of Amanda Burke. This, I make clear is not mitigation, indeed it has not been suggested that it is, but these attacks fuelled the escalating tit for tat violence.

#### The parts played by the defendants

#### General piece

Now the defendants were properly charged with conspiracy to possess firearms with intent to endanger life and conspiracy to commit arson because although each can be

proved to have been party to the general conspiracy, fixing responsibility upon any particular defendant for any particular attack is not always possible.

Anthony Jewell

I have no doubt that the defendant Anthony Jewell was, throughout the period of the conspiracy, the leader of this gang.

When, as frequently happened in the text messages sent by Mark Thomas, and indeed also in at least one the prison letters, he called Anthony Jewell 'Dad', he was acknowledging him as the leader of the gang.

I have no doubt that he ordered the firebombing of Debbie Leather's house at Polperro Close because he had been slighted in the club the night before.

I have no doubt that he directed that retaliation be taken against the rival gang following the attack upon him in Liverpool prison on 11 May; he is therefore directly responsible for the shootings at Hollingbourne Road on 12 May and at Muirhead Avenue on 17<sup>th</sup> May.

Thereafter it may be that some – but only some - of the calls made from prison by the illicit phones attributed to him were sometimes made by others, but on the other hand it is equally clear that he used other illicit phones which have not been traced.

I have already referred to the calls which followed the attack on Sam Hughes, which plainly demonstrated that Anthony Jewell was directing operations from prison but there is another significant passage at page 56 in the Sequence of Events chart when Mark Thomas sent a text message to the effect that 'My Dad' – he meant, of course, Anthony Jewell - 'could be getting out ... he will just have me going wild ... wild like showing little divvys how it is'. In the context of this case, and over the 7 weeks of evidence one became familiar with Mark Thomas's texting style, it is quite clear that Mark Thomas was contemplating the attacks which Anthony Jewell would be orchestrating on their rivals.

From the nature and extent of the known contacts between Anthony Jewell and Mark Thomas and Barry Burke in particular, I am quite sure that he continued to control and direct operations from his prison cell. It is by statute an aggravating factor that a defendant is on bail, or on licence, it is clear to me that the fact that Anthony Jewell was continuing to direct these operations from prison is a seriously aggravating factor in his case.

As so often happens in these cases, few of the participants have significant previous convictions, although Anthony Jewell does have a previous conviction for possessing heroin with intent to supply.

Involvement in the commission of any one of these offences would justify a long sentence, but co-ordinating and directing conspiracies on this scale puts this case in a category of its own.

To my mind someone guilty of offending on this scale, with this persistence, directing the conspiracy from prison, plainly presents a substantial risk of causing serious harm to the public from the commission of further specified offences. I have no doubt that he is dangerous and is likely to remain so for the foreseeable future.

I have considered whether the commission of these grave offences should be denounced by the imposition of a life sentence; with some hesitation I have considered that the public will be sufficiently be protected by a long extended sentence.

I accept that he has since his arrest served an 18 month sentence for another offence, which will not count towards the sentence I am about to pass; he is not, I think, entitled to a mathematical deduction but I will make some allowance for it.

Accordingly, I shall fix the extended sentence at 25 years: there will be a custodial term of 20 years imprisonment and an extension of 5 years, during which he will remain subject to licence. He must therefore serve two thirds of the custodial terms and even then he will not be released until he has served the full term of 20 years unless and until the Parole Board decide that he may safely be released, and even then he will be subject to licence.

Curiously it would seem that if I had passed a life sentence with a notional determinate term of 20 years, he would be eligible for consideration for release after a minimum term of only 10 years; that is perhaps anomalous but it does not cause me to alter my sentence.

I make clear that I have considered whether I should make some deduction from the custodial element of the sentence because he must serve two thirds rather than only one half which he would serve under an ordinary determinate sentence but this would seem to me to be contrary to section 226A(6) by which 'the appropriate custodial term is the term of imprisonment that would, apart from this section) be imposed ...'. I therefore make no deduction.

Mark Thomas

I turn to Mark Thomas.

As I have already said, the telephone traffic and the text messages which he sent very clearly link him directly to a number of these incidents.

Furthermore, there are several tell tale periods of phone inactivity in the period immediately before and after the attacks; caused by their realisation that the use of mobile phones near any incident is something that can be traced and has been used in other prosecutions.

Even after his arrest he was writing letters from prison encouraging the others, admittedly in a rather vague way, to carry on the gang's activities.

I have no doubt that in Anthony Jewell's absence it was Mark Thomas who was the directing hand of this gang. I take account of the fact that on 22<sup>nd</sup> July 2011 he received a very serious injury in the course of the gang related attack upon him, about which evidence was heard during the trial; I have little doubt that the comparative inactivity of the gang after that was due, at least in part, to the removal of his hand from the helm.

I accept that he has had a bad start in life. He had leukaemia in childhood and he had particular problems within the family, which led to seek particular support within the society of the gang.

I know that he is only now 19; I accept that he was under the age of 18 when this conspiracy started; and I must make some allowance for his comparative youth but the fact is that these cases of gang related violence are very commonly committed by very young men.

I accept that he has been previously only lightly convicted but it is obvious to me, as it was to the writer of the pre-sentence report that the nature, scale and gravity of his offending; his attitude to the gang's activities after his arrest plainly demonstrate the danger that he presents.

He also must therefore be subject to an extended sentence, which in his case I fix at 20 years. The custodial term will be 16 years; there will be an extension of 4 years. He must therefore serve two thirds of the custodial term and even then he will not be released until he has served the full term of 16 years unless and until the Parole Board decide that he may safely be released, and even then he will be subject to licence.

Barry Burke

I turn to Barry Burke. As I have already said, his DNA was found on a number of these firearms. His house on Stonedale Crescent was the gang's head quarters. He was often at the centre of the telephone traffic surrounding these incidents. His phone also was from time to time silent before, during and after some of these incidents.

Furthermore he had a particular interest in motorbikes, the provision, repair and maintenance of which was vital to the gangs business of delivering gunmen or fire bombers to the scene. Although he does not have the intelligence or the personality to lead any criminal enterprise he was an enthusiastic member at the very heart of their activities, I am sure that he personally took a prominent part in many of these attacks.

However, he is still only 19. He did not become 18 until 17 December 2011, so all but one of the incidents to which I referred took place whilst he was still 17. He is lightly convicted; as is the position with some of the other defendants, he has not served a custodial sentence before.

I do not doubt that he has had a very troubled childhood; some of which is set out in a letter from his mother, which I have read with care. Whether or not he actually has Asperger's syndrome, about which there is some division of expert opinion, I have no doubt that he has a raft of personality problems, which he does not fully accept or understand, which makes treatment difficult for he does not presently co-operate. Whilst I accept that his condition might lower his culpability, at the same time, in my opinion, it raises his level of dangerousness. I therefore agree with the assessment in the pre-sentence report that he poses a very high risk of causing serious harm to others by reason of the commission of other specified offences, indeed in the course of his very helpful submissions, Mr Griffiths QC on his behalf has not sought to argue to the contrary.

Making every allowance for his age, as I have done with the others, I will pass upon him an extended sentence of 16 years; being a custodial term of 12 years, of which he must serve two thirds and even then he will not be released unless and until the Parole Board decide that he may safely be released, and even then he will be subject to licence. There will be an extended licence of 4 years.

## Ryan Holden

I turn to Ryan Holden. I have no doubt that he personally played an active role in setting the fire at 11 Otterton Road, which was in revenge for breaking the windows at his mother's house on 126 Hebden Road.

I have sought to identify some of the other incidents in which he has played a direct part but in a conspiracy this is not always easy. I note that he has admitted to the Probation Officer that he did help to remove and conceal the guns used in the Hollingbourne Road and Muirhead Avenue shootings; that may not be a full admission but it does show some awareness of his responsibility, which is some sort of a start towards rehabilitation.

He is further down the hierarchy of defendants. Mr McDermott QC has helpfully reminded me of the letter that Mark Thomas send from prison (it is at page 23 in the bundle of the prison letters) describing Ryan Holden as a 'dog', being an unreliable person.

He is now aged 20. He is only lightly convicted but for the reasons set out in the pre-sentence report, in my opinion, he also presents a very high risk of causing serious harm to the public; he is plainly dangerous.

I will pass upon him an extended sentence of 16 years; being a custodial term of 13 years, of which he must serve fully two thirds and even then he will not be released unless and until the Parole Board decide that he may safely be released, and even then he will be subject to licence. There will be an extended licence of 3 years.

## Kyle Smith Milson

I come to Kyle Smith Milson. The telephone traffic clearly shows his active participation in some of the early incidents. Fortunately for him. the prosecution have not been able to tract a phone to him since the middle of May 2011; it cannot therefore be said what precise part he played thereafter; there is however no doubt that he remained an active participant in the conspiracy as is clear from other of the gang's activities and indeed from the prison letters, some of which referred to him, as a brother and a soldier. It is not, I think, right to say that he was just at the periphery of the gangs activities.

He was present at 22 Stonedale Crescent on 22 July, when the revolver was found.

During the trial Mr Berry made the point, which I accept, that he was not charged with the drugs offences, which suggests that he was not a member of the inner circle of this gang. He is only 19; he is lightly convicted; he may have a more supportive

family but he has played his part as a foot soldier in this enterprise and he must now pay the price.

I accept the assessment by the writer of the pre-sentence report that having regard to his continued involvement with the other members of the gang in these conspiracies, he also is dangerous, within the meaning of the Act. There will be an extended sentence of 15 years in his case, comprising a custodial sentence of 12 years, of which he must serve fully two thirds and even then he will not be released unless and until the Parole Board decide that he may safely be released, and even then he will be subject to licence. There will be an extension of 3 years.

#### Sam Hughes

I have sought to identify those incidents where there is telephone traffic which implicated Sam Hughes, or at least shows his close association with other conspirators at the time of various of these incidents.

On 9th June, the police raided 17 Exford Road, where Sam Hughes lived. Three scrambler bikes were seized. Because each was unlicensed and unregistered, there is no direct evidence that these bikes were used in any particular one of these incidents but it is obvious that they were. This gives rise to the suggestion by the prosecution that Sam Hughes played the role of transport officer, providing a safe hideaway for the bikes. At one point Mr Johnson sought to suggest that the phone calls to certain taxi firms which were often made just before or just after these attacks were to allow the gunmen or fire bombers to travel to and from Sam Hughes's house to collect the bikes. This seems to me however to be speculation; it may be right but I am unable to find as a fact that this was proved.

I do not however doubt his direct involvement in the shooting on Longmoor Lane, which was in revenge for the beating up that he had received earlier. He is very young; he also is lightly convicted but he also has played his part as a foot soldier in this enterprise and he must now pay the price.

I accept the assessment by the writer of the pre-sentence report that having regard to his involvement with the other members of the gang in these conspiracies, he also is dangerous, within the meaning of the Act. There will be an extended sentence of 15 years in his case, comprising a custodial sentence of 12 years, of which he must serve fully two thirds and even then he will not be released unless and until the Parole Board decide that he may safely be released, and even then he will be subject to licence. There will be an extension of 3 years.



## Drugs

That concludes my review of the arsons and I move on to the drugs.

Mark Thomas, Barry Burke on Counts 4 and 6 (old count 5)

Mark Thomas and Barry Burke fall to be sentenced following their pleas of guilty to count 4 of the original indictment charging them conspiracy to possess Class A controlled drugs with intent to supply and on count 6 (the original count 5) with conspiracy to possess Class B controlled drugs, namely cannabis, with intent to supply.

These pleas were only entered at the close of the prosecution case.

On 9<sup>th</sup> June, the police searched 22 Stonedale Crescent and recovered a scrambler bike. It is however clear from text messages that Mark Thomas sent that as the police were entering the house, he hid a bag of cocaine up his back passage ('plugged it' as he said) and that there was another bag hidden in the garden.

On 22 December police went to 22 Stonedale. Barry Burke and Shaun Byrne were asleep upstairs. The premises were searched. Among the items found were: several small bags of heroin plainly parcelled up for distribution, together with £40 in money in one room and £660 in another, a set of scales (bearing Mark Thomas's fingerprints) and a number of plastic bags.

Furthermore, there were many stop and searches when they were found in possession of money for which they could not properly account. Further on those days when there was surveillance, it is quite clear that they were in the business of street dealing in heroin and cocaine. It is surely a seriously aggravating factor that the drugs were here trafficked were to finance their gang activities.

I assess this level of dealing to be somewhere between category 3 and category 2; I assess their role to be significant but not leading. I do not make any discount for the very late plea; the sentence on these defendants on count 4 is 8 years.

The cannabis dealing (as charged in count 6, the old count 5) was, I think, more persistent; and, as I find, on a considerably larger scale. Again, I put their dealing somewhere between Category 3 and Category 2; here however, I assess them both as playing a leading role. Again, I do not make any discount for the very late plea; the sentence on these counts is 5 years.

Ryan Holden on counts 4 and 6

I turn to Ryan Holden. There was some evidence of his dealing in Class A drugs, being drugs found at the house he shared with his father and a tick list, where the

debts amounting to £2000 odd strongly suggested dealing in Class A drugs. I accept that this was at a very much lower level than his cannabis dealing. This is Category 3 dealing; he played a significant role.

He had been stopped and searched on several occasions in possession of cannabis dealing bags. Twice he had stopped in possession of sums of money: £300 on 27th March; £250 on 9th June; which suggested an active street dealer in cannabis. Fully 16 different mobile phones were traced to him and there were plainly others which have not been traced.

One of the prison letters (it is at page 15) establishes that this course of dealing is of very long standing. Ryan Holden told the jury, truthfully I find, that he received cannabis on credit from Anthony Jewell and paid him by selling it on. This is somewhere between category 2 and category 3: he was again playing a significant role.

He will be sentenced to 6 years on Count 4 and 4 years on count 6.

The Altcourse 'throw' (Count 7)

I turn to count 7, on 20<sup>th</sup> May police officers stopped a taxi outside Altcourse prison, among the passengers were Mark Thomas, Ryan Holden and Sam Hughes. They searched the taxi and recovered 2 packages, each of which contained mobile phones, a SIM card and some cannabis. Illicit mobiles, of course, have a particular value in prison. By his plea of guilty, Anthony Jewell has accepted that this throw was for him.

The delivery of drugs into prison is a particularly aggravated form of drugs trafficking.

The sentence on Anthony Jewell is 4 years; on Mark Thomas, Ryan Holden and Sam Hughes it is 3 years.

The second 'throw'

I turn to count 5, which charged Mark Thomas and Barry Burke with conspiring to supply a Class A controlled drug to Anthony Jewell in Walton prison.

On 10 January, police officers followed a taxi along Longmoor Lane, where the occupants seemed to realise that they had been spotted, for it speeded up and turned into Fazakerly hospital. The police stopped the car in the grounds as they approached a couple of packages were thrown out of the car, each package had 2 mobile phones; some bush cannabis and a small amount of heroin.

Although the amounts are small, it is an aggravating factor that the supply was intended for a serving prisoner.

I am not influenced by the sentence passed upon Robert Watt for his part in this offence; he was a mere cipher.

On this count in this case, I take the starting point I take to be 5 years; the sentence on Anthony Jewell, who was convicted after a trial, will therefore be 5 years.

Mark Thomas and Barry Burke when arraigned upon another indictment pleaded guilty to this offence on 17 April 2012, they must have full credit for that; I shall reduce the sentence by one third to 3 years and 4 months on count 1 of that indictment, which charged them with possessing a Class A controlled drug with intent to supply; on Count 2 which charged them with possessing a Class B controlled drug with intent to supply, they will be sentenced to 2 years (again giving credit of one third for the timely plea).

Shaun Byrne

It is clear that was a member of the gang but he was not charged with participation in the violence; it must, I think, follow, that he is not at the centre of the gang's activities; he did however participate in the drug dealing.

On a number of occasions he was seen or stopped by the police when he was quite obviously dealing in drugs. One such incident, on 3<sup>rd</sup> Nov was even captured on a police surveillance camera. The telephone traffic around this time and around another police surveillance operation on 7<sup>th</sup> November is plainly referable to Shaun Byrne's dealing in drugs.

He was present, as I have said, on 22 December when several deals of heroin and £700 in cash were found at Barry Burke's house.

What is proved against him is persistent street dealing in heroin and cannabis. I consider that his dealing was again between category 2 and 3. He played a significant role.

He is now aged 20. He has previous convictions for driving offences and being in possession of cannabis for personal consumption; he has no convictions for any other offence. He has produced impressive character references; I do not doubt that on his release from prison he may be able to lead a decent life, if he is minded to do so.

The sentence on Shaun Byrne on count 4 is 6 years; on count 6, the sentence is 4 years.

I will postpone the confiscation proceedings against Mark Thomas, Barry Burke and Shaun Byrne, and I approve and set the timetable proposed by Mr Johnson QC.

I make deprivation orders in respect of the firearms, the ammunition, the drugs and the phones seized.

This is a case to which the victim surcharge applies.

I direct that a transcript of these sentencing remarks is made so as to inform the Parole Board in due course of my assessment of their criminality and of the risks which they now present.