



JUDICIARY OF
ENGLAND AND WALES

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-v-

TYRONE LAIDLEY AND FIVE OTHERS

SENTENCING REMARKS

H.H. JUDGE WILLIAM DAVIS Q.C.

THE RECORDER OF BIRMINGHAM

In the early days of August 2011 a wave of lawlessness swept through a number of English cities. I do not need to set out the history of those events. It is summarised in the judgment of the Lord Chief Justice in R. v Blackshaw and others [2012] 1 WLR 1126.

So far as Birmingham is concerned disorder began on the evening of the 8th August. During the later part of that evening and into the early hours of the 9th August there was looting and violence in many parts of the city. This court has dealt with many defendants found guilty of various offences committed on that night. Severe sentences have been imposed in line with the guidance given in Blackshaw and others. I shall reflect that guidance when sentencing the defendants in this case. I note in particular what is said at paragraph 4 of the judgment in Blackshaw and others. But no individual case considered by the Court of Appeal in Blackshaw and others even begins to approach in seriousness the offences of which these defendants have been convicted.

At about 11.45 p.m. on the 9th August 2011 – the second night of disorder in Birmingham – 26 men (all of whom were hooded or masked – or both) made their way along High Street in Newtown close to the centre of Birmingham. They walked past the Bartons Arms Public House. They crossed a nearby main road and gathered briefly on an area of parkland. In view of what occurred shortly afterwards, the group plainly was waiting for others to arrive. In the event the group did not wait for those others. Within minutes the men had crossed back to the area close by the Bartons Arms.

The Bartons Arms is a large Victorian building, something of a landmark in Birmingham and of considerable historic significance. It is situated on the main A34 road leading from the centre of the city towards Walsall. The road is a dual carriageway with a central reservation. The building

is located on the carriageway leading into the centre of Birmingham. The opposite carriageway is raised. The central reservation is substantial with steps opposite the Bartons Arms leading up to the opposite carriageway. In August 2011 members of staff lived on the second floor of the premises. On the night of the 9th August 2011 four staff members – two men and two women – were upstairs getting ready to go to bed. They were able to witness what occurred thereafter, both from upstairs windows and via CCTV cameras within the building.

Once outside the Bartons Arms members of the group attacked the building. They smashed windows, they went inside and they ransacked the premises. They threw chairs and tables out onto the pavement. Other members of the group stayed on the pavement outside the building. Some threw missiles – bottles and the like – at a passing police car. Others lit petrol bombs that had been brought to the scene. The purpose of all of this was not to loot or to steal. Nor was it mindless vandalism. The purpose – the common purpose – was (a) to behave in such a way that the police would come to the scene and (b) then to attack the police.

The violence continued. Furniture from the public house was strewn across the main road leading into Birmingham City Centre so as to block the road. Inside the public house petrol bombs were used to start fires. It was just after these fires had been set that a second group similarly clad arrived on the scene. They had approached along a side street (Burlington Street). At one point that group made as if to go down an alleyway to the parkland where the first group initially had gathered. The second group then diverted so as to go directly to the vicinity of the Bartons Arms. When the second group arrived, a cheer went up. The arrival of that second group clearly was expected. The two groups joined together and behaved as one group.

This combined group numbered 41 hooded and/or masked men. Members of the group attacked other premises close to the Bartons Arms. As they did so, a police car arrived on the opposite carriageway. The car stopped and police officers got out of the car. The arrival of those police officers was noticed by two members of the group who alerted the others. The whole group went across to the central reservation and up the steps where they looked to where they believed the police to be. In fact, the officers – seeing the large group – had moved their car around a corner. However, it was at that point that four police vans containing a large number of police officers arrived. The group moved back towards the Bartons Arms and into the mouth of Burlington Street. Police officers from the vans moved into position close to the top of the steps. It was then that several members of the group began to fire shots from handguns at the police officers standing on the opposite side of the dual carriageway. At least four different handguns were fired – a fact that is apparent from the different types of fired ammunition recovered later. It may well be that more than four guns were used. At least twelve shots were fired. It is pure good fortune that no police officer was hit by one or more of those shots. There was gunshot damage to a wall immediately below where the police officers were standing. There was gunshot damage to a building behind them indicated that bullets passed just over their heads. Those who fired the shots were not standing alone. Many members of the group remained close to them as they did so.

Almost the entire group then ran off as one. For about 20 to 30 minutes the group made its way through the Aston area of Birmingham. On occasion the group stopped and could be seen (via CCTV and police helicopter footage) to be discussing what to do or where to go next. At one

point a member of the group aimed a handgun at the police helicopter and fired a shot. Other members of the group then handed further ammunition to this individual. The group finally began to disperse after it had crossed the Aston Expressway. All but three were able to make their escape. Only six members of the group are to be dealt with by me today. Many others escaped. They may never be identified because of the poor quality of the available CCTV footage and because those involved had their faces covered.

These events did not occur spontaneously. They were planned. Firearms were brought to the scene deliberately as were petrol bombs. When the firearms were used, that was not done randomly. There was a concerted attack on the police with guns. The evidence does not allow me to conclude precisely when the plan was hatched and when and how the detailed arrangements were made. Some of the defendants were together with others late on the evening of the 7th August at which point there may have been some preliminary talk as to what might happen. It is clear that arrangements were well advanced by the afternoon of the 9th August. It was then that a group of 20 or more young males were seen in a street in the Aston area and heard to be talking about having armed themselves with guns. I am satisfied on the direct evidence and on the inferences to be drawn from the events themselves that all of the defendants with whom I have to deal went to the scene – whether as part of the first group or with the second group – knowing that guns were to be carried and knowing that they were to be used assuming the opportunity arose. They were to be used against the police.

All of these defendants are to be sentenced for riot. This was planned violence carried out at a time of major public disorder and with the purpose of luring police officers to the scene so that they might be attacked. It is a grave offence of its type. Submissions have been made in relation to the case of Najeeb [2003] 2 Cr.App.R.(S) 69 to the effect that this case is significantly less serious than that one. In some respects that clearly is correct. What distinguishes this case is the completely gratuitous nature of the violence.

Moreover, it pales into relative insignificance in comparison to possession of a firearm with intent to endanger life. Again, all of these defendants are to be sentenced for that offence. Any offence involving loaded firearms will be dealt with severely. In Avis [1998] 1 Cr.App.R. 420 Lord Bingham said that, where there is an offence contrary to a relevant section of the Firearms Act 1968, any sentence of imprisonment would be of considerable length with the length of sentence being determined by the answers to four questions:

- What sort of weapon was involved?
- What use was made of the firearm?
- With what intention was the firearm possessed?
- What is the record of the defendant?

In Sheen and Sheen [2011] EWCA Crim 2461 Lord Justice Stanley Burnton identified two further questions:

- Where was the firearm discharged and who was exposed to danger by its use?
- Was any injury caused by the firearm and, if so, how serious was it?

In this case the weapons involved were loaded handguns which could have had no legitimate lawful use. They were used to attack police officers on the ground and in a police helicopter. The intention was to endanger life. Although no physical injury was suffered, that was wholly a matter of luck. Had the police helicopter been struck, the consequences could have been catastrophic. There may have been no physical injury to a police officer. The damage to the well-being of the city of Birmingham caused by an armed gang prepared to act in this way was grave. In addition to the aggravating features identified by Lord Bingham and Lord Justice Stanley Burnton, this case is aggravated by the fact that the use of the firearms occurred as part of planned gang violence against the police against the background of substantial and continuing public disorder. It is very difficult to conceive a case of this type more serious than this one.

In Sheen and Sheen it was argued by the appellants that the offence of possessing a firearm with intent to endanger life is necessarily less serious than the offence of attempted murder. The Court of Appeal rejected that argument. It concluded that an offence under Section 16 of the Firearms Act 1968 “may, in appropriate circumstances, require a custodial sentence that is as long as, or may even be longer, than a sentence for attempted murder”. This is such a case. Multiple gun shots were fired at police officers doing their duty at a time of widespread public disorder by members of a gang carrying out a deliberate plan to attack the police. Had any police officer been struck by a bullet and had the charge been one of attempted murder, proper application of the definitive guideline would have led to a sentence of at least 30 years imprisonment. That is the starting point in this case for any defendant who used a gun will be less than that but not substantially less.

For all but one of these defendants the position is aggravated by the fact that they were party to arson of the Bartons Arms in circumstances which put the lives of those within the public house at risk. The defendants were completely indifferent to the welfare of those upstairs. All they were interested in was luring the police to the area. The fact that the members of staff looking on helplessly upstairs were put in real fear and no little danger meant nothing to them.

These general considerations apply to all of the defendants. The individual sentences will vary according to whether the defendant himself used a gun and with the age and record of the defendant. Use of a gun by a defendant will attract a very long sentence. The fact that a defendant did not himself use a gun will reduce the sentence. Even in the case of such a defendant, the fact that the offence occurred in the context of planned group violence and was encouraged by him means that a substantial custodial sentence is required.

In each case I have considered the issue of dangerousness. I am satisfied that more than one of these defendants falls within the definition of dangerousness as set out in Section 224 of the Criminal Justice Act 2003. The length of the determinative sentences that I shall impose is such that in each case the public will be protected sufficiently without the imposition of a life sentence or an indeterminate sentence.

In each case the defendant will be given full credit for the number of days spent on remand pending sentence. If the days identified today by the prison authorities proves to be incorrect, credit will be given for the correct number of days without the need for any further hearing.

I shall pass concurrent sentences in each case. The aggravating factors indicated by the offences of riot and arson will be reflected in the sentence for the firearms offence.

None of the defendants can claim credit for a plea of guilty. Each of them was convicted after a trial.

Tyrone Laidley

You were one of those present when a group met on the evening of the 7th August 2011. I conclude that you were involved from the outset in the planning of these offences. You were part of the first group and you were directly involved in the attacks on the Bartons Arms and on other premises. You were armed with a handgun. I cannot say whether you used it when the shots were fired from Burlington Street. You did fire a shot at the police helicopter. Had the shot hit the helicopter, the consequences potentially would have been catastrophic.

You were 19 at the time of the events and you are only 20 now. You have only a limited previous record (though it is to be noted you were on bail at the time of these events for an offence later dealt with by the magistrates). These are the only matters which can mitigate your sentence which will be as follows:

Count 3 (possession of a firearm with intent to endanger life)

23 years' detention in a young offender institution

Count 1 (riot)

7 years' detention in a young offender institution

Count 4 (arson being reckless as to endangering life)

7 years' detention in a young offender institution

Wayne Collins

You live in Luton. You came to Birmingham on the afternoon of the 7th August. Whatever your initial reason for coming to Birmingham, you were present at the meeting late on the evening of that day. You then spent your time with Jermaine Lewis and (latterly) Nicholas Francis. The purpose of your continued presence in Birmingham was to take part in the attack on the police which eventually occurred on the 9th August. It is significant that Francis was one of those carrying a gun. You must have known that and, with that knowledge, went with him. Although you played no active role in events at the Bartons Arms, your presence there as part of the first group encouraged others and, in particular, encouraged those armed with guns to use them.

You are 25 so you cannot use age as a mitigating feature. But you have only a very limited criminal history which can mitigate the sentence. I take account also of the fact that hitherto you

have been a working man with a family. Taking into account the nature of your involvement in these offences, the sentences will be as follows:

Count 3

18 years' imprisonment

Count 1

6 years' imprisonment

Count 4

6 years' imprisonment

Renardo Farrell

You were part of the first group. You went into the Bartons Arms. I cannot be sure whether you were directly involved in setting a fire within the premises because the CCTV cameras did not cover the relevant area. However, you were very close by when firebombs were set off and you were closely involved with that part of the plan. That is a particular aggravating feature in your case. You also were directly involved in the attack on other premises prior to the arrival of the police. I cannot find that you carried a gun but, as the jury have found, you intended to encourage those who did have guns. Given your involvement from the outset, I am satisfied that you knew of the potential use of guns from the outset.

You are now 20 and you have no real criminal history. Your sentences will be as follows:

Count 3

18 years' detention in a young offender institution

Count 1

6 years' detention in a young offender institution

Count 4

7 years' detention in a young offender institution

Amirul Rahman

You arrived with the second group. Indeed, you were at the front of that group. Once there you joined in with the attack on premises close to the Bartons Arms. You remained with the group when shots were being fired in Burlington Street. You were close to a man who was reloading a handgun whilst others were firing. You encouraged and intended to encourage the use of firearms. I am satisfied that most of those in the second group came to the scene to join the common purpose and with the knowledge of the potential use of firearms. You were one of those. I reject the proposition that you only became aware of the presence of guns at some later point.

You are only 17. You were only 16 at the time of the events. Essentially you are of good character. The jury heard that you were associated with a group who had pretensions to be part of gang culture. The only relevance of that is to explain how someone such as you became involved in the events of this night.

Your age means that, for any offence not punishable with a sentence of 14 years or longer, the maximum sentence available is a period of 24 months detention and training. Were I dealing with you only for the offence of riot, that would be the maximum sentence. But I am to sentence you for your complicity in the possession and use of firearms where the maximum sentence is life. Therefore, I have to decide whether a detention and training order is suitable to meet the justice of your case. I am satisfied that it is not. It is necessary for you to be detained for considerably longer than the maximum period allowed under a detention and training order. I shall pass a sentence of detention under Section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of Count 3. That sentence will take into account your involvement in the offence of riot. No separate penalty will be imposed in relation to that offence.

Your age does mean that, in accordance with the relevant SGC guideline, the sentence must be less than for an equivalent adult offender. In your case it will be two thirds of that which would have been passed had you been an adult.

Count 3

12 years' detention under Section 91

No separate penalty on Count 1

Nicholas Francis

You were part of the first group. You played a full and active part in the initial violence. You had a gun. I am satisfied of that given what is apparent on the CCTV footage and given that there was a photograph on your mobile telephone of a .25 semi automatic handgun. Just such a handgun was used to fire shots at the police officers from the area of Burlington Street. I conclude that you were one of those firing such a gun.

You are 25. You have a bad record. In 2005 you were sentenced to 5 years' detention for offences of robbery. You are an active member of a street gang in West Bromwich – the Raiders – which has used firearms in the past and which is associated with the Johnson Crew – a notorious Birmingham street gang. The video material adduced as evidence during the case demonstrates that you enjoy the notion of handling and using firearms and that you have a deep antipathy towards the police. You are most clearly a dangerous man and you come close to requiring a life sentence. I avoid such a sentence only because of the length of the determinate sentence that is appropriate in your case.

Count 3

30 years' imprisonment

Count 1

7 years' imprisonment

Count 4

7 years' imprisonment

Jermaine Lewis

I am satisfied on the evidence that you spent the 9th August in the company of Francis and Collins and that you drove them to the area of the Bartons Arms in the later part of that evening. You knew full well that you were taking an armed man to that area and that guns were to be used to fire on the police. You made your escape from the Aston area with Francis. In order to do so you and he (and others) by force took a car from an innocent man in the street. Although I cannot find on the evidence that you were armed yourself, you were the means by which an armed man got to the scene and you escaped with him.

You are 27. You have no significant criminal history. However, like Francis, you are an active member of a street gang in West Bromwich – the Raiders – which has used firearms in the past and which is associated with the Johnson Crew – a notorious Birmingham street gang. The video material and material from your mobile telephone adduced as evidence during the case demonstrates your attitude to guns and to the police.

Count 3

23 years' imprisonment

Count 1

7 years' imprisonment

Count 4

7 years' imprisonment