

Neutral Citation No: [2019] EWCA Crim 1282

Case No: 201900509/A1

IN THE COURT OF APPEAL

CRIMINAL DIVISION

Royal Courts of Justice

Strand

London, WC2A 2LL

Friday 12 July 2019

B e f o r e:

LADY JUSTICE NICOLA DAVIES DBE

MR JUSTICE PHILLIPS

MR JUSTICE CHOUDHURY

R E G I N A

v

S I M O N W H I T T L E

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Mr J Grefstad appeared on behalf of the **Appellant**

Mr W Cleaver appeared on behalf of the **Crown**

J U D G M E N T

(Approved)

MRS JUSTICE NICOLA DAVIES:

1. On 7 January 2019 in the Crown Court at Chelmsford, the appellant was convicted of the offence of murder. On 11 January 2019 he was sentenced by the trial judge to imprisonment for life. A minimum term of 20 years was imposed, less days spent on remand.
2. The appellant appeals against sentence with leave of the single judge.

The facts

3. Shortly after midnight on 15 January 2018 the appellant murdered Natalie Hastings. Natalie Hastings was engaged to Paul Stanley who had known the appellant for many years. The appellant had stayed at Paul Stanley's home for some time, but about a month prior to the offence Paul Stanley asked the appellant to leave because of his behaviour. The appellant was unhappy about this and relations between the three became strained. Two weeks after leaving the address, the appellant returned to the property to rob it. He was assaulted a couple of days later, it was thought in retaliation.
4. On 13 January 2018 the appellant was seen sitting in his car outside Paul Stanley's address at about 10.30 in the evening.
5. Just before midnight on 14 January 2018, Natalie Hastings and Paul Stanley were in Hemel Hempstead High Street speaking to some people in an alleyway. Natalie Hastings was seen on CCTV going to a cash machine on Marlowes, the main thoroughfare. The appellant drove his Volvo motor vehicle adjacent to the cash machine and slowed to a stop. He reversed a little before veering left onto the pavement where Natalie Hastings was standing. His actions caused her to run away. She headed towards a roundabout in an attempt to get away from the appellant, who in response performed a three-point-turn and sped towards the roundabout in pursuit. The appellant then deliberately struck Natalie Hastings with his car and drove over her body, before crashing into Space Lettings, a property adjoining the road.
6. James Whitney was a passenger in the appellant's vehicle. He heard Natalie Hastings shout to the appellant saying that she had done nothing. The appellant responded: "You're dead", before accelerating at speed towards her. The appellant made no attempt to brake or avoid the collision. James Whitney left the car and saw that Natalie Hastings was badly injured. Other members of the public were present. A female asked the appellant if he had run Hastings over. His response was: "Yes, I fucking did". The appellant did nothing to assist Natalie Hastings who was lying on the ground badly injured. When Paul Stanley found Natalie Hastings he went to comfort her, but the appellant, who uses a crutch, struck Paul Stanley with the crutch in order to stop him getting to Hastings.
7. Shortly thereafter the police and paramedics arrived. A blood sample taken from the appellant at the crash scene showed that he had over 800 milligrams of benzoylcegonine per litre of blood, the specified limit being 50 milligrams. The appellant admitted being the driver of the vehicle but said that he had swerved to avoid a fox. When asked if there had been a passenger, the appellant claimed that another male, not James Whitney, was

with him. During the police interview the appellant gave no comment replies, other than to suggest that someone else had been driving.

8. Natalie Hastings was taken to hospital. She sustained extensive bruising to her limbs, a fractured rib, multi-organ failure, traumatic brain injury, multiple pelvic injuries and disruption to the pelvic tissues with associated haemorrhaging. She was certified dead at 09:45 on 16 January 2018. Her cause of death was recorded as organ failure due to multiple pelvic injuries.
9. The appellant's car was examined and found to have no mechanical, electrical or technical defects.
10. A Victim Personal Statement from the sister of Natalie Hastings was before the court which described the devastating nature of the loss caused by Natalie's death to herself, her family and friends.
11. In sentencing the appellant, the judge stated that he had been convicted on the clearest evidence of the brutal and merciless killing of Natalie Hastings, who was aged 41. Natalie had been alone on the streets, vulnerable and defenceless. Having viewed the CCTV footage, the judge stated that the appellant had unsuccessfully tried to run Natalie down with his car in Marlowes. He then pursued her in his vehicle. Natalie Hastings must have been terrified as she ran up Marlowes as the appellant had made his intentions clear, not only in what he tried to do in Marlowes but he was shouting at her: "Run, bitch", and later "You are dead". The judge found that the purpose of the appellant was to kill Natalie Hastings. The judge described the manner in which the vehicle was driven as merciless and ferociously. The appellant drove his vehicle into and over Natalie Hastings. The judge identified the pain and fear which would have been felt by her as the appellant deliberately drove his vehicle at her. The judge said it was beyond comprehension.
12. The judge took careful account of the extent of the loss felt by Natalie Hastings' family. He noted that the appellant had demonstrated no remorse, describing him as a callous and ruthless individual, prepared to unleash extreme violence on anyone who crossed his path.
13. In sentencing the appellant to life imprisonment and considering the minimum term to be imposed, the judge identified the starting point as being 15 years' imprisonment. The judge found that the offence was aggravated by the brutal manner in which the appellant killed Natalie Hastings, firstly in pursuing her in a motor car through the streets and then driving over her. The judge accepted that the killing was not premeditated in that the appellant did not leave his home that day intending to kill Natalie, but found that once the appellant had seen her, he resolved to kill her, as demonstrated by his initial action in attempting to run Natalie Hastings down, following her and, once having seen her again, driving at and over her. The judge accepted that the period of time was short, but stated that it was clearly the intention of the appellant from the moment he saw her to kill Natalie Hastings.
14. The appellant, aged 49 at the date of sentence, has previous convictions but the judge did not take those convictions into account as aggravating features. He reminded himself of

section 143(2) of the Criminal Justice Act 2003 (“the 2003 Act”) but purely to record that the appellant is not a man of good character.

15. In terms of mitigating factors, the judge identified the fact that the appellant suffers from cerebral palsy, he has sustained a stroke and from the judge’s observations demonstrates a lack of insight. The judge also took account of the fact that at the time of the offending the appellant was addicted to drugs.

Grounds of appeal

16. On the appellant’s behalf, Mr Grefstad has relied upon three matters. Firstly, notwithstanding the fact that this appellant has previous convictions, this offending was out of character. Secondly, it was not a premeditated act; it is comparable to an act which escalated. Thirdly, given the mitigation identified by the judge, combined with what is said on the appellant’s behalf as to the lack of premeditation, insufficient account was taken by the judge of mitigating features when applying the minimum term.
17. On behalf of the respondent, Mr Cleaver has accepted that the sentence passed is harsh. However, he said that given the nature of the driving and the attitude demonstrated by the appellant to the deceased, it warranted an elevation of the starting point beyond 20 years. Further, such mitigating factors as were identified by the judge were limited. Mr Cleaver informed the court that although the judge identified the ill-health of the appellant, namely cerebral palsy and the fact he had suffered a stroke, as being mitigating factors, neither medical condition played a significant part during the course of the trial. The judge who sentenced the appellant was the trial judge.

Discussion and conclusion

18. We have been referred to the authorities of *R v Nankani* [2011] EWCA Crim 1329 and *R v Austin* [2015] EWCA Crim 627. We are grateful to counsel for the referencing of these authorities, but a case such as this is fact-specific.
19. It is accepted that the judge was entitled to identify other aggravating features which fell outside the statutory criteria set out in schedule 21, paragraph 10 of the 2003 Act. It is no part of the appellant’s case that the aggravating features identified by the judge were in-apposite, save for the point taken on premeditation. We note the points taken by the judge as to the aggravating features. As to the appellant’s contention that this was not a premeditated offence, we do not agree. We accept and agree with the judge’s analysis that while the appellant may not have started out that evening intending to kill Natalie Hastings, by the time he embarked upon his pursuit of her that was his intention. As such, we accept there was an element of premeditation in his actions.
20. Further, in addition to the aggravating features identified by the judge, we take account of the fact that this terrifying pursuit of a vulnerable woman took place on a public street, a car was used as a weapon and it was viewed by members of the public. It is clear that the judge took account of the effect which Natalie’s death, and the circumstances which led to it, have had upon her family.

21. We have considered with care the mitigation put forward on behalf of this appellant. In reality, this amounts to mitigation relating to his ill-health. Those were facts which were before the judge. However, in our judgment this was a deliberate, callous and calculated killing. Natalie Hastings was properly described as being vulnerable and defenceless in that she was alone in the street, she ran from the appellant as he pursued her at speed, she had no chance against the speeding vehicle as she was approached and killed. The deceased's vulnerability was not derived from age or disability but from the circumstances of the case.
22. In considering this appeal, we are conscious that no sentence of this or any court can adequately reflect the loss of the life of Natalie Hastings and what it has meant to her family and friends. We accept the judge's analysis of the pursuit and what led to the death of Natalie Hastings. We accept that he took into account both the aggravating and mitigating features. We regard this sentence as severe. However, given the particular aggravating features in this case, we are unable to say that this sentence was manifestly excessive. Account was taken of the mitigating features, but they were limited and wholly insufficient to outweigh the gravity of the aggravating features.
23. In those circumstances, we do not allow this appeal and the sentence stands.

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