



Neutral Citation Number: [2021] EWHC 2963 (Admin)

Case No: 2021/4/YOR

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 5 November 2021

**The decision of Mr Justice Johnson
on review of the tariff in the case of Eze Eke**

Approved Judgment

MR JUSTICE JOHNSON

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1. On 8 May 2010, the Applicant murdered Blayne Ridgeway. On 8 December 2010, at the Crown Court at Oxford, the Applicant was sentenced to be detained at Her Majesty's Pleasure. The minimum term was set at 15 years, less time spent on remand of 151 days. The Applicant's tariff expiry date is 10 July 2025, so in almost 4 years' time.
2. The Applicant applies for a reduction in the minimum term by application of the principles identified by the House of Lords in *R (Smith) v Secretary of State for the Home Department* [2005] UKHL 51 [2006] 1 AC 159.

The offence

3. The Applicant was 16 years old at the date of the offence (some of the papers suggest 15, but his date of birth is 23 December 1993, and the offence was 8 May 2010). He is now 27).
4. In the early hours of 8 May 2010, the Applicant was at a nightclub. He became involved in a minor disturbance with Mr Ridgeway. He left for a short moment but then returned and stabbed Mr Ridgeway twice through the heart with a lock knife that he had with him. The sentencing judge found that the Applicant had intended to kill Mr Ridgeway.

The Applicant's progress since conviction

5. I have been greatly assisted by the content of the tariff review bundle, and, in particular:
 - (1) The Judge's remarks when dealing with the Applicant for contempt of court;
 - (2) A list of the Applicant's adjudications;
 - (3) Three Tariff Assessment Reports;
 - (4) Details of the programmes undertaken by the Applicant and the certificates he has achieved;
 - (5) An OASys assessment.
 - (6) Representations advanced in support of a reduction in the Applicant's minimum term.
6. As to (1), in 2015 the Applicant was involved in a disturbance at HMP Swinton Hall. He was charged with two others with an offence of affray. When they arrived at court another man, who had been on the other side of the alleged affray, was in the dock. The Applicant and the other two men then attacked that other man. He was acquitted by a jury of the offence of affray, but was sentenced to two months' imprisonment for the contempt of court. The judge indicated that he was impressed with the way in which the Applicant had behaved in court during the trial.
7. The Applicant has a very large number of adjudications recorded against him, including for drugs, disobeying lawful orders and assault. The most recent adjudications recorded in the papers was in June 2020. The Applicant was moved to HMP Woodhill following

his poor behaviour in the segregation unit at HMP Garth. Although there was a period when it appeared his behaviour was levelling out, he accrued numerous negative entries and IEP warnings. He was transferred to HMP Whitemoor for security reasons. There, his behaviour declined further. He was described as being regularly rude and aggressive towards staff and making threats towards staff. That was the position as at September 2018. Since then, there is some sign of improvement. He has not received any adjudication findings for over a year. It is said that his maturity and outlook have changed. There is some evidence that he has shown a degree of insight into his offending. He has now been an enhanced prisoner for a lengthy period of time.

8. I have not, for the purposes of this review, considered it necessary to address the entries in the security report.

The test to be applied when deciding whether to reduce the tariff

9. A sentence of detention during Her Majesty's Pleasure is "a special sentence devised to reflect the reduced responsibility and special needs of those committing murder as children or young persons... It has been an important and distinctive feature of the sentence of HMP detention that the detainee should be subject to continuing review so that the detainee may be released if and when it is judged appropriate to do so" (see *Smith* at [10]). The continuing review of the tariff is the responsibility of the Lord Chancellor and the Secretary of State for Justice. In practice, the review is carried out by a judge who may recommend (on certain grounds) that the tariff be reduced. The Lord Chancellor has agreed to honour any recommended reduction in tariff.
10. There are three possible grounds on which a tariff may be reduced:
 1. The prisoner has made exceptional progress during his sentence, resulting in a significant alteration in his maturity and attitude since the commission of the offence.
 2. There is a risk to the prisoner's continued development that cannot be significantly mitigated or reduced in the custodial environment.
 3. There is a new matter which calls into question the basis of the original decision to set the tariff at a particular level.
11. The "Criteria for Reduction of minimum term in respect of HMP Detainees", produced by the National Offender Management Service on behalf of the Secretary of State, states that factors that indicate exceptional progress may include a prisoner having demonstrated:
 - "1) An exemplary work and disciplinary record in prison;
 - 2) Genuine remorse and accepted an appropriate level of responsibility for the part played in the offence;
 - 3) The ability to build and maintain successful relationships with fellow prisoners and prison staff; and
 - 4) Successful engagement in work (including offending behaviour/offence-related courses)."

12. The document says that, ideally, all of these factors should have been sustained over a lengthy period and in more than one prison. Further, “[t]o reach the threshold of exceptional progress there would also need to be some extra element to show that the detainee had assumed responsibility and shown himself to be trustworthy when given such responsibility. Such characteristics may well be demonstrated by the detainee having done good works for the benefit of others.” Examples given include raising money for charity. Ideally, it is said, there would need to be evidence of sustained involvement in more than one prison over a lengthy period.

Application of the test to this case

13. There is no basis for suggesting that a new matter has emerged that was not taken into account by the sentencing judge and which would merit a review of the minimum term. Nor is there any basis for concluding that there is a risk to the Applicant’s development which merits a review of the minimum term.
14. So far as the question of exceptional progress is concerned, it is to the Applicant’s credit that he has engaged with a number of courses, and that he has secured and retained enhanced privilege status, and that he has been free of adjudications for over a year. There are signs that he is more mature and that his behaviour in prison has improved.
15. However, I do not consider that he has made exceptional progress within the meaning of the NOMS guidance. He has a very large number of adjudications, and it is only relatively recently that there have begun to be some signs of change. That is not sufficient to merit a recommendation for a review of the minimum term.

Outcome

16. The Applicant is beginning to make some progress and is to be commended for that. However, having regard to the relatively short time over which that change has taken place, the progress is not exceptional within the meaning of the NOMS guidance, and there is no other reason to recommend a reduction in the minimum term.