



**REGINA v HENRY LONG, ALBERT BOWERS, JESSIE COLE AND THOMAS
KING**

Sentencing remarks of The Honourable Mr Justice Edis

Central Criminal Court

31st July 2020

The statutory surcharge will be imposed in the appropriate sum in each case. The car and all its contents, the clothing seized and Cole's mobile phone will be forfeited. All existing orders from previous convictions are discharged and no further order is made in respect of them. The driving licenses will be endorsed in accordance with the sentences I shall shortly pronounce.

Long, Bowers and Cole all stand to be sentenced for manslaughter. Long pleaded guilty to that offence in January 2020 having asked not to be arraigned at the first PTPH in December, for which plea he is entitled to a 25% discount from his sentence. Bowers and Cole were convicted by the jury.

All four defendants stand to be sentenced for conspiracy to steal, King having pleaded guilty in December and intimated his plea before that (full credit), Long in January (25% credit) and Bowers and Cole at the start of the first trial in March (10% credit).

INTRODUCTION

My task now is to impose a sentence which reflects the seriousness of this case and protects the public. Those are the purposes of the sentences in this case in all cases, given the ages the defendants have now reached.

Nothing which I can do, or could have done if there had been a conviction for murder, can restore Andrew Harper to his loving wife and family, or to the public he served so well. His devastating loss in these terrible circumstances will follow his family forever and they have the profound sympathy of the court and the whole nation in their loss. The victim personal

statements are deeply moving and I have read them with care and listened intently to what was said in this courtroom.

THE FACTS

I heard the trial and the facts I set out below are those of which I am sure having heard the evidence.

The jury were not sure that Henry Long knew that as he was driving from Admoor Lane to Ufton Lane the car he was driving was dragging a human body. That is what the prosecution had to prove before anyone could be convicted of murder and they did not succeed in doing so.

These young men therefore fall to be sentenced for manslaughter. Cases of manslaughter range greatly in seriousness. Sometimes death may be caused by an act of gross carelessness, sometimes a case of manslaughter may be very close to a case of murder in its seriousness. That is so here. This is a very serious case of manslaughter.

That is because these four defendants went out in the afternoon to steal a quad bike. They had carefully planned how they were going to do that. It was something they did frequently, and in the cases of Long and Bowers pretty well all the time. They had all been out thieving the previous night when they stole the loop which caused the death of Andrew Harper on the 15th August 2019. They were in the habit of going out thieving in cars at night. In Long's case it was his only source of income, he never having done an honest day's work in his life, or, it seems, ever thought that he should.

The system of these young, unintelligent, but professional criminals began with the acquisition of a car. This needed to be cheap and fast. They acquired the SEAT a few days ahead of the 15th August and ensured that it could not be associated with any of them by registration or insurance. Quad bikes are favourite targets, and they have a system for stealing them.

Somehow, they identified the quad bike as a target. I do not know how. I reject their evidence that they just happened to see it from the road as they were passing. I have been to the site and its location was not visible. The location was highly conducive to such a theft, however, an isolated house on a sharp bend on a country lane where help could not come quickly.

Having chosen the target, they first went to steal it in broad daylight. They taped up the number plates and fixed the towing loop to the boot hinge of the SEAT and planned to tow

the bike away. They drove through a village and past a pub in broad daylight with the car in this state, playing loud music. This was conspicuous and brazen behaviour, almost a challenge to the police. They intended to escape by driving at any speed necessary if the police tried to arrest them. Both Long and Bowers accepted that they had been passengers in “police chases” before when the criminals had escaped in this way. In order to do that while towing a man on a quad bike, it is necessary to think about what will happen if the police do arrive, as well they might have done. The driver of the quad bike has to jump off, disconnect the loop, and run to get into the car. This must have been agreed before that first attempt to steal the bike, in which all four defendants were involved.

Then there would be truly terrifying driving.

On the first occasion none of this happened because the householder came out and disturbed them. They retreated, intending to return later, in the dark. Thomas King did not do so, but the other three did.

When they returned later, they knew that there might be someone there. This was quite obvious because there was an expensive car parked on the driveway which had been there (with no other cars) at the time of the first attempt at theft. Anyone with any experience of crime would conclude that this was probably the car of the man they had seen earlier and that he was therefore probably still there. Long, Bowers and Cole lied about this to the jury.

I do not know what the plan was if Mr. Wallis had come out and confronted them on that second occasion just after 1115pm. He did not do this. I do not think that the thieves would simply have run away, nor do I think that they had agreed to do him really serious harm if necessary. If that were so, the jury would have convicted of murder. What I do think is that there would have been a volatile and dangerous confrontation in which serious harm to Mr. Wallis was entirely foreseeable. The desperation and determination which they showed a few minutes later when using any means necessary to escape from the police shows this.

They succeeded in towing the quad bike away and were then confronted by the police. They very quickly knew that it was the police ahead of them and the plan to unhook the bike and pick up Jessie Cole before escaping at speed was immediately implemented. The vehicles were stationary facing each other for only 10 seconds before the SEAT began to move. Long gave the order, Bowers passed it on and Cole obeyed and jumped into the SEAT shouting “Gavvers, drive drive”. Bowers helped him into the back so Long could drive, and Long took off as fast as he could. They worked together as a team to enable them to escape. They all knew that this would require desperately dangerous driving if it were to succeed.

While that was happening, Police Constable Harper had got so close to the SEAT that all the occupants knew he was there. I reject their evidence that none of them ever looked backwards to see what the police car was doing. It simply defies belief.

What they did not know, until later, was that a person had become caught in the loop and was being dragged along the road behind them. I find that they must have known at some stage during that journey that something had got caught in the loop. Indeed, Bowers said during the journey that he was worried that the loop might get caught in the wheel.

The marks on the road on the long straight show beyond any doubt that the driver was trying to get rid of whatever it was which was being dragged. They drove on, not knowing or caring what it was they were dragging.

I find that they must have appreciated as they entered Ufton Lane what had happened. There is street lighting on the A4. Mr. Wittenham could see the body, and his headlights provided additional illumination. The SEAT slowed almost to a halt as the body became detached in Ufton Lane, and they never explained why they did this. They did not drive fast away until they saw PC Bushnell's blue lights close behind. These lights, and his headlights, illuminated the ghastly scene, and his approach must inevitably have caused the passengers to look round. The near side wing mirror of the SEAT was gone, but the driver's wing mirror and rear-view mirror were there. No attempt was made in the investigation to reconstruct how it feels when a car which is picking up speed after a sharp turn suddenly becomes free of a 90 kilo weight which it has been dragging along an abrasive road surface. None, really, is necessary because the answer is obvious. The denials of each of the occupants of the car that at no time did they know they were dragging anything are plainly false. By the time they left the body in Ufton Lane, they knew what it was they had been dragging.

During the drive from Admoor Lane to Ufton Lane, they averaged 42mph. This included the whole of the straight but also the sharp turn which took them across the A4 and to a point after they had slowed down at the body deposition site. This was on average 10mph faster than Mr. Simon Hall, an advanced police driver, managed when he reconstructed the journey and he was driving when the road was closed and far too fast for normal conditions.

That journey must have involved terrifying speeds. However, what was to follow involved speeds of an even higher level. From the body deposition site to the camp where the journey ended the average speed was 52mph, no doubt partly because the car was free of the damping effect of a 90 kilo weight being dragged along an abrasive surface. The police tried to replicate this, but their best time was some 30 seconds slower. I have seen the videos taken from the police car during these journeys and the speeds were sickening. They did not

include a period when the SEAT was stuck behind a bus, or the time lost when the wheels were spinning when they tried to turn round until the traction control was applied. The police car reached speeds of well over 90mph at times. The SEAT went appreciably faster than that. This was only about 1130pm, and there were other vehicles on the road. Two of these had to drive aside to avoid being rammed. Anyone taking their dog for a late night walk or walking home from the wedding would have been at a serious risk of death. The defendants who gave evidence all agreed that this driving caused an imminent and real risk of death to the police, other road users and to themselves. They all knew that at the time. As I have said they all together set it in motion by their activity when Cole was enabled to get into the car before it took off. They are all responsible for it.

I accept the point put in cross-examination to Long that drivers who plan to outrun the police and who have experience of doing so know that they can get away because they are prepared to create an extreme risk to the safety of members of the public, and they know that the police cannot do the same. Long said that one reason for disconnecting the brake lights is that the police will hang back if they have no way of knowing when the car they are chasing is braking. A person who kills a police officer having decided quite deliberately to behave in this way commits as serious a case of manslaughter as it is possible to envisage.

THE DEFENDANTS

Long is 19 years old and was 18 when the offence was committed and at the date of conviction.

Bowers and Cole are 18 years old at the date of conviction, and were both 17 years old when the offences were committed. The difference between them and Long in age is approximately 1 year.

King is 22 years old.

None of them is intelligent. None of them had any real education. Their parents appear to have taken them out of school far too young. Bowers and Cole suffer from serious learning difficulties, although they have managed to work for their fathers. Long is brighter but chose to be a thief. Long was in charge that night and was giving the orders.

I will not take the previous convictions as an aggravating factor, but the evidence given by Long, Bowers and Cole about their way of life is plainly very important.

The mitigation is

1. The ages of the offenders.

2. The pleas entered by all defendants to conspiracy to steal, and by Long to manslaughter.
3. The learning difficulties of Bowers and Cole. I am sure they were able to understand what they were doing that night. I do not think that their learning difficulties made them more likely than other people to commit crimes involving serious risk of death. These problems do cause sympathy and also limit their abilities to pursue an honest career. However, they were not linked to the offence and did not in any way reduce their ability to understand that driving of the kind they took part in is likely to cause death.

I reject the contention that any of you has shown anything resembling remorse. The words you used when giving evidence about your concern for Andrew Harper's family were made up. Bowers and Cole did not even plead guilty to manslaughter. Long's approach was made very clear by what he said when charged with murder:-

"I don't give a fuck about any of this."

THE MANSLAUGHTER GUIDELINE AND THE APPROACH TO SENTENCING

The sentence for manslaughter will take into account the fact that death was caused during the conspiracy to steal which included a specific agreement, admitted by all defendants who gave evidence, that the vehicle would be driven as fast and as dangerously as was necessary in order to escape the police. The brake and rear lights were disabled by Long, Bowers and Cole all working together, after dark before the second visit to Privett House.

When I approach the guideline I am required to avoid an overly mechanistic application of the factors which are listed and the guideline suggests that these factors are "indications of the level of culpability that *may* attach to the offender's conduct". This is more permissive language than is found in some guidelines and reflects the very great variety of ways in which manslaughter of this kind may be committed.

Here death was caused in the course of an unlawful act which involved a deliberate and pre-meditated intention to drive, if accosted by the police, in a way which was reckless as to whether the police officers died or not. It was designed to expose them to a risk of death, and it killed Police Constable Harper. This means that the third factor indicating high culpability is made out and to an extreme level. I also consider that the second factor is made out. The conspiracy to steal the quad bike was a serious offence. I leave out of account at this point the fact that a car was to be used to escape if necessary, in order to avoid double counting. I

have referred to the other features of it above which justify this finding. The case is one of very high culpability.

So far as aggravating features not already taken into account are concerned, Long had a leading role in a group, and there were attempts to cover up or conceal evidence. The concealment by Long and Bowers of their phones has been successful and they have never been recovered.

Most importantly, using the technical language of the guideline, the offence was committed against an emergency worker acting in the exercise of his duty and while he was providing a public service.

In better language: you killed a talented and brave young police officer who was going above and beyond his duty in order to provide a public service, and you did so because you had deliberately decided to expose any police officer who got in your way to a risk of death. You decided that your freedom to commit crime was more important than his life. That was not a spur of the moment decision: when confronted by him you carried out a pre-agreed plan. That is a very wicked calculation. It is not as wicked as deliberately intending to cause really serious injury or death, but it represents a highly culpable state of mind.

Although the guideline is structured in a different way from the rules which apply when a minimum term is to be fixed in a murder case, it is important to have regard to the sentence for murder in order to ensure that the gap between the sentence for murder and manslaughter is wide enough to mark the very significant difference between the two offences, but not wholly disproportionate. For an offender over 21 an offence of the murder of a police officer engages starting point of a whole life order. For Henry Long, who was over 18 when he committed the offence, the starting point would have been 30 years. The fact that this was a homicide done for gain which would attract a starting point of 30 years would also have had an effect.

For Bowers and Cole the starting point would have been 12 years because of their ages. That would have required a substantial upward adjustment because of the exceptionally high seriousness of the killing. Given the truly joint nature of the offence and the closeness in age of the offenders the sentences would have to bear a relationship with each other. The minimum terms would all have been very long.

It is clear from paragraph 4(2)(ba) of the Schedule that parliament places the murder of police officers on duty in a particular category for sentencing purposes and I see no reason why the manslaughter of police officers on duty, at least in cases where the unlawful act

intentionally and deliberately created a risk to the police, should not also be in a particular category of seriousness.

These factors require a significant upward adjustment of the starting point, which is set at 18 years.

I have regard also to the guideline for sentencing young offenders, and the need to avoid allowing a fairly minor difference in the ages of the offenders resulting in a disproportionate difference in sentence.

In all cases I consider that principle requires me to ignore the recently introduced early release provisions. I must pronounce the appropriate sentence and the new rules mean that Long, Bowers and Cole will not be eligible for release until they have served two thirds of the period of it.

THE SENTENCE

Henry Long you were the leader of the group that night and gave the orders which resulted in the death of Police Constable Harper. You drove the car which killed him. I do not believe that if you had known he was caught up you would have stopped, but I do accept that you did not know this until the point at which he became detached from the car. You did not stop then, did you?

Your own evidence shows that you are dangerous. I found it very disturbing. In explaining why you are not guilty of murder, you also explained why you are dangerous. You value your ability to steal things, and to drive away afterwards, more highly than the lives of people who might get in your way to try and stop you or simply be in your way through bad luck. After what happened to Police Constable Harper you drove in a way which would have rammed another police car if he had not got out of your way. You created a risk of death to other drivers as well. You regard this all as exciting and as entirely normal behaviour. Often in your evidence you used the expression “just an ordinary police chase” of your driving. You have used words which explain that you understand how dangerous this really is, but you gave no clue that you think it is wrong. As things stand, if you were to be free, I am confident that you would carry on as before, going out thieving all the time, using cars to escape by any means required. It is only a matter of time before someone else dies if you do that. I heard you give evidence over a long period of time and do not believe that I require the assistance of a pre-sentence report to decide this question.

I have decided that although this is an extremely serious offence I can deal with it by means of an extended determinate sentence of detention because of your age. A man only a few

years older than you would have received a life sentence. It does mean that you are entitled to release at the end of the custodial term. At your age that seems to me to be an important benefit. This is the principal way in which I address the fact of your age, and the discount in relation to the custodial term will be modest.

The custodial term will be based on a starting point of 24 years discounted for your age, and then for your plea to 16 years. You will serve 10 years and 8 months of that before you can be considered for release. You will be entitled to release after 16 years. The extended licence period will be 3 years.

You will be disqualified from driving for 3 years, and the extended period of disqualification is 9 years.

Albert Bowers and Jessie Cole, you are both somewhat younger and you were not ringleaders. You also suffer from learning difficulties which make you more likely to follow the lead of someone who is more capable than you are. In your cases I do not make a finding of dangerousness and will deal with this case by means of determinate sentences of detention in a young offender institution. I have decided to deal with you equally, because the real determining factor of this sentence is what you did and the harm you caused.

The starting point is 20 years, this is reduced on account of your ages and immaturity to a term of 13 years in each case. You will serve two thirds of that in custody and the balance on licence.

In the case of Long there will be a concurrent term of 32 months detention for the offence of conspiracy to steal. In the cases of Bowers and Cole the term for that offence will be 38 months imprisonment because their pleas were later.

You will both be disqualified from driving for 2 years, and the extended period of disqualification is 10 years

Thomas King you fall to be sentenced only for conspiracy to steal, and only for the first attempt. This was a serious offence because of the value of the quad bike and because you were part of a group who had planned it. It also involved the taping up of the number plates so that you could escape the police by dangerous driving if necessary. That is a seriously aggravating feature of this conspiracy for all the reasons I have given above. This kind of theft using a car in this way is not simply an offence against property. It involves a potentially very serious risk to public safety. It is an offence for which only an immediate custodial sentence is justified having regard to the guideline on the imposition of such sentences. In your case, having regard to the early plea, the sentence is 2 years imprisonment.

157 days of that have already been served on a qualifying curfew and will count against that sentence.