



JUDICIARY OF
ENGLAND AND WALES

The Central Criminal Court

Regina

-v-

Darren Pencille & Chelsea Mitchell

12th July 2019

**Sentencing remarks of Mrs Justice Cheema-
Grubb DBE**

REPORTING RESTRICTIONS APPLY – CARE MUST BE TAKEN

1. **Darren Pencille** I must sentence you for the murder of Lee Pomeroy by stabbing on a train on a holiday afternoon in January. Anyone who watches the breathtakingly shocking CCTV footage would struggle to understand how you thought you could claim to have acted in lawful self-defence against that unarmed man who was coming up to London for a pre-birthday treat: a day out with his teenage son. You were not just a man who had a previous conviction for stabbing someone in the neck over a minor dispute, you had got onto that suburban train carrying a knife, probably a lock-knife and you started an entirely unnecessary row with a fellow passenger because you had to wait a few moments while he got into his seat and you could pass.
2. You told him he was ignorant, he told you to shut up. You abused him, he answered back. You became annoyed and he got up. You went quickly into the next carriage and he followed, you were both speaking about getting off at the next station. You accused him of racism although no one on that train heard him say anything to justify that insult. You told him to leave you alone you were both swearing at each other. Mr Pomeroy was asking you to apologise for speaking to him like that in front of his son. At one point your behaviour led him to say he had never dealt with anyone with special needs

before and this plainly riled you. One of the passengers on the train, a young woman recorded part of what was being said, it is a few seconds only but she captured you swearing at Mr Pomeroy and challenging him to put a hand on you and telling him it would not end nicely if he did. Well he didn't do anything like that.

3. The simple fact is you picked on the wrong man. He stood up for himself. But when he took that decision he didn't know about your violent history. He did not know that you had a diagnosis of paranoid schizophrenia and a dissocial personality disorder. He did not know you were not taking your anti-psychotic and anti-anxiety medication. He had no reason to think that someone who got on the train at London Road, Guildford on a quiet Friday afternoon during the New Year holidays, would be carrying a knife.
4. So, he gave as good as he got until you pulled out a lethal weapon. You were not psychotic at the time. But I have no doubt that you were hypersensitive to anyone who you believed was affronting or challenging you. Your temper had a hair trigger. But your culpability is not reduced, in my judgment because of that. You were someone who did not take your medication and you did take cannabis which sometimes made you more paranoid than usual. You did, as already mentioned, decide to arm yourself with a knife and had it to hand. You were never going to do well in a one to one fight against that large confident man. You decided to attack him and you killed him.
5. You took out your knife and without warning him with it, you suddenly stabbed him to the left side of his neck. You cut off his life with that single strike. It penetrated 6cms and having passed through strong muscle it cut Lee Pomeroy's jugular vein and his carotid artery. Profusive blood loss was the result of what Dr Biedrzkyski called an 'almost never salvageable' wound. Thereafter you and Mr Pomeroy engaged in a few seconds of struggle within which you managed to inflict another 17 knife injuries. Including deep wounds to his abdomen which cut parts of his bowel. I am satisfied that you were the aggressor throughout. I reject the suggestion that you may have started the violence in a genuine belief that you needed to defend yourself. I see nothing at all in Mr Pomeroy's words or behaviour to justify any form of mistake even in your less than healthy mind. The use of a knife against that man on the train who had not laid a finger on you, to cause those widespread injuries to his neck, face, knee, hand and abdomen was frenzied and fast. But immediately afterwards you calmly picked up your belongings, including your phone and sunglasses, you put on your clothing and you left the train. You did not call for help for the man you must have known you had badly, if not fatally injured, and you did not once

tell anyone that you had had to defend yourself. Later that evening you told an ex-girlfriend, the mother of one of your children, "I've done something bad, and you'll see it later in the news." You told your mother, with whom another child of yours lives, "I've done something wrong. " But at the time, once you got off the train you simply left the scene quickly, calling your girlfriend to drive you away after you had discarded blood stained clothing and other property. You did not know it, but you left Lee Pomeroy's son cradling his dying father's head.

6. Lee Pomeroy was an accomplished man, a much-loved husband father, brother, son and friend. The impact statement from Svetlana Pomeroy representing herself and her son speaks eloquently of the irrevocable change you have caused to their lives. For your victims' son the anguish of losing a father in such circumstances remains with him. Truly this was a senseless loss of life.
7. Your previous convictions are a statutory aggravating feature. You have convictions for carrying knives, possessing a firearm and ammunition, burglaries, assaults and criminal damage. You have previously intimidated a witness to try to prevent a positive identification, a serious offence against justice. In 2009 you committed an extremely grave offence of violence, wounding with intent to do GBH, when you stabbed a man in the neck during an argument. You were then considered to be a dangerous offender and at Inner London Crown Court in February 2010 you were sentenced to 54 months imprisonment and an extended licence of 3 years. In 2018 you were living in accommodation provided to you where you again displayed your entirely irrational response to the most minor provocation, with that incident dealt with by a plea of guilty to common assault.
8. The fact that you carried out this killing at a time when you knew that the man's son was in the next train carriage is also an aggravating feature. Failing to take your medication and continuing to use cannabis which sometimes made you more paranoid are not aggravating features, but they mean that there is no scope for considering you to have any degree of reduced culpability on the basis of your mental ill health. I have already said I am sure you did not genuinely believe that you needed to defend yourself despite the fact that Mr Pomeroy had followed you and you were at the end of the train. The sudden attack to a vulnerable part of the body, the number of wounds and the fact that you knew a knife strike to the neck would be life-threatening because of your previous conviction indicates to me that you intended to kill. This was not a premeditated killing. You are 36 years old and you will spend the best years of the life left to you in

prison, away from your children and all those you love. But this is your own doing.

9. Sentence for murder is life imprisonment. I have to set a minimum term applying Schedule 21 to the CJA 2003. The starting point must be 25 years, because you killed using a knife you were carrying with you and which you had available to use. Allowing for the aggravating features I have described and the limited mitigation the minimum term is 28 years less the days you have spent on remand which are 185. The sentence is life imprisonment with a minimum term of 27 years and 180 days.
10. This is the term before your case can be considered by the Parole Board. If you are released by the Board you will remain on licence and subject to recall to prison, for the rest of your life.
11. In your trial you did not instruct your barristers to raise in court matters which they may have sought to introduce. That does not make any difference to your sentence because you did not plead guilty and your defence has been rejected by the jury but I want you to know that the court has noticed that, and it bodes well for potential reform in the future. I hope you will take your medication and remain stable in prison. Please take him down.
12. **Chelsea Mitchell.** I have no doubt that soon after Darren Pencille got off that train he told you exactly what had happened. The report of Dr Stevens indicates that you have some intellectual weaknesses but nothing that would limit your understanding of how serious a position Darren Pencille was in and how entirely wrong and unlawful it would be to help him.
13. But help him you did. You took him away, took him home, let him clean himself up and change his appearance, you treated his wounds, you then drove him around while he and you did research on the internet about the incident on the train. Mr Pomeroy's death was soon confirmed. Still you continued to help Pencille. There is no sign that you tried to get him to turn himself in.
14. I have to consider three particular features of the case in order to determine how serious it is.
 - a. The nature of the criminality. Plainly, it was of the greatest seriousness, murder with a knife
 - b. The nature and extent of the assistance provided. I am sure that very soon after it had happened you were told exactly what had happened and everything you did thereafter: including the

particulars set out in the indictment was done with the intention of helping Darren Pencille to avoid arrest and prosecution.

- c. To what extent were interest of justice damaged. The police would have arrested Darren Pencille at 8pm on 4th January at your home had you not driven him away. Therefore, your actions impeded that arrest but did not prevent it. Some evidence has been lost, eg the knife has not been recovered but I sentence you on the basis that Pencille may have discarded that before he got into your car and so it is not your responsibility.

15. You were acting under misguided loyalty. Your history and vulnerability have been laid out for this court. These are not excuses, but they go to explain how a young woman can be in such an emotional bond with a man who does not hurt her, because of the damaging experiences she has had with others including her own parents, that she is prepared to break the law. I will accept that you were emotionally dependent on him and your closeness is demonstrated by your letter to him in prison. This does not excuse what you did but it does have an impact on your culpability.

16. But I have no doubt that it was not impossible for you to resist. Chelsea Mitchell you are just aged 28 years old, but you have acquired seven convictions for offences against public order and assaults (including to a police officer). You were under the conditions of a Community Order at the time that you decided to help your boyfriend evade arrest. I do not require a Pre-Sentence Report. I have taken into account as far as I possibly can the distress you will suffer being separated even further from your daughter. But I have remember that you took your daughter with you in the car travelling to the south coast with a man who you knew had used a knife to kills someone and you have continued to lie about that man and what he did and said on the day you committed this offence.

17. The custody threshold has been undoubtedly been crossed. I have considered the guidelines in relation to suspended sentences and in light of the mitigation put forward, in particular the vulnerability you have to emotional bonds with dominating men and the time you have spent in custody already which will count against the term I pass, it may have been possible, were you of previous good character, to pass a suspended sentence in all the circumstances, but I have been forced away from that potential course because of the fact that you have previous convictions and you committed this offence in breach of a community order. Accordingly, I have decided that least sentence I can pass, given your daughter's age and the prospect of some reconciliation with her in due course, is one of 28

months imprisonment. The time you have spent on remand and on monitored curfew: 7 ½ months will count against that sentence.

18. I revoke the community order.

19. I make the victim surcharge orders.

20. For Darren Pencille: 12 months concurrent for carrying the knife.