



JUDICIARY OF  
ENGLAND AND WALES

**Leeds Combined Court**

**R**

**-v-**

**Ahmad Otak**

**Sentencing Remarks of Mr. Justice Coulson**

**9 November 2012**

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Ahmad Otak, you may remain seated until I tell you to stand.

You have pleaded guilty to the murder of Kimberley Frank and her friend Samantha Sykes in March of this year. It is now my duty to sentence you.

Before doing so, however, I need to make a finding as to your age. This is because, if I conclude that you were over 21 at the time of the murders, the mandatory sentence is imprisonment for life. If you were less than 21, the mandatory sentence would be custody for life.

Pursuant to Section 164 of the Powers of Criminal Court (Sentencing) Act 2000, I must determine your age as “that which it appears to the court to be, after considering any available evidence”.

I am in no reasonable doubt that you are over 21 now, and were over 21 at the time that you committed these murders. There is a considerable amount of evidence which support those conclusions.

First, when you first entered the country as an illegal immigrant, you gave your date of birth as 1<sup>st</sup> June 1991. That would make you 21 now, and 20 years and 9 months when you killed these young women.

But you boasted to Elisa Frank, Kimberley Frank's sister, that you had lied to the authorities about your true date of birth. Unsuccessful asylum-seekers like you only lie to the authorities to understate your age, knowing that the younger you are, the more favourable the treatment you are likely to receive. And you are a practised liar; the interviews with the police reveal you telling lie after lie, some of which you repeated as recently as mid-July, in an interview with your own psychiatrist. On that basis alone, I conclude that you were at least a year older than you claimed then, making you 21 at the time of the murders in March.

Importantly, that conclusion is borne out by the expert evidence. Various x-rays and scans of you have been considered by an expert, Lucina Hackman, who has produced a report dated 10.4.12, which I have considered in detail. She concludes that "it is highly likely that this individual is over 21 years of age today", and she finds that there is "a very strong probability" that you were over 22 in April of this year.

That conclusion is supported, rather than undermined, by the report of 13.7.12 from Philip Marsdon, a dental surgeon, who has examined a dental radiograph and has concluded that you are *at least* 20 now and that you could be many years older than that.

There is no credible evidence which can be set in the balance against the matters which I have already set out. You now say that you do not know how old you are. Accordingly, taking into account all the evidence, I conclude that you are at least 22 now and were at least 21 at the time of the murders.

Stand up please.

On these findings as to your age, I sentence you to life imprisonment for the murder of Kimberley Frank and Samantha Sykes.

You are an Afghan national whose asylum claim was rejected when you illegally entered the United Kingdom in 2007. However, you were granted a period of humanitarian protection, until 5<sup>th</sup> November 2013. It now seems that that was the direct consequence of the lies you told about your age. You were wholly undeserving of any such protection; you repaid the generosity of the authorities and the taxpayers of this country by murdering two of its citizens in a carefully planned and entirely

cold-blooded way. You claimed humanitarian protection, but you showed yourself incapable of behaving like a human being.

You had an on/off relationship with Elisa Frank in Wakefield. You took advantage of her estrangement from her mother and her emotional vulnerability. Throughout the relationship you were controlling and threatening. Elisa was frightened of you. You repeatedly made threats that if she ever left you, you would kill her, her friend Samantha Sykes, her mother, and her sisters Kimberley and Faye. You even said to her that if she stayed with you she would be saving lives. To reinforce these threats you regularly carried a knife and on at least one occasion you threatened Elisa with that knife..

Elisa Frank was too frightened of you to report you to the police. It is one of the many tragedies of this case that her friend, Samantha Sykes, was not frightened, and reported you to both the United Kingdom Border Agency and the Police. Unhappily, nothing came of those complaints.

When Elisa Frank left you for the first time in September 2011, you threatened to throw acid in her face and to petrol bomb her mother's house. After a week, Elisa went back to you. She remained scared for her own safety and had a code with her sister Kimberly that she would activate if she was in danger.

By February of this year, Elisa Frank had had enough and she left you again, moving out of the flat that you had shared, and telling you that your relationship was over. Initially it appeared that you were not going to react in the violent way that Elisa had feared, although you continued to stalk her during the first days of March. On 9<sup>th</sup> March you met Elisa and her sister Kimberley in Wakefield. Shortly after that, Elisa asked you to bring her possessions from the flat that you had shared to Kimberley's house. You immediately went into a kitchenware shop and bought a stainless steel carving knife for £7.99. You rang Elisa and asked her if she was going to take you back. She said No. You arrived at Kimberley's flat with the knife hidden on your person.

To the extent that it was suggested that you intended to use the knife on yourself, I reject such an explanation; you took the knife there to do what you had long talked about; to harm those who were close to Elisa Frank.

As soon as you entered the flat, you again asked Elisa whether she was sure that she would not go back to you. She answered 'Definitely not'. A few minutes later, when the three of you were in the hallway, you suddenly attacked Kimberley Frank with the knife that you had bought. You stabbed and slashed her repeatedly with the knife in a frenzied attack. Kimberley Frank sustained 15 incised wounds, mainly stab wounds. She suffered internal and fatal wounds to her lung, her heart, spleen, liver and kidney. The most serious wound was a massive stab wound to her neck which severed her jugular vessels and left carotid artery. The wound was delivered with such force that it damaged the spine.

After you had killed her sister you made Elisa Frank sit down and told her that if she had gone back to you, you would not have killed Kimberley. At one point you stood over Kimberley's body, and laughed, licking blood from the knife and spitting it on her body.

You then made Elisa Frank send several text messages to her friend Samantha Sykes, asking her to come to the flat. Fearing for her life, she had no alternative but to do as you demanded. You tied Miss Frank's legs and wrists together so that she could not get away.

When Samantha Sykes entered the hallway of the flat you attacked her with the knife, stabbing and slashing at her repeatedly. Elisa Frank sat, tied up in the living room, unable to help as you murdered her friend.

Samantha Sykes sustained 32 incised wounds; many of them stab wounds, some caused by a slashing motion. Two wounds to the chest penetrated her lung, heart, liver and spleen. You used such force that a rib was split. Her neck was cut, severing the jugular vessels and carotid artery. Like Kimberley Frank, Samantha Sykes sustained a number of defensive wounds to the arms and legs.

Following the killings, you fled to Dover with Elisa Frank, intending to leave the country on a lorry on a ferry to France. In order to achieve this you teamed up with Bahram Bahrami, an illegal immigrant from Iran, who was also intending to travel to France on a lorry. However, it became apparent to Mr. Bahrami that Miss Frank was extremely distressed and, when they had a moment to speak freely in the back of a stationary lorry, Elisa Frank told him that you were taking her against her will and that you would kill her if you heard her talking to him. To his credit, Mr. Bahrami

abandoned his own attempt to leave the country. His courage saved Elisa Frank. He lied to you that the lorry was not going to France after all. When you had got off the lorry he grabbed the knife and did not give it back, allowing Elisa Frank to run away to some nearby houses. He then snapped the knife, thus preventing you from using it. He sought refuge in another house until you were arrested by the police. You denied your involvement in many of these events during your interviews.

I have read the victim impact statements that have been prepared by Sarah Frank, Kimberley's mother; Elisa Frank; and Julie Warren-Sykes, Samantha's mother. They provide eloquent testimony of the devastating effect that you have had on their lives; because of you, they will never be the same people, the same families, ever again.

Turning to the sentencing exercise, the first issue for me is whether, pursuant to paragraph 4 of Schedule 21 of the Criminal Justice Act, I should impose a whole life order; in other words, whether I should here and now extinguish any hope that you may have of an eventual release from prison.

I am in no doubt that the seriousness of these offences was exceptionally high. You killed two people in the brutal way that you had planned. You forced Elisa Frank to take part and then abducted her. And your treatment of her sister's body demonstrates at least a degree of sadism. Thus I consider that the making of a whole life order is open to me. And although they are rare, they are not unknown; indeed, in a not dis-similar case, Mr Justice Field passed such a sentence just a few days ago.

But I must also reflect the fact that you are young – on the basis set out already, I find that you are at least 22 – and that you pleaded guilty, thereby saving Elisa Frank from the dreadful ordeal of giving evidence. Taking those two factors into account, I consider that it would not be appropriate to make a whole life order. I consider that a life sentence, with a lengthy minimum term, is a sufficiently severe penalty.

Thus, the remaining issue then becomes the length of your minimum term; the number of years you will have to serve before you are even considered for release by the Parole Board. So that there is no doubt about it, this is the minimum period that you will serve in prison; depending on the views of the Parole Board when that minimum period has been served, you may not be released even then.

Because you murdered two people, I consider that these were offences of particularly high seriousness. Therefore, pursuant to paragraph 5(2)(f) of Schedule 21 of the Criminal Justice Act 2003, the starting point for any assessment of the minimum term in your case is 30 years.

However, there is then a raft of aggravating factors which have not been taken into account in the calculation of the starting point, and which significantly increases the length of the appropriate minimum term.

First, as I have said, these murders were the result of a significant degree of premeditation and planning. You had told Elisa Frank months before, when you were still in a relationship with her, that if she ended it you would kill her family and friends. When she left you, you put that plan into action, and you purchased the knife for that specific purpose, and took it to Kimberley's house. Moreover, you killed Kimberley and then calmly waited for Samantha to arrive before killing her, the clearest possible premeditation.

Secondly, these murders were committed with a knife taken to the flat for that sole purpose.

Thirdly, the killings were carried out using grossly excessive force. In each case, you cut the throat of your victims and inflicted multiple stab wounds.

Fourthly, there was deliberate and gratuitous violence against both victims. Spitting blood on Kimberley's body was an act of bestiality. Indeed, throughout, you behaved like an animal.

Fifthly, there was your use of duress and threats against Elisa Frank to enable you to kill Samantha Sykes. Samantha Sykes only went to the house in the first place because you had forced Elisa Frank to ask her to come, and threatened to kill Elisa if she did not co-operate. You made Elisa Frank an unwitting vehicle for the murder of her friend Samantha Sykes because of your threats to kill her. And she was there, against her will, when you murdered her sister and her friend.

Finally, there is the exceptionally serious psychological effect that these events have had on Elisa Frank, as demonstrated in her victim impact statement.

Those aggravating factors are, in my view, so serious that they increase the minimum term, before a consideration of any mitigating factors, to 40 years.

As to the mitigating factors, there is first a suggestion that you suffered from a mental disorder or mental disability. However, the highest that it can be put in the report produced on your behalf by Dr Puri is that when you came to the UK in 2007 you had an adjustment disorder (but not depression) and that you *may* have been depressed (Dr Puri can only put it on the balance of probabilities) in the week leading up to the killings.

Of course, the difficulty with his whole report is that it is based on your own version of events, the reliability of which must be doubtful to say the least. What is more, Dr Puri is very clear that any mental disorder that you may have had did not affect your criminal culpability; he said expressly that you did not have an abnormality of mental functioning which could have given rise to the defence of diminished responsibility.

Accordingly, whilst Dr Puri's evidence might justify a modest reduction in the minimum term, it is not a significant mitigating factor. It had no real effect on your criminal culpability. It does not alter the basic position: that you are an inadequate man with controlling and violent tendencies who, out of childish jealousy and vicious spite, murdered two innocent women in cold blood.

I consider that your mental disorder cannot justify a reduction of more than 2 years from the 40 years previously noted.

The next mitigating factor urged on your behalf is your youth, which I have already taken into account. It was one of the principal reasons why I did not impose a whole life term. Even if a further reduction is warranted on account of it, that reduction could not be significant; otherwise I would be double-counting. But it is not a factor which I should ignore altogether. In all the circumstances of the case, I would reduce the minimum term by a further 3 years to reflect your youth.

The final matter of potential mitigation urged on me is the absence of any previous convictions. In the light of all the circumstances of this horrific case, I decline to make any reduction for the fact that you have no convictions; in truth, all that means is that you were not previously prosecuted for making the vile threats to Elisa Frank that you eventually carried out.

Accordingly, the 40 years is reduced by a total of 5 years by reference to these mitigating factors.

Next is the credit for your guilty plea. I have already taken that into account too; it is the other main reason why I have decided not to impose a whole life order. Furthermore, I do not agree with the proposition that your guilty plea was entered at the first opportunity; by 5.10.12, when you pleaded guilty, the trial had already been adjourned once and re-fixed. That was your first formal acceptance of your responsibility, although I accept that it had been assumed for some time before that that you would not deny killing both women. In any case, the evidence against you was overwhelming. In the circumstances, I am only prepared to make a further reduction of 1 year to reflect your late guilty plea.

I impose no separate penalty in respect of the possession of the knife.

Thus the total reduction from the maximum 40 year term noted above is 6 years, leaving a net figure of 34 years. From that falls to be deducted the 241 days that you have spent on remand, giving a minimum term of 33 years and 124 days.

Ahmad Otak, you are sentenced to life imprisonment with a minimum term of 33 years and 124 days. To put that another way, so that you and everyone else in court understands the effect of this sentence, you will not even be considered for release until the year 2046.