

R v Mark Steele

Id. vLex Justis VLEX-792563685

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Text

[1994] EWCA Crim J0801-10

IN THE COURT OF APPEAL CRIMINAL DIVISION

Before: Lord Justice Farquharson Mrs. Justice Ebsworth Mrs. Justice Steel

94/1850/W5

Regina
and
Mark Steele

NON-COUNSEL APPLICATION

Royal Courts of Justice

Strand

London WC2A 2LL

(Computer Aided Transcript of the Palantype Notes of John Larking Verbatim Reporters,
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Monday, 1 August 1994

MRS. JUSTICE EBSWORTH

MRS. JUSTICE EBSWORTH This is an application by Mark Steele for leave to appeal against sentence, leave having been refused by the Single Judge.

On 21 February 1994 at the Crown Court at Newcastle before Her Honour Judge Paling, the Applicant pleaded guilty to an offence of possession of a firearm with intent to endanger life, and to possession of ammunition without a firearm certificate. He also pleaded guilty to an offence of unlawful wounding.

For the offence of unlawful wounding, he was sentenced to 4 years' imprisonment; on the offence of possessing a firearm with intent to endanger life, he was sentenced concurrently to 8 years'; there was a concurrent sentence of 6 months' imprisonment for the possession of ammunition. The Applicant is a man of 32 years of age, who was treated as a man of good character. He was a man who was familiar with guns and, indeed, possessed a firearm certificate.

The background to these matters is a cause of great concern. On 19 September of last year, a young woman called Nichola Jane Lumsden (who was 19 years old) went to a public house in Washington, called the Redskins, with a friend of hers. In the course of the evening, she came into company with one Steven Wilson. Shortly before 11 o'clock at night, Wilson became involved in a minor verbal altercation with the doorman of the premises. Miss Lumsden, together with her friend, left the premises and the altercation between Brown and Steven Wilson continued, again in the form of a minor verbal altercation in the car park in front of the public house.

At that, this Applicant, Mark Steele, came on the scene. The Applicant was not involved in any way in the incident in the public house. His only connection is that he, from time to time, works as a temporary doorman and security man in public houses and clubs. On this evening, as Wilson walked from the car park onto the road outside, the Applicant threw a beer glass towards him. Wilson, not surprisingly, turned towards the Applicant. He saw the Applicant remove a handgun from inside his jacket. That handgun had been in a holster. The Applicant pointed towards Wilson and he fired. He missed Wilson and he struck Nichola Lumsden in the head. Nichola Lumsden collapsed with a grievous wound to her head. The Applicant, who must have realised

what had happened, left the scene immediately without the slightest concern for the girl who had been injured.

Nichola Lumsden was conveyed by ambulance to the hospital in Gateshead. She was put on a life support machine. A bullet had gone into her head and had lodged behind one of her ears. It was medical skill and medical skill alone which saved her life. Gradually she made a partial recovery.

As a result of the Applicant's actions, a totally innocent girl is now severely disabled. She has difficulty walking, she has difficulty speaking. She has difficulty in the unsupervised performance of basic bodily functions. Not surprisingly, she has suffered psychological damage.

The Applicant, on 21 September, surrendered himself to Washington police, accompanied by his solicitor. He admitted that he had discharged what was in fact a semi-automatic pistol. He said that he had not intended to kill or do really serious harm; he only intended to frighten Wilson. On the evidence before us it is difficult to see why he should even consider he had the slightest justification in doing that.

His explanation was to say that the use of the firearm was an act of bravado done whilst he was drunk. He explained carrying the firearm on the basis that he had purchased the semi-automatic firearm and carried it on a regular basis, and he carried it together with live ammunition. He did so because a number of colleagues in other public houses or nightclubs in and around the Newcastle and Gateshead area had been attacked and had suffered various injuries.

Her Honour Judge Paling had to sentence for those truly appalling and very serious offences. She had to sentence a man who was treated by her, very properly, as a man of good character, a man who, knowing the inevitable custodial consequence, pleaded guilty to the offences. He was a man who did not suffer from any psychiatric illnesses save a mild reactive depression. The Single Judge, in refusing leave to appeal in respect of these matters, made the following observation:

"The tragedy which you caused to Nichola Lumsden and her family is a perfect example of the reason why those who carry and are prepared to use guns must be severely punished. The sentence is in my view an appropriate deterrent sentence for the reasons given by the Judge."

Her Honour Judge Paling said when passing sentence at Newcastle, in a Court and in a city with which she is very familiar:

"There are too many guns in this City. It is too easy to come by them ..."

She then went on to indicate that there are too many incidents in the nightclub scene in the City of Newcastle (also Gateshead) over which the shadow of violence hangs and that it was necessary to underline that those who bring guns onto the streets of that City, or indeed any City, and who use them, are going to receive condign punishment which will be a deterrent in its nature.

These sentences, the sentences of 4 years' for an offence carrying a maximum of 5 years', a concurrent sentence of 8 years' for an offence which carries a maximum sentence of life imprisonment, in our judgment, are in no way excessive but are wholly in line with the gravity of the offence and its wholly appalling and sadly foreseeable consequences. This application is dismissed.