APPEAL COURT, HIGH COURT OF JUSTICIARY

[2026] HCJAC 14
HCA/2025/000565/XC

Lord Justice Clerk
Lord Matthews
Lord Armstrong

OPINION OF THE COURT

delivered by LORD BECKETT, the LORD JUSTICE CLERK

in

APPEAL AGAINST SENTENCE

by

BRANDON STEPHEN McLACHLAN

Appellant

against

HIS MAJESTY'S ADVOCATE

Respondent

Appellant: Lenehan KC, McMillan; Faculty Appeals Unit
Respondent: Frain-Bell KC, AD; the Crown Agent

28 April 2026

Introduction

[1] The appellant challenges the punishment part of 18 years and 6 months of his life sentence for murder, reduced from 21 years for his plea of guilty. He maintains that it was excessive for a crime committed when he was 21 years old. He was 22 when sentence was passed.

Procedure

[2] The appellant appeared on petition at Airdrie Sheriff Court on 24 December 2024 and was remanded in custody until he pled guilty, almost 10 months later, on 16 October 2025 at the preliminary hearing. After a short adjournment, the sentencing judge heard an agreed narrative and plea in mitigation on 20 October 2025. He was not invited to call for a Justice Social Work report and did not do so.

[3] The charge stated:

> "(004) on 22 December 2024 at Stirling Street, Airdrie you…did assault Jamie Lucas…and did repeatedly strike him on the body with a knife or similar instrument and you did murder him;
>
> you… did commit this offence while on bail, having been granted bail on 29 August 2024 at Dunfermline Sheriff Court and on 25 October 2024 at Airdrie Sheriff Court."

The second bail order related to solemn proceedings for assault to severe injury and possession of an offensive weapon in the form of a knife. Those charges were indicted along with the charge of murder and pleas of not guilty were accepted.

Agreed narrative of the circumstances of the crime

[4] The appellant lived in Graham Street, Airdrie not far from where he murdered Mr Lucas. On the evening of 21 December 2024, the appellant was in a nightclub in Airdrie and was removed at 0155 hours for being involved in an altercation, having been seen to be confrontational with other patrons. He remained outside. Mr Lucas and his partner, Lynsay Goldie, had been in the same nightclub and went outside to smoke. The appellant and Mr Lucas did not know each other but became involved in a confrontation. Mr Lucas complained that the appellant was "in his face." Mr Lucas struck him with his head, causing bleeding and chipping one of the appellant's teeth. Door staff intervened and Mr Lucas

went back inside. The appellant remained outside with a door steward. CCTV footage showed that he was in an agitated state, punching and kicking street furniture, prompting the steward to try to calm him down. He was heard to state that he would get a knife and stab Mr Lucas, adding: "I'll go and get a knife and stab him in the neck", "I'll get the jail for it, I don't care", "he's chipped my tooth, I don't care, I'll get the jail for him" and "fuck it, I'll go get a knife then". The appellant left the area of the entrance to the nightclub at 0223 and walked homewards.

[5] Mr Lucas and his partner left the nightclub at 0234 when the appellant appeared and shouted at Mr Lucas, who walked towards him. They came together and engaged in a physical struggle. As door stewards moved towards them to prevent a fight, they noticed that the appellant had a knife in his hand. Mr Lucas exclaimed, "I've been plugged". The appellant repeatedly stabbed Mr Lucas on the left side of his body. The door stewards disarmed the appellant, who then ran away. Ms Goldie and the steward tried to help Mr Lucas, who staggered for a few steps before collapsing on the street. Police officers arrived at 0240 and unsuccessfully commenced CPR on Mr Lucas, who remained in a state of cardiac arrest. He was taken by ambulance to hospital where he was pronounced dead at 0425.

[6] The appellant ran off and entered another club before being told to leave. He then ran towards home, but police chased and intercepted him nearby. On his arrest he stated: "I'm always honest, he battered fuck out of me, so I stabbed him. I went home, got the knife and stabbed him to fuck."

[7] Post-mortem examination revealed four stab wounds. There were three wounds to the upper outer left side of the chest and one wound to the left upper arm. The three wounds to the chest were inflicted in rapid succession by the same weapon. Two of the

wounds were readily survivable. Another had penetrated the left lung but was also survivable with hospital treatment. The fatal wound passed through the bone of the left 4th rib, the pericardial sac and entered the heart, transecting a major coronary artery before entering the right ventricle. Considerable force was indicated by the nature of that injury, which resulted in rapid and profuse blood loss coupled with acute myocardial ischaemia.

Victim information

[8] Mr Lucas was 33 when he died. He worked as a joiner. He was in a relationship with Ms Goldie who witnessed the whole events leading to his death. He had a 10-year-old son whose mother prepared a statement outlining the impact on the child. He has suffered a profound emotional and physical impact. He has suffered shock, fear, confusion, sadness and anger. He feels survivor guilt. He became isolated from friends and withdrew from activities. He has suffered sleep disturbance, nightmares, intrusive thoughts and mood swings. His schooling was affected, reducing his hours of attendance. He has suffered stomach pain, fatigue and changes in appetite. He struggles to regulate his emotions. His standard of living has declined without his father's financial support. He feels that he will never be the same again without his dad.

[9] The deceased's sister wrote of the impact on her and her brother and sister. She writes of indescribable emotional pain for herself and her family. She explains that her mother died in grief following the deceased's passing. The whole family is shattered, and their lives will never be the same again.

[10] The deceased's father describes their close relationship and the impact on him of losing his son. He is no longer able to leave home and is consumed by the torment suffered

by his family. His own mental health has suffered. He is angered by the knowledge that the appellant was on bail for a recent knife crime.

Previous convictions

[11] The appellant has previous convictions from 2020 when he was made subject to a community payback order for offences including assault to injury at Dunfermline Sheriff Court. For another assault, he was made subject to a CPO in January 2021. In June 2023, he was made subject to a further CPO for a crime of disorder involving a knife. In July 2024, he was made subject to a further CPO for an offence under the Police and Fire Reform (Scotland) Act 2012 section 90(1)(A). He was subject to it when he murdered Mr Lucas.

The appellant's circumstances as known to the judge

[12] The appellant was 22 when sentence was passed and 21 when he murdered Mr Lucas. He was in employment as a joiner. He grew up in Dunfermline but had recently moved to Airdrie, where he lived alone, to have contact with his father who had not hitherto been present in his life. He appeared to have a problem with alcohol that was affecting his mental health.

Plea in mitigation

[13] In addition to outlining the appellant's circumstances, senior counsel explained that staff at the nightclub considered that the appellant tried too hard to make friends there and appeared awkward. The appellant had been very drunk when he met Mr Lucas. He spoke to him and Mr Lucas did not respond well, resulting in Mr Lucas head-butting him, forcing his tooth through his lower lip. He dwelled on it before going home to fetch a knife.

[14] The court should note the appellant's age at the time, 21, and its implications: a poorer decision-making ability and greater capacity for change. The court should take account of the part played by the head-butt, the appellant's remorse and plea of guilty.

Reasons for the sentence imposed

[15] In his sentencing remarks, the judge summarised the circumstances and the nature and extent of the injuries the appellant inflicted with a knife. He referred to the content of the victim impact statements and the impact on the deceased's relatives. He acknowledged that the Scottish Sentencing Council's Sentencing Young People guideline applied to the appellant and that immaturity played a part, but he considered it to have limited weight. He did not consider the appellant to have acted instinctively but had plotted revenge with a knife for a minor assault. He noted that the appellant's convictions showed he had had opportunities for rehabilitation through community payback orders. He took account of the bail aggravations but also made allowance for the guilty plea. He reports that he also considered the occurrence of this fatal assault in the presence of the deceased's partner to be a materially aggravating circumstance.

[16] The judge had considered the opinion of the court in *Donnelly* v *HM Advocate* [2017] HCJAC 78, 2017 SCCR 571, where the court sustained a punishment part of 20 years for a spontaneous knife murder by a man of 23 who inflicted two stab wounds with a knife he was carrying. Mr Donnelly, unlike the appellant, had three significant previous convictions for crimes of violence on indictment, each attracting a prison sentence, but his offence was not aggravated by bail.

Note of appeal

[17] The punishment part was excessive given the circumstances of the offence and offender. The appellant was 21 when he committed the offence and in full-time employment; what happened was prompted by the deceased head-butting the appellant half an hour beforehand and he pled guilty early. The judge made little or no allowance for the appellant's age and his immature decision-making and enhanced prospects of rehabilitation. The attack on the appellant, whilst separated in time, would otherwise have reduced his crime to culpable homicide. Particularly on account of the implications of his young age, the punishment part should have been shorter.

Justice social work report

[18] The appellant reported having very little memory of events on account of the considerable amounts of alcohol he had taken, and he seemed confused between his own hazy recollection and what he had seen on a CCTV recording. He accepted responsibility, expressed remorse and grasped the impact of his actions on the deceased's family.

[19] His mother, a single parent from shortly after his birth, brought him up before he resumed contact with his biological father in 2023. He had an initially difficult relationship with his stepfather, who came into his life when he was 5, but it is now a very supportive relationship as he has with other members of his family. He moved to Airdrie to be near his step father and to get away from negative peers and problematic use of alcohol in Dunfermline, but he continued to return there, getting into trouble.

[20] The appellant left school at 16 with several National 5 level qualifications despite issues at school including truancy. He studied construction and joinery at college, had completed almost all his apprenticeship in joinery and was in full-time employment doing

joinery work when he committed the murder. He is in good physical health but is struggling mentally with what he has done. A prescription of Sertraline is not helping. He describes a background of drinking heavily from 14 and being a regular user of cannabis and occasional user of cocaine and other drugs. Alcohol use has featured in all his offending, and he acknowledges that his efforts to address this problem have been half-hearted.

Submissions

[21] The terms of the Sentencing Young People guideline acknowledge that a young offender, meaning someone under 25, will generally have a lower level of maturity and greater capacity for change and rehabilitation. Young people are less able to exercise good judgment when making decisions, may be less able to think about the consequences of their actions and may take more risks. Against that background, the judge had given undue weight to his assessment that, because the appellant made a deliberate decision to arm himself and return to confront the deceased, this was not an impetuous or instinctive reaction by a young immature person. The judge reached these conclusions without first calling for a JSWR, depriving himself of sufficient information about the appellant's maturity and capacity for change.

[22] Comparison with the circumstances of sentences gleaned from reports of certain other cases demonstrate that the sentence was excessive*: HM Advocate v Boyle* [2009] HCJAC 89, 2010 JC 66; *Laurie* v *HM Advocate* [2019] HCJAC 3; *McGowan* v *HM Advocate* [2024] HCJAC 20, 2024 JC 359 and *Elliott* v *HM Advocate* [2020] HCJAC 41.

[23] In *Boyle*, the Lord Justice General (Hamilton), chaired a full bench of five judges and gave guidance on punishment parts for murder. Mr Boyle was one of several respondents

convicted of murder. His crime, committed when he was 19 (*sic*), was a prolonged attack upon the victim, with the infliction of a stab wound and various blows to the head and face with feet, a pole and a bottle, which fractured his skull. He was then burned to death in a manner "redolent of the medieval horrors of execution by burning. It is difficult to envisage more cruel or sadistic treatment of another human being" [26]. Mr Boyle showed no remorse. He was convicted after trial. For such a crime a punishment part of 18 (*sic*) years was held appropriate. In giving general guidance, the court stated, at [16], that for murder with a knife, a punishment part of at least 16 years ought to be imposed. Whilst a punishment part over 16 years would have been justified, a starting point of 21 years in the appellant's case being 3 (*sic*) years longer than that imposed on Mr Boyle demonstrated that the sentence in this case is excessive.

[24] In *Laurie*, the appellant was aged about 30 and was convicted of an unexplained murder of a 37-year-old man in his own home, by repeatedly kicking and stamping on his head and attempting to defeat the ends of justice by taking actions that thwarted the emergency services from attending to the victim. The attack was apparently prolonged and brutal. A punishment part for conviction after trial was affirmed at 18 years.

[25] In *McGowan*, the appellant was 28, had numerous convictions and had been sentenced to imprisonment for domestic abuse several times. He was subject to five bail orders when he murdered his partner using sustained blunt force violence leaving 76 sites of injury on her body. He had also strangled her and burned her hands, ears and nose with an open flame and slashed her face with a screwdriver. The experienced judge imposed a punishment part of 23 years of which 2 years was for a domestic aggravation and the bail aggravations.

[26] In *Elliott*, that appellant was 19 when he (and others) murdered a vulnerable pensioner in his own home in a prolonged armed attack involving repeated blows with a screwdriver, a hammer, a wrench, a walking stick and other items during a planned robbery. The court considered the violence to be "merciless and excessive". Mr Elliott had a previous conviction for hamesucken involving the home of a pensioner. He had other convictions for dishonesty, drug taking, disorder and violence. He was under supervision at the material time. He lied about his involvement and showed no remorse. The trial judge's punishment part of 18 years was reduced to 16 years.

[27] At the hearing, senior counsel adopted his written submissions but accepted his errors in summarising some of the details of *Boyle*. He maintained that, in the round, the actual sentencing and general guidance in *Boyle* supported the view that the sentence was excessive. The report now available included indications of remorse, insight into the harm caused and the link between alcohol and his offending. The guidance in the Sentencing Young People guideline, and the body of case-law the appellant founded on, both served to demonstrate that the punishment part was excessive.

Decision

[28] We reject the appellant's proposition that, but for the interval between the head-butt and the stabbing, the appellant would have had a plea of provocation leading to a verdict of culpable homicide. The infliction of four wounds with a knife, including one penetrating the heart and another the lung, was grossly disproportionate to the deceased head-butting the appellant and would have excluded provocation even if the appellant had retaliated instantly with a knife.

[29] In *Boyle*, the Lord Justice General explained, at [16], that knife crime was a scourge in the Scottish community and that the court should act and be seen to act to discourage the carrying of sharp weapons the use of which causes needless deaths. He added:

> "Sentences which may cause individuals to think more carefully before arming themselves and which reflect public concern at such killings are appropriate. Other than in exceptional circumstances, we would expect punishment parts in cases of that kind to be at least 16 years, and they might be significantly longer depending on the circumstances."

[30] His Lordship then stated at [17]:

> "The foregoing are guidelines and should be treated as such. The circumstances in which murders are committed and the circumstances of offenders vary substantially. It is important that sentencers should retain sufficient discretion in selecting a punishment part as to allow them to take the particular circumstances appropriately into account."

The court did not consider that Mr Boyle having been 18 at the time of the murder offered significant mitigation: [28]. He was 19 when sentence was passed and had no significant previous convictions: [4] and [28]. We also note that the appeal court increased Mr Boyle's punishment part to 20 years, it being the second respondent (Mr Maddock, aged 21 when sentenced) on whom an 18-year punishment part was imposed: [29].

[31] In *Kinlan* v *HM Advocate* [2019] HCJAC 47, 2019 JC 193 [17] the Lord Justice General (Carloway) observed that the level of punishment parts had increased strikingly since *Boyle*. That is also our experience. The guidance in *Boyle* remains useful but is not a conclusive yardstick in an appeal against sentence in 2026.

[32] In *Mitchell* v *HM Advocate* [2011] HCJAC 10, 2012 JC 13 the Lord Justice Clerk (Gill) noted that comparing a sentence with sentences imposed in other cases gives limited guidance. Lord Hardie was to the same effect at [31], adding that it is difficult to compare the nature and gravity of one case with another. The Lord Justice Clerk (Dorrian) endorsed that observation in *Rauf* v *HM Advocate* [2019] HCJAC 72, 2020 SCCR 47 stating, at [17], that

it is rare that the circumstances of two cases are so similar that a direct comparison can be carried out. This court made similar observations in *Keel* v *HM Advocate* [2025] HCJAC 47, 2026 JC 69 [28].

[33] It is important to note the nature of the bail aggravation and its effect. The judge was correct to increase the notional punishment part by 6 months. He then reduced it from 21 years for the appellant's guilty plea to 18 years and 6 months. The relevant comparator is a starting point punishment part of 20 years and 6 months.

[34] In *Elliott*, the appellant had a troubled background. His family was known to the social work department and his parents' relationship was characterised by violence, domestic abuse and mental health problems. He had insufficient care as an infant and was later the subject of compulsory measures of care. He had suffered poor mental health involving episodes of self-harm and attempts to commit suicide. These features are absent in the case of the appellant who was also older and holding down employment when he committed murder.

[35] We find very limited assistance in *Laurie,* where the court's hands were tied to a punishment part of 18 years where the appellant was convicted after a retrial, and the punishment part was 18 years in the first trial: *Ferguson* v *HM Advocate* 2010 SCCR 399. Given its very different circumstances, we also find little assistance from *McGowan*.

[36] Whilst punishment parts of 20 years or more may be comparatively rare for young offenders, they are not unprecedented as the judge identified in considering *Donnelly,* where the crime was committed spontaneously with no premeditation.

[37] We note that in *Mitchell* this court sustained a punishment part of 20 years for the brutal murder by the then 14-year-old appellant of his 14-year-old girlfriend. In *Rizzo* v *HM Advocate* [2020] HCJAC 40, 2020 SCCR 397 the court sustained a punishment part of 22 years

for a domestically aggravated murder by the 23-year-old appellant. This court considered the sentence severe, but justifiably so for a brutal killing by a man in his early twenties. In *Campbell* v *HM Advocate* [2019] HCJAC 58, 2020 JC 47, a 16-year-old appealed against a punishment part of 27 years for the abduction, rape and murder of a 6-year-old child. Taking full account of the appellant's youth and its implications, on appeal the period was reduced to 24 years. The court noted that he had a dysfunctional home background, lack of attachment, absence of boundaries and parenting problems including both physical and emotional abuse. Whilst these cases precede the introduction of the Sentencing Young People guideline, the court took full account of the implications of youth in each of them.

[38] We note also what occurred in a recent prosecution of an old murder case, reported for two of the three persons convicted, as *Kelly* v *HM Advocate* [2025] HCJAC 6, 2025 JC 269. The third person convicted was Robert O'Brien, regarded as the direct actor in the death of the 14-year-old complainer by infliction of blunt force injuries leading to her drowning in a river after he had assaulted her, with his co-accused Andrew Kelly and Donna Brand being guilty art and part. Whilst the murder occurred in 1996, the case was not tried until 2023. All three were convicted of murder and the trial judge imposed a life sentence in each case. For Mr O'Brien, aged 18 at the time of the offence, and who had subsequent convictions including a conviction for attempted murder in 2007 attracting a sentence of imprisonment for 10 years, the punishment part was 22 years. He was refused leave to appeal against sentence. For Mr Kelly, aged 16 at the time, the punishment part was 18 years. He did not appeal against sentence. For Ms Brand, aged 17 at the time and whose involvement was art and part only, the punishment part was 17 years. She was allowed leave to appeal, and the court refused her appeal against sentence (and conviction). The judge had taken account of

Ms Brand's age at the time and her more limited role. The court concluded that her sentence was not excessive.

[39] In determining the gravity of this crime, the correct approach according to the Sentencing Process guideline was first to determine culpability and harm. Any case of murder involves the highest level of harm. In this case, the judge had information from the family of the deceased about the considerable impact on them, not least on the deceased's young son, who is left without a father. As the judge noted, it was perpetrated in the presence of the appellant's partner. The judge properly identified this as a serious feature.

[40] Whilst the implications of youth bear on a young offender's culpability, they do not mitigate harm: *Beveridge* v *HM Advocate* [2025] HCJAC 23 at [27]; *Dunn* v *HM Advocate* [2023] HCJAC 34, 2024 JC 51 at [6].

[41] The appellant inflicted four stab wounds; all directed at his victim's upper body. The fatal blow was delivered with considerable force, entered the heart and could not be survived. There was a clear element of premeditation demonstrated by the appellant's decision to go home to fetch a knife and from the threatening remarks he made as he departed from the area outside the club for the first time. This combination of circumstances made it a conspicuously serious example of a knifing murder.

[42] The appellant's record of previous convictions, including two convictions for assault and another involving a knife, allied to his being subject to a community payback order at the time of the offence, were relevant considerations in this case.

[43] Given the terms of the Note of Appeal and written submissions, we elected to call for a JSWR. It does not advance matters for the appellant. There is no indication that he was unusually immature or that his culpability was particularly impaired for any other reason.

His difficulties related to his abuse of alcohol, both generally and when he murdered Mr Lucas. Such intoxication is not mitigation.

[44] The judge sought to make an individualised assessment of the appellant's culpability. That is the correct approach under the Sentencing Young People guideline. It provides, at para 12, that, "The court should not rely solely on age when determining the maturity of a young person," prompting this court to observe, in *Huynh* v *HM Advocate* [2026] HCJAC 6, 2026 SCCR 156 at [29]:

> "The "Sentencing young people" guideline does not suggest an abstract approach to an offender's culpability on account of age; it proposes that the court considers the individual involved and should not just focus on age. The court endorsed this approach in *Dunn*. It is also illustrated in *Owens* v *HM Advocate* [2022] HCJAC 29, 2022 SCCR 246 at [17] of the opinion of the court delivered by Lord Matthews alongside the Lord Justice General (Carloway) and Lord Pentland (as he then was)."

[45] The appellant requires to persuade us that there has been a miscarriage of justice by virtue of the sentence imposed being excessive. Not all judges would have started from 21 years, but that is not the test. In the whole circumstances, whilst we consider the sentence imposed to have been severe, this was a case where a severe sentence was called for, even for a relatively young offender. For the foregoing reasons, we are not persuaded that the punishment part was excessive. There is no miscarriage of justice. The appeal is refused.