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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
The Strand
London
WC2A 2LL

Tuesday 16th April 2019

B e f o r e:

LORD JUSTICE HOLROYDE

MR JUSTICE PICKEN

and

MRS JUSTICE FARBEY DBE

R E G I N A

- v -

RIZLAINE BOULAR
SAFAA BOULAR

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Mr I S Khan QC and Miss S Tafadar appeared on behalf of the Applicant Rizlaine Boular
Mr J Bennathan QC and Mr H Zahir QC appeared on behalf of the Applicant Safaa Boular

Mr D Atkinson QC and Miss A Morgan QC appeared on behalf of the Crown

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J U D G M E N T
(Approved)

Tuesday 16th April 2019

LORD JUSTICE HOLROYDE:

1. The applicants Rizlaine Boular, born on 6th January 1996 and now 23 years old, and her sister Safaa Boular, born on 29th March 2000 and now aged 19, were charged on indictment with offences of engaging in conduct in preparation for acts of terrorism. On 23rd February 2018, at the Central Criminal Court, Rizlaine Boular pleaded guilty to count 4, which charged her with an offence contrary to section 5 of the Terrorism Act 2006 with the following particulars:

> "RIZLAINE BOULAR, between the 11th day of April 2017 and the 28th April 2017 with the intention of committing acts of terrorism, engaged in conduct in preparation for giving effect to her intention, namely to commit an attack using knives or other weapons in the UK."

2. The applicants' mother, Mina Dich, pleaded guilty to an offence of assisting her daughter, Rizlaine Boular, to commit that offence.

3. On 4th June 2018, after a trial before His Honour Judge Dennis QC and a jury, Safaa Boular was convicted of offences contrary to section 5 of the 2006 Act, charged in counts 1 and 2. The particulars of count 1 were:

> "SAFAA BOULAR, between the 1st day of January 2016 and the 5th day of April 2017, with the intention of committing acts of terrorism, engaged in conduct in preparation for giving effect to that intention, namely:
>
> a. Conducting a relationship with an Islamic State fighter, namely Naweed Hussain with a view to marrying him;
>
> b. Making plans to travel to Syria, including the possession of a flight booking to Istanbul."

The particulars of count 2 were:

> "SAFAA BOULAR, between the 1st day of January 2016 and the 13th day of April 2017, with the intention of committing acts of terrorism, or assisting another to commit such acts, engaged in conduct in preparation for giving effect to that intention, namely:
>
> a. Communicating with an Islamic State fighter, namely Naweed Hussain, and arranging to receive weapons in order to conduct an attack in the UK;
>
> b. Receiving instructions on how to train and use weapons."

4. The two sisters were sentenced on different occasions, largely because of delays in obtaining various reports. On 15th June 2018, Rizlaine Boular was sentenced to life imprisonment, with a minimum term of sixteen years (less the days she had spent remanded in custody). On 3rd August 2018, Safaa Boular also received a life sentence (described as detention for life, though more properly referred to as custody for life). In her case the minimum term on each of counts 1 and 2 was thirteen years (less the days which she had spent remanded in custody).

5. Both sisters were refused leave to appeal against their respective sentences by the single judge. Both now renew their applications to the full court.

6. The activities of the two sisters were closely linked. Accordingly, the evidence given at the trial of Safaa Boular was also informative about Rizlaine Boular's case. The judge was, therefore, particularly well placed to assess their respective roles and culpability.

7. In brief summary, the key facts were these. In October 2014, Rizlaine Boular attempted to travel to Syria. She was stopped by the authorities in Turkey after her mother and her sister, Safaa Boular, had alerted the police in this country to her departure. On her return to England,

Rizlaine Boular admitted to the police that she wanted to go to Syria and join ISIS. Rizlaine Boular, who had previously been a victim of attempted sexual trafficking, married in this country. It seems that the marriage was short and unhappy. She and her husband had separated by the time Rizlaine Boular gave birth to a daughter in November 2015.

8. In 2016, Safaa Boular, then aged 16, began to communicate online and by social media with two persons seeking to recruit her to the cause of ISIS. The first was a female. The second was Naweed Hussain, a UK national who at the time was fighting with ISIS in Raqqa in Syria. Safaa Boular and Naweed Hussain arranged that she would travel to Syria, marry Naweed Hussain, support ISIS and carry out a suicide bombing involving the two of them wearing and exploding suicide belts. This plan was the subject of count 1.

9. That plan was thwarted when Safaa Boular was stopped at Stansted Airport on her return from a holiday in Morocco. She claimed that she intended to travel to Syria in order to marry Naweed Hussain and live peacefully. However, her passport was seized.

10. Safaa Boular then purported to marry Naweed Hussain in an online ceremony in which it appears she did not herself participate.

11. In August 2016, both applicants were reported as missing by their mother. They were found, together with Rizlaine Boular's young daughter, at a hostel. They were arrested on suspicion of preparing for an act of terrorism, on the basis that they were planning to travel to Syria and join Naweed Hussain. They were interviewed on 22nd August and released on conditional police bail.

12. Rizlaine Boular's daughter (then about nine months old) was subsequently taken into care.

13. Safaa Boular was further interviewed in October and November 2016. However, undeterred by her arrest and by her continuing obligation to report to a police station in accordance with conditions of her bail, Safaa Boular obtained a phone and continued to communicate with Naweed Hussain. She engaged with him and others in online planning of a terrorist attack in this country. Unbeknown to her and to Naweed Hussain, the others who purported to be planning this attack with them were in fact members of the Security Services.

14. In October 2016, Rizlaine Boular told her former husband that she was fully committed to ISIS and that she had been in communication with Naweed Hussain, who had said to her that if she could not travel to Syria, she should "do something" in this country.

15. Naweed Hussain was killed in Syria on 4th April 2017. Safaa Boular continued her online planning (in fact with members of the Security Services) to carry out an attack in this country. After initial discussion of other methods, the plan became a plan for her and her supposed accomplices to carry out an attack using semi-automatic firearms and/or grenades at the British Museum. This was the subject of count 2.

16. On 19th April 2017, Safaa Boular was arrested, charged and remanded to secure accommodation. Her active involvement was thereby ended. However, she was able to remain in contact with Rizlaine Boular and to encourage her older sister.

17. Rizlaine Boular, as we have said, had also been in contact in 2016 with Naweed Hussain. Following his death, and following Safaa Boular's arrest, she resolved to carry out an attack in the United Kingdom. She discussed this on the phone with her sister, using coded language. On 24th April 2017, they agreed that the attack, in which Rizlaine Boular was to use a knife or

knives on innocent members of the public, would take place in the area of Parliament on 27th April 2017. This was the subject of count 4.

18. On 25th April 2017, Rizlaine Boular and her mother drove around well-known landmarks in the Westminster area on a reconnaissance mission. They purchased a set of three knives. Rizlaine Boular kept the largest and discarded the other two.

19. On 27th April 2017, a covert probe in the family home recorded Rizlaine Boular discussing with a friend how the knife attack would be carried out. As we have said, it involved stabbing innocent members of the public. The recording included what were clearly attempts by Rizlaine Boular to practise stabbing. At just after 7pm on 27th April, police entered the applicants' home and arrested Rizlaine Boular.

20. A number of reports were prepared for the assistance of the court. In relation to Rizlaine Boular, the court was provided with a detailed assessment by Imam Dr Alyas Karmani, dated 30th April 2018. He recorded that he found Rizlaine Boular to be very co-operative and committed to a process of re-education and change. He took the view that she had in the past had very little positive mentoring or advice and as a result had been unable to differentiate between mainstream Islamic understanding and extremist and distorted ideology. He took the view that the applicant had little conviction in her concepts and beliefs and would abandon them when presented with more robust and evidenced Islamic understanding. He felt that she had been using her distorted understanding of Islamic beliefs and practices to justify her actions. He noted that she had had many unhappy features in her life, that she had in the past been suicidal and had felt that there was no positive future for her. The Imam felt that this was significant in assessing her current level of dangerousness and risk. He believed that her recent behaviour indicated that she could not now harm others or herself. He felt that at the time of committing

the offence, her real objective had been to end her life in a way which she could justify to herself in terms of her Islamic belief; but the Imam felt that it was a fantasy notion and that she had only a weak conviction in her plans. She told him that her understanding had now changed. Although the Imam did not address the issue of dangerousness in the specific terms of the statutory provisions in the Criminal Justice Act 2003, he assessed the applicant as being an ideal candidate for successful risk reduction and re-education. He found her to be personally committed and highly motivated, as this would enable her to have greater contact with her daughter.

21. In relation to Rizlaine Boular, the court was also provided with a psychiatric report by Dr Nigel Blackwood, dated 2nd May 2018. He found no evidence of major mental illness. He concluded from his interview with Rizlaine Boular that she had been psychologically vulnerable to indoctrination by a group of individuals, who had provided her with an ideological project which deepened her identification with her faith and gave her a very black and white view of what was required. He said that she had hoped to secure martyrdom in the course of her planned attack. Dr Blackwood recorded that the applicant now regretted that she had become involved with such persons. She denied any residual interest in their ideology. He acknowledged that she still presented at least some risk of further violent behaviour, but said "my own view is that, although some risk of future violent acts to others obtains, it does not reach the suggested significant threshold of 'considerable amount or importance' by the likely projected time of release".

22. A pre-sentence report, dated 11th May 2018, indicated that its author found Rizlaine Boular to be an academically able young woman who appeared to have suffered significant trauma earlier in her life which had been a factor in her vulnerability to being radicalised by others – a process which appeared to have begun at a young age. The author of the report felt that, despite

her denials, the applicant would have gone through with her plan, given that she had purchased a weapon. The author felt that the applicant lacks emotional maturity. She assessed the applicant as posing a high risk of serious harm to members of the public: the risk is at its greatest when the applicant is in an emotional state and feels that she has no reason to live. Although some protective factors were now in place, the author of the report could not discount a repetition of the offending behaviour. Accordingly, she suggested that, on balance, the applicant met the criteria for a finding of dangerousness.

23. Finally, we would add that, although it was not before the sentencing judge, a report has subsequently been obtained from a psychologist at the prison, which is to the effect that Rizlaine Boular can benefit from the courses available to her in custody.

24. In the case of Safaa Boular there was before the judge a pre-sentence report, dated 26th July 2018. This noted that, despite her convictions, the applicant continued to deny the allegations which had been proved against her and maintained that she was innocent of any planned act of terrorism. She gave an explanation for the features of the evidence on which the prosecution had principally relied. The author of the report recorded this applicant's unhappy adolescence in a dysfunctional family home, from which she ran away briefly when aged 14. She noted that Social Services had been involved due to parental neglect. It was noted that the evidence indicated that the applicant was already in a family system that endorsed a distorted ideology of Islam before she met Naweed Hussain. The author commented:

> "Essentially, it appears that Miss Boular was asking questions about Islam to the wrong people, her family. She saw her sister attempt to go to Syria twice, involving Miss Boular on the second occasion. This action would have led her distorted ideology to be reinforced."

The applicant told the author of the report that she had already begun the process of de-radicalisation whilst in prison. She appeared to be distancing herself from the extremist ideologies to which she had been exposed in the past. The author of the report nonetheless assessed her as posing a high risk of causing serious physical and psychological harm to members of the public. The risk was at its greatest when she was in the community, either in a similar romantic relationship or associating with supporters of extremist behaviour.

25. At each of the sentencing hearings, the judge considered the issues of dangerousness, the application of the Sentencing Council's definitive guideline on sentencing for offences under the Terrorism Act and the principles relating to the imposition of a life sentence. In Safaa Boular's case, he also had regard to the definitive guideline setting out overarching principles for the sentencing of young offenders.

26. The judge referred to the dysfunctional family in which the applicants had grown up. He noted that it was in about 2012-2013 that the applicants' mother, Mina Dich, became increasingly extreme in her views, which affected and influenced both her daughters. Both applicants were, thereafter, increasingly exposed to extremist views from their mother and from others whom their mother would invite to the family home. We note that at the time that process began, Safaa Boular was aged only 12 or 13, although her sister, Rizlaine Boular, was appreciably and materially older.

27. In his sentencing remarks relating to Rizlaine Boular, the judge assessed her offence as coming within culpability category A of the relevant sentencing guideline: that is, she had played a leading role in terrorist activities, where the preparations were complete or so close to completion that, but for apprehension, the activity was very likely to have been carried out. He assessed the harm as category 2 on the basis that it was a case of "multiple deaths risked, but not

very likely to be caused". He summarised the position by saying that so far as Rizlaine Boular was concerned -

> "… the intention was in place. The location chosen, the date and period, the time of day for the attack chosen, the weapon purchased together with the bag in which to conceal the knife and take it to the scene. All that remained was to wait until later in the day, the hours of darkness when the attack was to take place."

28. The judge went on to identify a number of aggravating features which he set out. He identified as mitigating features: the guilty plea; the applicant's young age; the "question mark over her maturity for her age"; the absence of previous convictions; the inevitable and lasting impact on her relationship with her young child; and the remorse expressed in a letter provided to the court by the applicant.

29. A category A2 offence has a recommended starting point of life imprisonment, with a minimum term of 25 years' custody, and a range of minimum term from 20 to 30 years. The judge referred to the reports which we have mentioned and concluded that the applicant was a dangerous offender within the meaning of the relevant statutory provisions. He reached that conclusion based on the nature and circumstances of the offending, including the extent of her radicalisation and the depth of commitment shown over prolonged periods to the ISIS cause, and her apparent acceptance of the concept of violent jihad.

30. The judge indicated his approach to sentence in the following way (at page 17G of his sentencing remarks:

> "But what has been said about your background in the reports that I have read and by counsel, your background, your upbringing, the harmful events which have helped fashion you as a person, may well explain how you became vulnerable to the

> malign influences which led you to this offending. But in truth it cannot reduce the seriousness or otherwise mitigate the offending to any significant extent.
>
> The sentence that I impose is one of life imprisonment. The minimum term that must be served before you can be considered for release on licence is sixteen years. I have arrived at that figure by taking a starting point of 25 years, making a total adjustment for the aggravating and mitigating features, arriving at a figure of 24 years and then reducing that by the one third as I have indicated. …"

31. So far as Safaa Boular is concerned, the judge assessed the offence in count 1 as falling at the lower end of category B2 in the sentencing guideline on the basis that the applicant had a leading role in terrorist activity, where preparations were advanced and, but for apprehension, the activity was likely to have been carried out. He rejected the submission that the applicant had not played a leading role. He noted that arrangements for travel had been made. She was to meet with her accomplice, Naweed Hussain, who had access to suicide belts in Raqqa, and "all that remained was for her to make the journey to Raqqa".

32. Count 2, in the judge's assessment, also fell within category B2 for similar reasons which he explained. The judge again considered the aggravating and mitigating factors. He referred to the guideline on sentencing young offenders and the importance of the age and maturity of an offender at the time of the offending. He referred to the pre-sentence report and to the submission that there had been a substantial change of mindset, attitude and belief following the applicant's arrest and detention. He found her to be a dangerous offender based on the nature and circumstances of her offending, including the extent of her radicalisation, the depth of her commitment to the ISIS cause and her apparent acceptance of the concept of violent jihad. Having had due regard to the contents of the pre-sentence report, he was satisfied that the applicant was a dangerous offender and that the evidence before him did not enable him to make any safe conclusion that she was a truly transformed individual and that the risk which she had

hitherto posed had now evaporated. The judge therefore concluded that a life sentence was justified.

33. In explaining his conclusions he said, amongst other things, that the applicant's introduction to extremist ideology would have begun at a young age "when she would have been both vulnerable and impressionable". He found, however, that by 2016 she was old enough to make her own decisions, knew what she was doing, and appeared to be making her own choices. From the evidence in the case and his observations of her during the trial, he found her to be a confident and self-assured individual.

34. A category B2 offence has a recommended starting point of life imprisonment, with a minimum term of 15 years' custody, and a range of minimum term from 10 to 20 years. In assessing the minimum term, the judge took a starting point of fifteen years, which he increased to eighteen in the light of the various aggravating features, but then reduced by five years "to take into account her age now and at the time of the offending, the level of exploitation that has occurred, and the absence of previous offending".

35. We turn to the submissions of counsel, to all of whom we are grateful for the care which they have shown in this very serious case. Mr Khan QC and Miss Tafadar, on behalf of Rizlaine Boular, put forward three grounds of appeal which we will address in turn. First, it is submitted that her offence should have been categorised as a C2 offence under the guideline, with a starting point of a determinate sentence of fifteen years, and that the judge was wrong to categorise it as A2. It is submitted that the applicant neither acted alone nor in a leading role. She did not act alone because of the involvement of her mother and another woman who had supported and assisted her. She had not had a leading role because the planning of the attack had been handed over to her by her younger sister when Safaa Boular was arrested. It is further

submitted that, although the judge could properly have found that the relevant activity was likely to have been carried out but for apprehension, he could not properly find that it was very likely to be carried out, because that category requires that an offender be in or very near the vicinity of the intended scene of the attack.

36. We are unable to accept these submissions. Although Rizlaine Boular became involved in planning her attack after Safaa Boular had been arrested, it does not follow that she could not thereafter play a leading role. It is fallacious to assume that there can be only one leading role per offence. We have no doubt that the judge was entitled to find that by late April 2017 Rizlaine Boular, who had purchased her weapon, had practised using it and was planning to carry out the offence later on the day of her arrest, was playing a leading role. He was entitled also to say that the activity was very likely to be carried out but for her arrest. We reject the submission based on geographical proximity, which in our view would lead to very surprising results: for example, if a heavily-armed terrorist was speeding along a deserted road towards his target but was intercepted when still some distance away. We decline Mr Khan's invitation to provide some general guidance as to the phraseology of the culpability factors in the sentence guideline. We do not consider further guidance to be either necessary or, indeed, possible. The guideline is, in our view, clear in its terms. The sentencing judge will in each case have to make an assessment of all the facts and circumstances in order to decide whether, for example, the relevant activity was very likely, or likely, to have been carried out but for apprehension.

37. The second ground of appeal is that the judge was wrong to find Rizlaine Boular to be a dangerous offender when, it is submitted, both Dr Karmani and Dr Blackwood indicated "in their own ways" that she did not meet the statutory criteria. It is further submitted that, having regard to age and other factors of mitigation, an extended determinate sentence would have sufficed. That latter submission is, with respect, one which is relevant, if at all, to the nature of

the sentence to be imposed following a finding of dangerousness and not to the issue of dangerousness itself.

38. In support of the first argument, Mr Khan relies heavily on the reports from which we have quoted some passages, and submits that the more recent psychological report from the prison indicates a clear commitment on the applicant's part to re-education and de-radicalisation and thus confirms that there was a solid foundation for the views expressed in the reports before the judge at the time of sentence.

39. We have considered this submission carefully. Although the two reports on which Mr Khan relies expressed views supportive of his submission, the author of the pre-sentence report expressed a different view. In any event, whilst the judge had to take into account all of the reports, it was in the end for him to decide whether the statutory criteria for a finding of dangerousness were made out. Neither the Imam nor Dr Blackwood specifically addressed the statutory criteria, and the judge was entitled to disagree with their views as to whether Rizlaine Boular could and would be de-radicalised. He was, therefore, entitled to find that she was a dangerous offender.

40. The third ground is that, in determining the minimum term, the judge gave insufficient weight to the mitigation advanced on Rizlaine Boular's behalf. The terms in which this ground of appeal was initially argued have subsequently – and rightly – been withdrawn. But Mr Khan presents an argument that the judge should have given greater weight to the very unhappy upbringing of this applicant, which includes being exposed to the abusive behaviour of her father towards her mother, being a victim of attempted trafficking, being indoctrinated and being reduced to a state where she attempted suicide.

41. In our judgment, these are all matters which the judge clearly took into account in reaching the sentence he did. Whether taken individually or collectively, we are unable to say that any of the grounds of appeal provide any arguable basis for challenging the sentence on Rizlaine Boular as either wrong in principle or manifestly excessive. Her renewed application for leave to appeal against sentence is accordingly refused.

42. We turn to consider the applicant Safaa Boular, who realistically no longer pursues an earlier written ground of appeal challenging the life sentence. On her behalf, however, Mr Bennathan QC and Mr Zahir QC rightly emphasise that the imposition of the life sentence not only constitutes a very heavy punishment in itself, but also secures public protection for the future and therefore makes it unnecessary for any protective element to be factored into the length of the minimum term. She too challenges the judge's decision as to the categorisation of the offences, and she too argues that insufficient weight was given to the mitigating factors in her case. In relation to this second ground, she relies particularly on her young age, the fact that she was, in Mr Bennathan's submission, a victim of sexual grooming, and her exposure to radicalisation at a young age.

43. As to the first of those grounds, it is submitted that the offence charged in count 1 should have been categorised as D2 or B3, the starting point for each of which is a determinate sentence. It is not argued that the life sentence was therefore wrong: the submissions are directed in particular to the length of the minimum term. It is submitted that the applicant did not play a leading role, contrary to the judge's finding, because she was subordinate at all times to Naweed Hussain's influence. A "leading role", which is above a "significant role" in the guideline categorisation, implies, it is submitted, some sort of leadership. It is further submitted that the offence was not at all likely to be carried out. Mr Bennathan submits that it was unlikely that a 16 year old Muslim girl would be able to travel, via Turkey, to Syria without being

intercepted. He further points to some of the conversations recorded between her and Naweed Hussain, in one of which reference was made to their proposed suicide activity taking place after they had children. All this, submits Mr Bennathan, means that the judge's reference that "all that remained" was for Safaa Boular to go to Raqqa failed to address the realistic likelihood of the planned terrorist activity actually being carried out.

44. As to the harm categorisation, it is submitted that it could not be said that multiple deaths would be risked, or that any death was very likely to be caused.

45. We are not able to accept the submission that Safaa Boular was not playing a leading role in the proposed activity. If the plan had been performed, she was to wear and detonate a suicide belt or vest in order to murder others. We have no doubt that the judge was entitled to regard that as a leading role. That is so whether or not Naweed Hussain was also to play a leading role in the commission of the planned offence.

46. We also reject the challenge to the finding in relation to count 1 that the applicant was likely to carry out the planned activity if not apprehended. We accept that there would be difficulties in her travelling to Syria, and the judge had to take those into account. But the applicant had shown herself to be very determined, and in our view the judge was entitled to conclude that she was likely to succeed.

47. As to harm, the use of a suicide belt or vest plainly risks multiple deaths. But the judge rightly concluded that it could not be said that that was the very likely outcome. We therefore reject the challenge to the categorisation of that offence.

48. It is next submitted that count 2 should have been categorised as a D3 offence. It is

submitted that, in relation to culpability, the reference in the guideline to the activity being "likely to have been carried out" has an objective element. Given that Safaa Boular was communicating with members of the Security Services, the attack which she was planning would never, in fact, be carried out. It is further submitted that the applicant could not be described as having played a "leading role".

49. Again, we are unable to accept these submissions. We observe first that the sentencing guideline is not to be construed as if it were a statute. We remind ourselves that where, as here, an offence-specific guideline identifies different categories of offence, section 125(3)(b) of the Coroners and Justice Act 2009 places upon the sentencing judge a duty to decide which of the categories most resembles the case before the court in order to identify the sentencing starting point.

50. As to culpability, the sentencing judge must, in our view, consider the culpability factors on the basis of what the offender was planning to do. The offence consists of engaging in conduct in preparation for intended acts of terrorism. The culpability factors reflect how determined the offender was to carry out that intention and how close the offender came to doing so. The inclusion in the guideline of the phrase "but for apprehension" confirms that approach. The fact that Security Services were monitoring the activities of the offender and aimed to prevent the commission of the offence does not reduce the culpability of the offender.

51. The involvement of the Security Services may, however, be relevant to harm. We do not accept the submission of Mr Atkinson QC and Miss Morgan QC, who appear on behalf of the prosecution, that in circumstances such as the present case, the participation of the Security Service in planning the attack comes within the phrase "but for apprehension". We do, however, accept the submission as to the proper approach to the harm factors which, we observe, are

preceded in the guideline by the words: "When considering the likelihood of harm, the court should consider the viability of any plan". In our view, the reference to "risk" focuses on what was intended: that is, the consequences if the plan had succeeded. The reference to "likelihood of occurrence" requires the court to consider how likely it was that the plan would actually succeed. The answer to that question will depend, of course, on all the facts and circumstances of the case.

52. Here, the judge was entitled to find that multiple deaths were risked. That, after all, is what the applicant planned and intended. But, as the judge found, it was not a plan which was very likely to succeed. The judge, therefore, rightly assessed the harm as falling within category 2. We do not accept Mr Bennathan's submission that, in the circumstances of this case, the involvement of the Security Services made it necessary for the sentencing judge to put the offence into category 3. That would equate a plan to cause multiple deaths (properly falling within category 2 in the circumstances of this case) with a plan to cause a single death, for which (amongst other things) category 3 provides.

53. We turn, therefore, to the second ground of appeal advanced on behalf of Safaa Boular. It is submitted that the judge should have given significantly greater weight than he did to the applicant's youth (only 15 at the start of the indictment period, and only just 17 at the end of that period), and to her unhappy history of grooming and exploitation.

54. Exploitation is a mitigating factor specifically recognised by the guideline. It is forcefully submitted that a total reduction of five years from the sentence which would have been imposed upon an adult, to reflect those two important factors and the absence of previous convictions, was insufficient.

55. So far as grooming is concerned, it seems to us that the important aspect in the sentencing process which the judge had to carry out in this case is the extent to which the applicant was vulnerable to exploitation, influence and radicalisation. The judge's sentencing remarks confirm that he was alive to the need to take this into account. He also recognised the importance of youth and maturity at the time of the offending. It is, therefore, clear that the judge had the relevant factors in mind. The question is: did he so far fail to give sufficient weight to them as to result in the length of the minimum term being manifestly excessive?

56. There is no doubt that, having presided over the trial, the judge was in the best position to assess these matters. He found the applicant to have been, at 16 years of age, confident and self-assured and making her own choices. He was entitled to make those findings. He explained that his approach had been to take a starting point of fifteen years for the minimum term, to increase it to eighteen years to reflect the aggravating factors, and then to reduce it by five years to take account of the factors on which reliance is now placed.

57. Given that the judge conducted the trial, we have hesitated to disagree with his decision. But we are of the view, with great respect to the judge, that he failed to give sufficient weight to the particularly potent effect of the two factors of youth and grooming (or indoctrination) taken in combination. For most of the indictment period, the applicant was 16 years of age. It is at least implicit in the sentencing remarks that she was fully as mature as her peers – and probably more so than many. But in considering her ability to make her own choices at that age, it is necessary to take into account the fact that, throughout her adolescence, she had been in a home which was not only very dysfunctional, but which specifically exposed her to radicalisation. As we have noted previously, we see a material difference in this regard between Safaa Boular's age during that period and the materially older age of her sister Rizlaine. The effect was that she was all the more vulnerable when first the female ISIS recruiter and then Naweed Hussain

turned their attentions to influencing her and directing her actions.

58. The overarching principles for sentencing young offenders do not require an arithmetical or mechanistic approach. However, a reduction of little more than one quarter from the appropriate adult sentence on a person with the mitigation of no previous convictions and with the mitigating factor of exploitation as well as youth was, in our judgment, insufficient.

59. Although, as we say, we have hesitated to differ from the judge below, we conclude that insufficient weight was given to the fact that the applicant set herself on her course to this grave offending when she was only 15 years old, and had from the age of 12 been subject to radicalisation through the malign influence of her mother and her mother's friends. In reaching this conclusion, we bear very much in mind Mr Bennathan's submission that the life sentence fully meets the need to protect the public and is in itself a very heavy penalty for one so young.

60. In those circumstances, we grant leave to appeal against sentence in Safaa Boular's case. We quash the sentences imposed below and we substitute for them sentences of custody for life, with a minimum term of eleven years. To that limited extent, her appeal succeeds.

61. **MR BENNATHAN:** My Lords, my Lady, I am very grateful. Can I mention one minor matter?

62. **LORD JUSTICE HOLROYDE:** Yes.

63. **MR BENNATHAN:** It is simply that public funding ceased when the single judge refused leave.

64. **LORD JUSTICE HOLROYDE:** Yes.

65. **MR BENNATHAN:** Would the court feel minded to grant a representation order for the preparation and presentation of today's renewed application?

66. **LORD JUSTICE HOLROYDE:** Yes.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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