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IN THE CENTRAL CRIMINAL COURT

No. T20017249
T20018292
T20018312
200204965X3*2
Old Bailey
London
EC4M 7EH

B
Monday, 22nd July 2002

Before:

C
THE HONOURABLE MR JUSTICE NEWMAN

R E G I N A

-v-

DAVID T CROKE

D
ROBERT KNAPP

and

NICHOLAS VAN HOOGST RATEN

E
MR D WALTERS QC and MR T KARK and MISS R HARRIS
appeared on behalf of the Prosecution.
MR M SWIFT QC and MR P SIMS appeared on behalf of the
Defendant CROKE
MISS E MARSH QC and MR S STIRLING appeared on behalf of
the Defendant KNAPP
MR R FERGUSON QC and MR P BINDER appeared on behalf of
the Defendant VAN HOOGST RATEN

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SUMMING UP TO VERDICT (CONTINUED)

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Computerised transcript of Smith Bernal Reporting Ltd
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A
Monday, 22nd July 2002

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SUMMING UP TO VERDICT (CONTINUED)

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MR JUSTICE NEWMAN: Good morning, members of the jury.

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I hope you have had a restful weekend. I am going to ask you now to retire and to consider your remaining verdict in this case.

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Let me say to you, you must feel, members of the jury, under no pressure of time at all so far as this is concerned but please retire and deliberate as I directed you when I summed up to you.

(The jury retired to consider their verdict at 10.09)

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MR FERGUSON: My Lord, I wonder might I mention just one matter and that is that there was some confusion on Friday as to whether the public gallery would be open for the verdict. Now, I don't know what instructions, if any, have been given with regard to that, my Lord, and I don't know what factors may be in play with regard to that.

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MR JUSTICE NEWMAN: No.

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MR FERGUSON: It is just that the matter has been raised with me and I thought it better to air it with your Lordship.

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MR JUSTICE NEWMAN: Well, it is right to air it and
perfectly proper for you to do so. I have been
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considering the position of the public gallery. You
had the benefit, as did everybody, of the notes which
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came in last week from the jury, which they expressed
the desire, for example, that they didn't wish to come
back into court in writing. I have had a number of
factors to consider.

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In addition I took the view that at the time that
they were being asked -- or being given the majority
direction last week that it was in the interests of the
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jury that the public gallery should, at that time, be
closed and that is what happened. The verdicts, of
course, were taken up on the questions from the clerk.
I think thereafter certainly I ordered the public
gallery to be open. I am conscious of course that
there are relatives, perhaps on both sides, or from all
round at present and I have no desire to do anything to
keep them out of court.

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If circumstances arise in which I do take the
view, because of matters which I am advised, that the
public gallery should be closed when the jury come back
to court, it is of course made known by me that anybody
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who is here, a relative or friend, whoever whether
family or defendants must be allowed to be in court and
if the public gallery is closed then they will be

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allowed into court obviously at the back of the court.
That is how I intend to proceed but I have no fixed
plan at the moment but I will deal with the situation
as and when I receive information.

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MR FERGUSON: I am grateful, my Lord. Thank you.

MR SIMS: My Lord, can I briefly mention the position of
Mr Croke. I have not yet seen him this morning but his
attitude has not changed since Friday and he will not
come into court to be sentenced and that is a matter
your Lordship knows if the jury come back with
a decision today.

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MR JUSTICE NEWMAN: Yes, I haven't looked at the position so
far as a defendant's refusal to be present for
sentence.

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MR SIMS: My Lord, I think the position, we are agreed, is
the same as last week.

MR JUSTICE NEWMAN: One simply has to proceed. I take it
Mr Knapp is here?

MR SIMS: My Lord, he is, yes.

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MR JUSTICE NEWMAN: All right. Thank you very much.

(The short adjournment)

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(The jury returned to court at 10.51)

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THE CLERK OF THE COURT: My Lord, 37 hours and 49 minutes have elapsed since the jury first retired to consider their verdict. Members of the jury, would your foreman please stand. Mr Foreman, would you please confine yourself to answering my first question simply yes or no. Members of the jury, have at least 10 of you agreed on the verdict?

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THE FOREMAN OF THE JURY: Yes.

THE CLERK OF THE COURT: When I ask would you please answer only guilty or not guilty. Members of the jury, do you find the defendant, Nicholas Van Hoogstraten, guilty or not guilty of murder?

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THE FOREMAN OF THE JURY: Not guilty.

THE CLERK OF THE COURT: You find him not guilty of murder. In the alternative, do you find the defendant, Nicholas Van Hoogstraten, guilty or not guilty of manslaughter?

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THE FOREMAN OF THE JURY: Guilty.

THE CLERK OF THE COURT: You find him guilty of manslaughter. Is that the verdict of you all or by a majority?

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THE FOREMAN OF THE JURY: Majority.

THE CLERK OF THE COURT: By a majority. How many of you agreed and how many dissented?

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THE FOREMAN OF THE JURY: 11 agreed.

THE CLERK OF THE COURT: So you find Nicholas Van Hoogstraten guilty of manslaughter by a majority of 11

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of you to one of you?

THE FOREMAN OF THE JURY: Yes.

THE CLERK OF THE COURT: Thank you. Please sit down members
of the jury.

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We hereby certify that the above is an accurate and complete record of the proceedings, or part thereof.

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Signed: SMITH BERNAL REPORTING LIMITED

SD (07.08.02)

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