

Ref. no. II K 200/20



JUDGMENT
IN THE NAME OF THE REPUBLIC OF POLAND

31 March 2022

District Court in Cracow, II Criminal Division, represented by:

Presiding Judge: Judge Jan Nowak
Lay judges: Marta Kulesza
Adam Wieczny
Court reporter: Karolina Kowalska

in the presence of: Prosecutor of the District Prosecutor's Office in Cracow Tomasz Nieznalski

having examined on 24 March 2022 and 31 March 2022

case:

1. of John D.
born on 3 March 1996 in Cracow, son of Krzysztof and Anna, maiden name Wolska

accused of the following:

on 26 March 2021 in Cracow, acting with the direct intent to deprive Bill G. of life, after having addressed to him the words "I'll kill you, you scumbag, you bastard", together with Mary K. participated in beating Bill G. and stabbed him six times in the chest and abdomen with a screwdriver and hit him in the carotid artery with the screwdriver, but he did not achieve the intended result due to the medical action taken and emergency medical operation performed, causing grievous bodily harm to the victim, i.e. an offence under Article 13 §1 CC in

connection with Article 148 § 1 CC in connection with Article 158 § 2 CC in connection with Article 159 CC and in connection with Article 11 § 2 CC;

2. of Mary K.

born on 2 March 1998 in Cracow, daughter of Janusz and Bożena maiden name Michalska

accused of the following:

on 26 March 2021 in Cracow together with John D. participated in beating Bill G., during which John D. stabbed Bill G. six times in the chest and abdomen with a screwdriver and inflicted an additional blow to his carotid artery with a screwdriver, causing him grievous bodily harm, that is, a criminal offence under Article 158 § 2 CC in connection with Article 159 CC in connection with Article 11 § 2 CC;

3. of Jack D.

born on 02 March 2004 in Cracow, son of Krzysztof and Anna maiden name Wolska

accused of the following:

1. on 26 March 2021 in Cracow, failed to provide assistance to Bill G. in a situation posing an imminent threat to his life if he could do so without endangering himself or another person with the loss of life or grievous bodily harm, i.e. with a criminal offence under Article 162 § 1 CC;

2. on 26 March 2021 in Cracow obstructed criminal proceedings by providing John D. with assistance in evading criminal responsibility for a crime committed to the detriment of Bill G, which is to be classified pursuant to Article 13 § 1 CC in connection with Article 148 § CC and in connection with Article 158 § 2 CC in connection with Article 159 CC in connection with Article 11 § 2 of the CC in such a way that after John D. committed the indicated crime, in order to avoid their identification and John's D. capture by the police, he dragged him away from the scene of the crime and took him to his Saab passenger car with registration number KR 000UV, after which he drove away from the scene of the offence, unintentionally causing a traffic accident in the process, in such a way that he intentionally violated the rules of safety in land traffic by driving the above specified Saab passenger car over the speed limit by several dozen kilometers, without the car lights on and disregarding the traffic lights, as a result of which, while crossing the red light for cars at a speed of 120 km/h, he hit Olivia F., who was correctly crossing the pedestrian crossing, resulting in her body being thrown back and striking

her head on the wall of a building, as a result of which she suffered multiple skull fractures and extensive traumatic brain injury, crashed her death, and then struck a lamp post with his car at 90 km/h, resulting in his brother, John D, who was a passenger in the car, fell through the windscreen and sustained serious fractures to his skull, neck, arms and ribs, that is, an offence under Article 177 § 2 CC in connection with Article 239 § 1 CC in connection with Article 11 § 2 CC;

- I. the defendant John D., as part of the alleged crime in the indictment, is guilty of that on 26 March 2021 in Cracow, acting with the direct intention to deprive Bill G. of life, after having directed at him the words "I will kill you, you bastard" he stabbed him six times in the chest and abdomen with a screwdriver and he also stabbed him in the carotid artery with a screwdriver, but he did not achieve the intended result due to the medical action taken and the emergency medical operation performed, causing however severe damage to the victim's health, that is perpetration of an offence subject to classification pursuant to art. 13 § 1 CC in connection with Article 148 § 1 CC in connection with Article 156 § 1 CC in connection with Article 11 § 2 CC and for that pursuant to Article 148 § 1 CC in connection with Article 14 § 1 CC and in connection with Article 11 § 3 CC he imposed upon him 9 (nine) years imprisonment;
- II. pursuant to the Article 414 § 1 Criminal Procedure Code in conjunction with Article 17 § 1 item 2 CPC acquit the defendant Mary K. of the act alleged in the indictment;
- III. declares the defendant, Jack D., guilty of the act, as charged in point 4 of the indictment, which constitutes an offence under Article 162 § 1 CC and for that, pursuant to Article 162 § 1 CC, he shall be sentenced to 3 (three) months imprisonment
- IV. the defendant Jack D. is found guilty of the act he was charged with in point 5 of the indictment, while assuming that hindering the criminal proceedings by evading criminal responsibility concerned the crime committed to the detriment of Bill G., which is subject to qualification on the basis of Article 13 § 1 in connection with Article 148 § 1 and Article 156 § 1 CC and in connection with Article 11 § 2 CC, constituting an offence under Article 177 § 2 CC and Article 239 § 1 CC in connection with Article 11 § 2 CC and for that on the basis of Article 177 § 2 CC in connection with Article 11 § 3 CC he imposed upon him penalty of 2 (two) years imprisonment;
- V. pursuant to the Article 85 § 1 CC and Article 86 § 1 CC, instead of individual deprivation of liberty sentences imposed on the defendant Jack D in items III and V of the judgment, impose upon him a joint penalty of 2 (two) years and 2 (two) months of deprivation of liberty;

VI. with regard to the act ascribed in item IV of the judgment, on the basis of Article 44 § 1 CC, impose upon the defendant Jack D. a driving ban for the period of 5 (five) years;

VII. with regard to the act ascribed in item IV of the judgment, on the basis of Article 46 § 2 CC, order the defendant Jack D. to pay compensation to the children of Olivia F., that is Ewelina F., Filip F. and Michał F., in the amount of PLN 30,000 (thirty thousand zlotys) each;

VIII. pursuant to Article 624 § 2 CPC in conjunction with Article 17 (1) of the Act of 23 June 1973 on Fees in Criminal Proceedings (consolidated text of Journal of Law of the Republic of Poland of 1983No 49 Item 223), release the defendants Jack D. and John D. from court costs in their entirety;

IX. pursuant to Article 632 § 2 CPC, decides that the costs of the proceedings in connection with the indictment of Mary K. shall be incurred by the State Treasury.