
DISTRICT COURT ROTTERDAM

Criminal Division
Prosecution number: 000000/23

Date of judgment: 7 January 2023
Inter partes proceedings

Judgment of the full court in the criminal case against the accused:

John D.,
born in Rotterdam on 00-00-1997, registered in the Personal Records Database at the
address XXXXX XX.

Counsel for the defendant: Mr X, LL.M., lawyer in Rotterdam
Prosecutor: Ms Y, LL.M.

This judgment was rendered following a hearing on the merits. The hearing on the merits of
the case took place on XX parts 2022.

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The accused is - in brief – charged with attempted manslaughter or aggravated assault on the
victim Bill G. and threatening this victim. The full text of the charge as written down by the
prosecutor in the indictment is included in Chapter 1 of this judgment.

The court finds a large part of the charges proven. The proven charges, the motivation of
this decision and the means of evidence are set out in Chapter 2 of this judgment.

The proven offences are prohibited conduct punishable by law. What the prohibited conduct
comprises, is described in Chapter 3 of this judgment. This chapter also discusses whether
this conduct constitutes a statutory criminal offence, and the criminal liability of the
accused.

The court imposes an 18-month prison sentence on the defendant. Chapter 4 of this sentence
lists all components of the sentence and its motivation.

Chapter 5 concludes this judgment with a brief account of all decisions and the signature of
the judges and the registrar.

1. The charge following from the indictment

Fact 1 primary

that he, on or about 00-00-0000 in XX, together and in association with another person, or at least alone, in the execution of the offence intended by the accused to intentionally deprive a person named Bill G. of his life, has intentionally stabbed and/or pushed that Bill with a screwdriver, or at least with a sharp and/or pointed object in his neck, while the execution of this intended offence was not completed;

alternatively

that he on or about 00-00-0000 in XX, together and in association with another person, or at least alone, intentionally inflicted grievous bodily harm on Bill, by intentionally stabbing and/or pushing him with a screwdriver or at least with a sharp and/or pointed object in the face and/or in the neck.

Fact 2

that on or about 00-00-0000 in XX he threatened Bill G. with any crime against life by stabbing with a screwdriver or at least with a sharp and/or pointed object several times in the direction of that Bill's chest and stomach and adding to that Bill the words, "I'm gonna kill you, you bastard!", or at least words of a similar nature and/or purport.

2. The proof

Prosecutor's position

The prosecutor finds that fact 1 primary and fact 2 can be proven.

Establishment of guilt

The court finds that fact 1 primary and fact 2 can be proved lawfully and convincingly, in such a way that:

Fact 1 primary

he committed on 00-00-0000 at XX in execution of the offence intended by the accused to intentionally take the life of a person named Bill G., and stabbed Bill with that intention with a screwdriver in the neck, while the execution of that intended offence was not completed.

Fact 2

he threatened Bill G. with any crime against life on 00-00-0000 at XX by stabbing with a screwdriver several times in the direction of that Bill's chest and stomach and adding to that Bill the words, "I'm gonna kill you, you bastard!"

Evidence

The proven facts are based on the reasoning content of the evidence set out below.

Means of evidence

1. Police investigation, statement by Bill G.¹

On 00-00-0000 at XX, John D. came towards me and he shouted at me "I'm gonna kill you, you bastard!" and he swang a screwdriver several times towards my chest and stomach. At some point I fell to the ground and then John D. stabbed me in my neck with the screwdriver. I started bleeding heavily.

2. Police investigation, forensic doctor's statement²

On 00-00-0000, Bill G. was examined at the hospital in XX. He had a stab wound in his neck to a depth of 3 cm. The injury is potentially life-threatening.

3. Police investigation, statement from Ben³

At 00-00-0000 at XX, John D. approached Bill and he shouted, "I'm gonna kill you, you bastard!"

¹ The page numbers mentioned in the footnotes are included in the 'Case file X. In this case, they are pages x.

² Page number x.

³ The page numbers mentioned in the footnotes are included in the 'Case file X. In this case, they are pages x.

3. The prohibited conduct and punishability

Legal qualification of the offence

The proven facts are qualified as:

Fact 1 in the alternative:
attempted manslaughter.

Fact 2:
threat of any crime against life.

Punishability of facts and defendant

No facts or circumstances have become plausible to exclude the punishability of the facts or the criminal liability of the accused.

The offences are punishable and the accused is criminally liable.

4. The punishment

Prosecutor's request

The prosecutor requested a 24-month prison term, based on the proven facts.

Assessment

Facts on which the penalty is based

During a night out, the accused was quite drunk, the blood alcohol level is 1.2 ‰. The accused got into a heated argument in the pub with the victim and his two friends. As they left the pub, they met the victim and his two friends in the car park. The victim took a screwdriver from his own car and drew a long and deep scratch across the bonnet of the accused's car. The accused got out of his car, crashed into the victim and snatched the screwdriver from his hands. The accused threatened the victim by swinging the screwdriver towards the victim's chest and stomach, shouting at the victim: 'I'm gonna kill you, you bastard!'. When the victim slipped and fell to the ground, the accused stabbed the victim with a screwdriver through his neck, hitting an artery. The victim started bleeding profusely from his neck. What should have been a pleasant evening ends for the victim in hospital with a life-threatening injury.

The victim has had to fear for his life and will have to carry this terrible incident with him for a long time. These are the most important elements in determining the level of punishment. The incident must also have been particularly frightening for the victim's friends and other bystanders and guests from the pub. Facts like these cause feelings of insecurity in society. The court resents the accused for this.

What further weighs against the accused are his intoxication and his attempt to flee. On the other hand, it cannot go unmentioned that - although it does not play a major role in determining punishment - the events took place after the victim had first caused damage to the accused's car with the screwdriver.

The court also looked at an extract from the judicial documentation of XX XX XXXX, which shows that the accused has been previously convicted, including three years ago, to an 18-months prison sentence.

In addition, the background and circumstances surrounding the accused were taken into account. The accused left high school when he was 17 and he has been working occasionally in a car repair shop since then. He is a good and reliable car mechanic. That is why his employer took him back after his prison sentence.

Given the seriousness of the offences, there is in principle no other response than to impose a prison sentence. All things considered, the court finds a prison sentence of 18 months appropriate and mandatory.

Legal provisions

Consideration was given to Sections 45, 285 and 287 of the Penal Code.

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5. Decisions in brief and signature

The court:

declares proven that the accused committed the offences under facts 1 primary and 2 charged, as described above;

finds that the proven facts constitute the criminal offences listed in Chapter 3;

declares the accused punishable;

sentences the defendant to **18 months' imprisonment.**

This judgment was delivered by:

Mr XX, chairman and juvenile judge,

and Mrs YY and ZZ, judges,

in the presence of Mr GG, registrar,

and pronounced at the public hearing of this court on 00-00-2023.