N. 8/808 R.G. Corte d'Assise
N. 9066/07/21 R.G. N.R. PM

Procura della Repubblica

Presso il Tribunale di Perugia

DECLARATION OF APPEAL OF THE PUBLIC MINISTER

- artt. 570 e 593 c.p.p. -

All'Ecc.ma Corte di assise in Appello di
PERUGIA

Prosecutors Dr. Giuliano Mignini Dep. and Dr. Manuela Comodi Dep.
In view of the procedural documents n 9066/07 R.G.N.R. mod. 21
Against

1) **KNOX Amanda Marie**, acts in general, currently held in this cause at the Penitentiary of Perugia, defended by lawyers Luciano Ghirga, the Court of Perugia and Carlo Dalla Vedova, the Court of Rome, both of trust
2) **SOLLECITO Raffaele**, acts in general, currently held in this cause in the Prison of Terni, defended by lawyers Giulia Bongiorno, the Court of Rome, and Luca Maori, the Court of Perugia, both of trust.

CIVIL PARTIES:

- **Kercher John Leslie, Airline Kercher Carol Mary, Kercher John Ashley, Kercher Lye,** all represented and defended by the lawyer. Francesco Maresca, the Court of Florence;
- **Kercher Stephanie Arline**, represented and defended by the lawyer. Serena Perna, the Court of Florence;
- **Diya Lumumba**, represented and defended by the lawyer. Carlo Pacelli, the Court of Perugia;
- **Tattanelli Adalia**, represented and defended by the lawyer. Letizia Magnini, of the Court of Perugia.

For the offenses referred to in deeds.

Hereby declare to appeal against the judgment issued on 4-5 December 2009

and filed March 4, 2010 by the Court of Assizes of Perugia and with which, in addition to the conviction of the accused for the offenses referred to in Chapters A), it absorbed the sub C), B) , D) limited to cell phones, e) and f), **has been ruled out of the aggravating trivial reasons and were granted extenuating circumstances.**

GROUNDS OF APPEAL

In his thorough and rigorous reasoning in support of the judgment, the Court of Assizes, after rebuilding flawlessly the event for which the process and the responsibilities of the two defendants, solves in a row - p. 419 - the exclusion of aggravating trivial reasons and focuses, then, on p. 420 on extenuating circumstances which held, with arguments unconvincing, to grant the defendants.

- 1-

ERRONEOUS EXCLUSION OF AGGRAVATING CIRCUMSTANCE UNDER ART. 61 n. 1) of the criminal code ABSOLUTE LACK OF REASONS.

The Court confining itself on the point, to exclude the operation of 'aggravating, since the same would have been challenged in the count of indictment under A) without further specification except that the mere reference to art. 577 č.p. that, at n. 4). invokes inter alia the aggravating circumstance in question.
In essence, the court seems to suggest a violation of Article. 417 letter. b) Code of Criminal Procedure, for the indeterminacy of reference art institute. 61 n. 1) cp, in the sense that the body holder prosecution would have suggested the occurrence of 'aggravating limited to it being a mere reference to legislation, without further specification appropriate to link the abstract estimate in this case.
From a procedural argument used not only without giving any reasons and criticism in regard to what will be said below, is unfounded for at least two reasons: on the one hand does not take into account that the questions - which was not raised by any defense - related to the claim. inaccurate statement of fact in dispute, and are reserved at the preliminary hearing. in this case, the judge has pronounced the same with the decree ordering the judgment. about the full existence of all the conditions required by Art. 417 Code of Criminal Procedure (vds. Cass. Sect. 4:10:01 V n. 36009), on the other hand, *"For the purposes of disputing an aggravating circumstance is not essential to a specific formula expressed as a literal statement, nor an*

*indication of the legal provisions that the plans, it is sufficient that, in accordance with the principle of correlation between the prosecution and decision, the defendant is placed in a position to implement fully the defense on the factual integral aggravated "*Cass. Sect. V, 16.9.08 n. 38588 , Cass. Sect. II, 28.10.03 n. 43863). added to this is that, in this case, the aggravating circumstance peculiar challenges - the trivial reason - is ontologically connected to the motive which, being foreign to the elements of the offense should not be separately described in the charge, but is evidenced by the facts that constitute the evidence of the crime.

The Court, therefore, could not stop at that assumption by invoking a lack of specification of trivial reasons, but would have to make an assessment as to the existence of the same, which apodictic exclusion is inexplicable in terms of logical, given that the progression motivational, up to that point perfectly and very detailed, would easily lead the Board to recognize, as it were, "de plano" of the contested aggravating circumstance.

And indeed, the entire reconstruction – both the facts that the motive – which led the Court to believe that there was any "good" reason (nor animosity between Amanda and Meredith; nor money matters; or a quarrel degenerated) to kill, but impromptu sexual intentions to accession of Rudy Guede, imposing viepiú enhancing triviality of the reasons – the continued orientation of the Supreme Court – resolves to a blatant disproportion between the magnitude of the action and the *animus* that has driven: in other words, is to *"determine criminal activity originated from a stimulus so mild, as disproportionate, to line up more like an excuse than an underlying cause of criminal conduct, such as to give rise to a natural sense of disapproval in the tenure"* (ex plurimis, Cass. Sez. I, 8.5.2009 n. 29377, Cass. Sez. II, 12.02.01 n. 5864; Cass. Sez. I 11.07.1996 n. 7034

However, the disproportion exudes from every step of the motivation of the first Court devoted to the reasons which drove Amanda Knox and Raffaele Sollecito to the crime, whose unambiguous words deserve to be quoted verbatim: *"Therefore inner is to be expected that ..... participated actively in the criminal act Rudi aimed to overcome the resistance of Meredith, to subdue the will and allow it to Rudi to vent his lustful impulses, and this is to be expected that because it happened. In those who do not disdain the use of drugs ... watching movies and reading comic books in which sexuality is accompanied by violence .... (see the comics seized Raffaele*

Sollecito and statements about watching movies that had attracted the attention of educators of the College ONAOSI frequented by Raffaele Sollecito), the prospect of helping Rudi in regard to subdue Meredith for committing sexual abuse, could look like a particularly exciting that, while not expected, was experienced. "

There are those who don't see that what the Court described as motive constitutes even the absolute paradigm and reprehensible disproportion in between "reason" and "action". Regardless, then, that if the aggravating circumstance in question subsists has been recognised for the contestant Rudy Guede also by the Court of second instance, cannot help but appeal to head to the two competitors that have gone along with the criminal purpose of accomplice: If the reason was futile for Rudi, was even more to the current defendants in court claim, they moved in the grip of "exciting" curiosity to experience violence gradually increased on a young girl who was, moreover, Amanda's roommate.

It was, moreover, *"two young people very interested in each other, with intellectual curiosity and cultural rights, on the eve of graduation he and full of interests she"* (vds. p. 392). There were, that is, for reasons which are not negligible when the two defendants, at worst, would have to be restricted to ignore the advances of heavy Rudi the English girl who was in the adjoining room, and to engage in the most understandable and harmless effusions each other. But no. The Court here merely to say that he had acted differently *"falls in the constant exercise of choice"* (vds.. Still p. 392), but this is precisely the "knot" of the matter: the two defendants, according to the Court itself did not have a reason "proportionate" to act as they acted, in fact they did not have their own.

Forcing and contradictions of exclusion that is in dispute here is ultimately handheld evidence and visibly dictated by necessity - not supported, however, by any principle of substantive and procedural law - to mitigate the severity of the offense and prepare, so the ground the granting of extenuating circumstances which ill be reconciled with the simultaneous recognition of the hateful and serious aggravating circumstance of which we discuss, so serious as to make it applicable for constant guidance of the Supreme Court to cases of willful misconduct in a rush.

Misguided attempt that can not be corrected on appeal, in the name of the principle of proportionality between the gravity (which in our case is of very high level) of the act and punishment of.

INCORRECT GRANT of GENERIC MITIGATING CIRCUMSTANCES pursuant to art. 62 bis c.p.

No less forced are the reasons that the Court has chosen to justify the granting of the generic, referring to a series of items listed with little conviction and that appalesano as totally unfit to justify the reduction of sentence which it is derived.

- The incensuratezza the accused and the inapplicability of that limit the granting of generic art. 1 letter. F-a) 1. n. 125/08 for offenses committed in the time before
- The claimed defect, beyond the personal use of drugs, in Chief defendants of *"deplorable actions put in place by them to the detriment of others."*
- Having demonstrated both not only diligence in the study, but also conduct of availability to acquaintances, like the Sollecito towards the Serbian girl Jovana Popovic, while, in turn, Knox would have accepted the fatigue of the work from which Lumumba was added to the demand from the study and class attendance. All circumstances considered by the Court relevant art. 133, second paragraph n. 2) č.p..
- The inexperience and immaturity of the accused, moreover, far from their families who were particularly attached, a circumstance deemed important element of art. 133, paragraph n. 4) č.p..
- Being, the murderous events contested the finding of contingencies purely random, the combination of several factors, made possible crimes. The absolute randomness would make the offense in place *"without programming, without any animosity or rancorous feeling against the victim that in any way could be seen as a preparation-predisposition to crime"* These considerations were deemed relevant by the Court pursuant to Art. 133, paragraph 1 no. 3) č.p..
- The conduct post crimen, namely the fact of having held the lifeless body of Meredith and they have remained distant from her room when, on the day of the discovery of the corpse, the door itself was forced and the boys present, including Filomena Romanelli and the ISP. Battistelli Postal Police, they could see inside. These circumstances were deemed relevant by the Court in relation to art. 133. paragraph 2 of n. 3) č.p..

The circumstances in question, considered equivalent aggravating with respect of sexual violence, the Court does not add more.

However, it seems clear that not only - the factors taken into consideration by

the judge "a quo" are not eligible for the trial to establish the validity of the extenuating circumstances in question, but that, conversely, there are many other circumstances that contrast sharply the possibility of consider extenuating circumstances that can be granted in question and that the Court has taken into consideration or not or has not "read" as a correct interpretation of die facts would have led to.

Indeed, as is well known, the attenuating discourse serves to enable the court to adapt specifically the order is placed to the specific and unique mode of subjective and objective historical fact the integral single offense, that the special characteristics the personality of its author (vds. Cass. Sec. 19.11.1982 and Cass. Sect. 14/01/1999 VI).

It should also be stressed that, according to the orientation of the jurisprudence of legitimacy (vds. Cass. Sec. VI, 02/07/1992), it is not possible that the same element of the fact offense can receive a dual evaluation, both in terms of 'art. Č.p. 133, both in the art. 62 a č.p. (vds. Among others, Cass. Sect. VI, 28.05.02, no. 20818).

That said, let's get to match analysis of the circumstances invoked by the Court to grant generic.

Inexperience of the defendants. The provision in the last paragraph of art. 62 a č.p. newly introduced, is undoubtedly interpretation and does not codify what was the first address case law overwhelmingly. It 's true that the rule may not apply to this case, but the same rule does nothing but strengthen and implement the address interpretation that the Inexperience, by itself alone, could not constitute a reason for granting extenuating circumstances that occupies.

However, the defendants were very young at the time of the act: Knox, had little more than twenty years and Sollecito twenty-three. But this is precisely the point: Inexperience time can play a meaning such as to justify an appreciation of the general circumstances, as it is significant, that is, when the condition of Inexperience is accompanied by an advanced age. It is evident, in fact, in this case, that the Inexperience of a subject who has lived for a period appreciably longer constitutes an element that could well be used for considering the crime committed as a parenthesis exceptional within an existence passed without no problems whatsoever.

In this case, on the contrary, the fact that the defendants, who not so long ago and in particular Knox, had emerged from the minors, have criminal records, is a circumstance little or significant for the granting of extenuating circumstances.

The absence of unseemly behavior. On closer inspection, the argument is partly overlap the previous one and apply for it, then, the same considerations already expressed. Moreover, in this case, even in this regard, may accede to the argument of the Court, since it's the lifestyle that Sollecito Knox were by no means without shadows: Raffaele always carried a knife with him (you see, for example, the interception of 17.11.07, on p. 36, wherein the mother of Knox invokes the circumstance and the daughter confirmation; vds. examination of Edda Mellas of 19:06:09), a circumstance not certain and reassuring usual. Amanda, on the other hand, has been sentenced to 269 dollars from the Municipal Court of Seattle. The episode was not negligible, as it was described in the report of the police officer Bender and the Mail Online article "The Wild, raunchy past of Foxy Koxy" submitted to the Court and which was examined against Knox 13.06.09 . in essence, to a university party, organized by 'defendant, the excesses of the participants, in terms of use of alcohol, drugs, noise, of sexual promiscuity, casting of stones so as to create traffic-problems, were such as to determine the 'intervention of the police and conviction to a fine of Knox that although I have tried to resize the episode, could not deny the use of alcohol and noise.
Both of the habitual port of a knife by the Sollecito that the incident described by "Mail Online" about Amanda, do not seem relevant to properly conducted "not unbecoming" of the defendants to the detriment of others, as the court. In the case of Sollecitothere is a habit that could constitute an important event even criminal prosecution as contravening Article. 41. n. 110/75 or even as Article. 699 č.p. and, in any case, usually wearing a knife with itself assumes an attitude potentially aggressive and arrangement for use of the knife same also in the eventual perspective of affecting third parties. In the case of Amanda, the conduct described, with the accompaniment of noise and casting stones even in the public street, was a behavior that is clearly prejudicial to third parties.
And even if you wanted to consider such circumstances free of negative value, they are still quite capable of preventing a judgment of "linearity" behavior of the two defendants on which rests the reasoning of the Court.

As for the diligence studies and attitudes of availability to the next, over which the Court has soffcrmata on p. 421, the arguments are so faint as to make almost any superfluous comment: successful study is largely related

to the quality of intelligence and memory that certainly coexist in the two defendants, but these characteristics are clearly neutral on the ethical level - behavioral is decisive for the configurability of mitigating concerned. The Court then pointed out, the willingness expressed by the Sollecito towards Popovic, having agreed to the request (later withdrawn) to accompany her to the bus station in Piazza Partisans, in the night between the first and 2 November 2007. Yet the same Popovic (heard as a witness 21.03.09, cf. P. 16 of the transcript), said that Raffaele was not really happy with the unexpected commitment, so that the girl replied, "coldly", and in any case different from the normal. The fact, then, that Amanda worked in the evening in the pub of Diya Lumumba, the circumstance is also neutral with respect to generic. Evidently, the defendant had economic necessity and that occupation, which was not heavy, was the occasion of knowledge and escape from the routine of studies.

Passing at *the young age, inexperience of the two defendants and to the fact that the same they were outside of the wing protector of their respective families*, these are considerations that, especially in the case of Knox, are conspicuously contrasted by elements of opposite sign as we shall see about the serious libelous against Diya Lumumba, continued during his unjust imprisonment and extended, then the members of the Flying Squad, the object in the course of the interventions in the trial of Knox, further slanderous expressions which have led to the opening of a new criminal proceedings against the same. All behaviors that show a singular coldness and determination, and you are certainly not index a markedly docile and condition of inexperience and neglect. And, on the other hand, the activities of the respective families were all translated or criminal behavior, or - anyway - were never intended to remedy the initial slander against Diya Lumumba, even when the mother of Knox had received the confidences of her daughter about the innocence of the young Patrick, and Notwithstanding it, no advice, designed to retract the allegations, was given from mother to daughter. Ultimately, no positive influence could produce the closeness of families, at least judging by the attitude taken after the crime.

Fact that the Court should take into account, for the purposes of judging the the validity of the of extenuating circumstances, together with the staging of the simulation of the theft and, therefore, forms part of a

common will depistatrice of both defendants, moreover diverted to attribute all responsibility exclusively to Rudi.

As for *the purely random contingencies that made possible the competition in the crimes in place,* according to the Court, *"without planning, without any animosity or feeling resentful towards the victim"* (vds. p. 422). you still have to point out that the Board, which strictly, fully and brilliantly motivated the liability of the accused for the crimes being prosecuted, came to the question of the generic, motivated very little and what little he did in terms of contradiction.
If, as the Court says, the two defendants acted in a state of impassivity, as if raping and killing a contemporary, for Knox roommate alternative was to go to a pub, a disco, or consume drugs or have sex or, more simply, to go to sleep, how sustainable this *"random contingencies"* can be used for evaluation of lower gravity of the offense? And how can you believe that, among the options presented themselves unexpectedly in the evening remained free, you could also be the murder and rape of young English girl?
E se la Corte ritiene che i due hanno avuto una tale freddezza, come meravigliarsi poi dell'impassibilità dimostrata dagli stessi in Questura, dalla "spaccata" e dalla "ruota" di Amanda o dalla decisione di darsi al "sesso selvaggio (o caldo)", presa dai due, col cadavere di Mereditb ancora caldo?
If the Court considered them capable of such coldness, of extreme criminal acts, just because unexpectedly the evening had come free and the two did not know what to do, this is certainly ascribed to psychological connotations concern regarding both, because both have been shown to glacial this story, much more than the drifter Rudi, at least, had expressions of regret and pity for the victim.

Relation to *the conduct of the two after the violence and the murder,* in particular to having held the lifeless body of the English girl and to 'have kept away when Filomena Romanelli and her friends broke down the door of Meredith's room is not reasonably possible to consider an expression of pity and psychological denial of the crime committed,
Meanwhile, the two types of behavior are quite different and are expression

of different moods.
It's true that having covered the naked and tormented body of Meredith expresses some form of *"piety"* to the victim, but it is a gesture that is attributable solely to Amanda and instinctive expression of a kind of *"female solidarity"* that often characterizes the criminal behavior of women against other women and, therefore, more than a choice of a voluntary and, therefore, susceptible to assessments ethical - legal, derived from movements almost instinctive and automatic. Different would be the meaning of the act if it had been accompanied by comportanenti uniquely indicative of a sense of repentance toward criminal activity put in place. Both Amanda and Raffaele, however, and in particular the first, showed an impressive coolness and a flashy extravaganza that hit, especially in the evening and the night of November 2, the friends, the roommates of the victim and members of the Police State.
As to 'have kept away when the irruption of' Altieri and the Zaroli and others in Meredith's room, it is clear that the defendants had no need to go and look at the scene of the crime. They knew what was behind that door closed and it is given to the common experience that often avoid the murderess to be, again, at the scene of the crime: there is a complex of feelings, such as fear and worry betray and to be discovered.
The above considerations make it clear that the granting of extenuating circumstances is not, in this case, justified by appropriate circumstances and reasons consistent with the findings of fact and motive.
One of two things: either it's behavior completely "neutral" and that may well find their foundation in aspects of the personality of the accused unrelated to the ones that can affect an evaluation of this kind, or even the considerations of Court may tip over easily in the sense impediment Institute: this happens, for example, about the two of impassiveness highlighted that, after the murder, have maintained an attitude totally divergent from that, full of emotion, which featured roommates and above all, the compatriots of Meredith (see, in particular, the statements of Robyn Carmel Butterworth, at the hearing on 2/13/09).

In conclusion, none of the arguments spent - indeed without much conviction - by the judge of first instance to justify the granting of extenuating circumstances, it is suitable to support the decision on this

point must be reformed.

For the reasons stated

REQUEST

that the ECC. but the Court of Assizes' s Appeal of Perugia, in partial reform of the contested judgment, should:
- recognize the existence of the aggravating circumstance of "trivial reasons" referred to in Articles. 577 and 61 n. l) č.p.;
- exclude extenuating circumstances in art. 62 a č.p.
Resulting in condemnation of both defendants to justice penalty.

Sent to the Secretary as per his competence.

Perugia, April 13, 2010

I PUBBLICI MINISTERI
dr. Giuliano Mignini Sost. e dr.ssa Manuela Comodi Sost.