



JUDICIARY OF
ENGLAND AND WALES

REGINA

-v-

PAUL MARSH

SENTENCING REMARKS OF

THE HON. MR JUSTICE CAVANAGH

MAIDSTONE CROWN COURT

20 December 2021

Reporting Restrictions

1. Before I begin these Sentencing Remarks, I must remind the press and other media that I have previously made a reporting restrictions order under section 45 of the Youth Justice and Criminal Evidence Act 1999, to the effect that no matter relating to the three sisters of Jessica Dalglish, the victim, shall, whilst they are under 18, be included in any publication if it is likely to lead members of the public to identify them as a person concerned in the proceedings.
2. When pronouncing sentence in open Court, I will refer to the three girls by name, but I must emphasise that in any reporting of the Sentencing Remarks, they should not be named or otherwise identified by the press or other media.
3. The transcript of the Sentencing Remarks which will be released shortly after I have passed sentence will refer to the girls as A, B, and C, respectively.

Sentencing Remarks

4. Paul Marsh, you come before me for sentence, having been convicted on 3 November 2021, after trial at this Court, of the manslaughter of Jessica Dalglish in December 2019 and of the offence of child cruelty involving the same victim in the weeks leading up to her death.
5. I will now describe the facts of these offences. I should make clear that I was the trial judge and that I am satisfied so that I am sure that what follows is an accurate description of the offences for which I am to sentence you.
6. Jessica was one of the four children of Hannah Butler. Her father was Adam Dalglish. She was born on 11 February 2016 and so was 3 years old at the time of these offences. Jessica was a twin, and she and her twin sister, C, were the youngest children, although, at the time of these offences, Hannah Butler was

pregnant with your child. Jessica's oldest sister, A, was then 9, and her other sister, B, was 6.

7. Both of the twins had serious global developmental delay, and Jessica was displaying early signs of autism. The twins were maturing physically in the normal way, but their cognitive development was far behind other children of their age. They had very little understanding, especially Jessica, whose difficulties were more profound than her twin's. They were unable to speak and were incontinent and still in nappies. Jessica's vision was impaired. The twins' difficulties manifested themselves in some extremely challenging behaviour. They were very energetic and adventurous, and often would not do what they were told. They had very little awareness of danger. When they felt frustrated or were told off, they would sometimes bang their heads against hard surfaces, such as floors, walls, or doors. Jessica suffered trichotillomania, which is a compulsion to pull out her hair. In response, Hannah Butler shaved her head a couple of weeks before Jessica died.
8. Jessica was very small for her age. She was under 3 feet tall and weighed 2 stone and 11 lb.
9. Hannah and her children lived together at a house in Sandgate, Folkestone, to which they had moved in early 2019. The circumstances in which the family lived were extremely difficult. Hannah was a loving and dedicated mother to the children, but, by late 2019, she was not coping. As I have said, the learning difficulties suffered by Jessica and C were very challenging indeed. The house was extremely messy and had very little furniture in it. The family had a dog that was not house-trained. The two older girls slept on mattresses on the floor of their bedroom, and the twins shared a cot bed that was too small for them. All of the children were poorly-behaved. Hannah found it difficult to discipline them and, by her own admission, spoilt and babied the younger ones, especially Jessica.
10. Despite her difficulties, however, it is clear that Jessica was a lovely child. She was happy and loving. She had ways of making herself understood. She was cheeky and funny, with a twinkle in her eye. Her big sisters doted on her. She was very close to her mother, Hannah Butler, and to her twin, C. Her problems, and, in particular, her lack of awareness of danger, meant that she was particularly vulnerable, far more even than most three-year olds. She required constant care, supervision, and patience from the adults around her.
11. You and Hannah Butler met when you worked together as support assistants at a home for adults with profound learning difficulties in Hythe. In the Spring of 2019 you began a relationship with Hannah and by the Summer of 2019 you had moved in to live with the family at the house in Sandgate. Even for someone with previous experience of living with children, this would have been very challenging. You had never been a parent or lived with children, and I accept that, understandably, you found this a stressful experience. You and Hannah worked opposite shifts, and so often you would be responsible on your own for getting the children out of bed, giving them breakfast, and taking them to school, or for collecting them from school and giving them tea before Hannah came home. Hannah sometimes worked weekend shifts, and, on those days, you would be alone with, and responsible for, the children for up to 12 hours.
12. During your trial, the jury was shown messages that were sent between you and Hannah on Facebook Messenger in the Autumn of 2019. It is clear from those

messages that you were angered and frustrated by the children's behaviour, and sometimes expressed your resentment of them in rude and graphic terms. You felt that they should be treated with greater discipline, especially when they did not eat all their food or refused to use a knife and fork. You were stricter toward them than their mother, and were sometimes angry with the children when you were looking after them. However, there is no suggestion that you hit the twins before the offences for which you are to be sentenced, which took place in December 2019. You would tell them off and, sometimes, if they had been naughty, you would carry them upstairs to bed, holding them somewhat roughly by the arms, but that was as far as it went. On the whole, you were trying your best to help out in the family, but you were struggling and were becoming ever more resentful toward the children.

13. The learning difficulties that the twins suffered from, and their tendency to head-bang, meant that they often had marks, bumps, and bruises on their bodies, and especially on their heads. However, on Friday 13 December 2019, the staff at the nursery the twins attended were shocked by new bruises and marks they could see on Jessica's head. Even allowing for the fact that Jessica's hair had recently been shaved off, these injuries were unlike anything they had ever seen before on Jessica. The Court was shown photographs of the injuries, taken by a member of the nursery staff. Jessica had a black left eye and some bruising to her cheek below her left eye. She also had bruising to the side of her head, with a vivid bruise over her left ear and diagonally downward bruising to her cheek, just in front of her ear.
14. The nursery staff were so concerned about these injuries that they called Hannah Butler, who took Jessica to the casualty department at the William Harvey Hospital in Ashford. Jessica was examined there. At the time, no-one suspected that you might have caused the injuries. It was suggested that they were the result of headbanging, and perhaps a scratch from the family dog.
15. Jessica returned to the nursery the following Monday, 16 December, and the injuries were more vivid still. Again, a member of staff took photographs which were shown to the Court. The black eye had come out. The bruising to Jessica's cheek was more pronounced than before and the bruises appeared to be in a line along Jessica's cheek. She also had new injuries on her head, consisting of two parallel lines, or striations, above her left eye. Jessica did not seem to be her normal active self. Subsequently, the post-mortem examination found that Jessica had suffered a very small sub-dural haematoma, or bleed on the brain, some time before she died. I am satisfied that this was also caused by your rough handling of her during this period.
16. It is clear from the jury's verdict that they were satisfied that it was you who inflicted these injuries on Jessica. They happened whilst you were the sole adult in charge of the children, whilst Hannah Butler was at work. The children had been in your sole care for at least part of Thursday 12 December, and on Sunday 15 December from 7.00 am to 10.30 pm. The injuries were caused by rough handling of this small child, perhaps by throwing her into the cot bed which Jessica shared with C, in a fit of anger. You lost your temper with Jessica and you took out your frustration on her. However, you tried to play down the injuries, referring to the visit to William Harvey Hospital in a Facebook Messenger message to Hannah Butler as a "pointless" trip. You encouraged the mistaken belief in Hannah and others that the injuries had been caused by headbanging or by fights between the twins.

17. The following Wednesday, 18 December 2019, the staff at the other nursery were concerned to see substantial bruising to Jessica's face. I will assume that these were the injuries that had already been seen on Monday 16 December. I cannot be sure that you had inflicted further bruising on Jessica since then. You tried, once again, to pass this bruising off to the nursery staff as the result of Jessica banging her head during the night.
18. On Friday 20 December 2019, the day before the assault that led to her death, Jessica had attended the Christmas Party at her nursery and was said by nursery staff to be very happy.
19. On Saturday 21 December 2019, you had been due to go into work, but you chose to take the day as compassionate leave because your grandfather had died a few days previously. Hannah Butler was not expecting to work that day, but the home was short-staffed – no doubt partly because you had chosen not to go in - and she was asked to go in. She agreed to go to work for several hours during the afternoon and left home at about 12.30. You were left alone with the twins and B. A was staying with her father that weekend. You were annoyed that Hannah was not spending the whole day with you.
20. You spent a couple of hours watching TV and then you gave the children a late lunch of sandwiches and crisps at about 2.30. B and C ate their food, but Jessica left most of her sandwich. You became angry and frustrated with her. You carried her upstairs and, on the way, or when you reached the top floor where the cot bed was, you inflicted the injuries upon her which resulted in her death. It is impossible to be certain exactly how the injuries were inflicted, but it is clear that you threw her very roughly, and with very considerable force, so that her head hit a hard surface. This may have been the wooden headboard or bars of the cot bed, the floor, or possibly, the banister or balustrade of the staircase. Either you hit her head against something, or you swung her so she went flying and hit a hard surface.
21. I am sentencing you on the basis that you did not intend to kill Jessica or to cause her serious injury that day. But you assaulted this small child angrily and aggressively, in circumstances in which any reasonable person would have realised that their actions carried the risk of some physical harm to Jessica. You were reckless as to whether your actions would cause her harm.
22. As soon as you had assaulted Jessica, you realised that something was seriously wrong, but your first thought was for yourself. Jessica was unconscious and rigid. You decided immediately to try to cover up what you had done. You had undergone first aid training and you were well aware that, when someone is seriously injured, you do not move them. However, you carried Jessica downstairs and into the living room. This was to enable you to give a false narrative that Jessica had sustained her injuries from a fall down the stairs. Shockingly, you did not immediately call 999. Rather, you messaged Hannah Butler on Facebook Messenger, asking her to call you. You knew that phones were not permitted whilst staff were working at the home, and so it might have been some time before she responded. Fortunately, Hannah was on a break, and called you back almost immediately. Even then you had a conversation with her for over a minute and Hannah had to persuade you to call the emergency services. I am satisfied that your reluctance to do so was because you were hoping, against the odds, that Jessica might recover so that you could

avoid calling the emergency services at all. You told the ambulance dispatcher that you had found Jessica at the bottom of the stairs. Whilst waiting for the ambulance to arrive, you took off Jessica's pyjamas. This was so you could inspect the injuries and see if there was anything that might implicate you. These actions might have exacerbated Jessica's injuries, though in the event, they did not do so.

23. The ambulance staff arrived a short time after the call was made, and every effort was made to revive Jessica. It soon became clear to the paramedics that Jessica was very seriously ill, and they made arrangements for her to be transported by helicopter to King's College Hospital in London. In the meantime, the paramedics became suspicious about how the injuries had been sustained. You covered up what you had done. You told them that she must have fallen down the stairs, and you said that you had found her at the bottom of a flight of stairs. You repeated this lie when you were questioned by police officers at the hospital.
24. Tragically, the injuries that you had inflicted on Jessica were catastrophic and, despite the admirably skilful and professional efforts of the first responders and the hospital staff, there was no hope from the outset of Jessica surviving them. Jessica had suffered a severe force impact to the back of her head. This had fractured Jessica's skull, and had caused extensive internal bleeding, swelling, and haemorrhaging, leading to massive brain damage. The impact was so great that Jessica's brain was displaced inside her skull.
25. Jessica was placed on life support at the Intensive Care Unit at King's College Hospital, and she remained there until her life support was switched off on 24 December, and she died.
26. I have heard very moving Victim Impact Statements from Jessica's mother, Hannah Butler, and from Jessica's Nan, Casey Jell. It is clear that Hannah Butler is tortured by these events, and suffers from terrible grief that will never leave her. She said that she will never recover from what happened in December 2019, and she will never be able to forgive you. Casey Jell graphically described the devastating impact that Jessica's death has had on her family, including not only her parents and her sisters, but also her wider family, extending to her cousins and her 91-year-old great grandmother. Jessica's sisters miss her terribly, and her older sisters feel a misplaced sense of guilt that they did not prevent the harm that was inflicted upon her. The whole family mourns the life that Jessica will not now have, and suffers from the trauma of knowing how she died. It is clear that the death of this lovely small child has caused great pain and suffering to a large number of people.
27. Before I pass sentence, it is important that I emphasise the following: the sentences that I am about to impose are not intended to, and cannot, place a value on Jessica's life, or on the loss and suffering of those who loved her. Nothing I can do can bring Jessica back or can even begin to reduce the pain and suffering of her family as a result of her death. The almost unbearably tragic consequences of what you did on 21 December 2019 is something that I must and will take into account when deciding on the appropriate sentence for the offence of manslaughter. But I must also bear in mind that you did not intend to kill Jessica and you did not even intend to cause her really serious harm.

28. I should also make clear that I have taken account of the contents of the Pre-Sentence Report, and of all that has been said by Defence counsel, who said everything that could be said on your behalf. I also take account of the fact that you will spend part of your time in custody during the period when the effects of the Covid 19 Pandemic are still being felt, with the additional difficulties and restrictions that this entails.
29. The statutory victim surcharge will apply.
30. I have considered carefully whether I should pass consecutive or concurrent sentences for these offences. I have decided that I should pass consecutive sentences, as the offences arose out of different incidents, albeit close together in time. However, I have been careful to avoid double-counting, and I have taken account of the principle of totality.
31. I will start with the offence of manslaughter.
32. There is a Sentencing Guideline for the offence of unlawful act manslaughter that I am obliged to follow unless I am satisfied that it would not be in the interests of justice to do so.
33. This offence comes within Category C. The starting point for category C is 6 years custody, with a range of 3-9 years.
34. There are a number of significant aggravating factors. The most obvious and important ones are the vulnerability of your victim and your position of trust. Jessica was a tiny child, whose age and learning difficulties meant that she was extremely vulnerable. They also meant that she had to be, and deserved to be, cared for patiently and sympathetically. You were the only adult in the house that day, and Jessica had been left in your care. To the extent that she did anything that was challenging or annoying, it was obvious that it was not deliberate and was not her fault. There could be no conceivable excuse for you taking out your frustrations on Jessica.
35. If you had previously had any misconceptions about the extent of Jessica's vulnerability, you could not have had any by 21 December 2019, because by then you had seen the harm that your assaults earlier in the month had inflicted upon her.
36. It is an aggravating factor that the offence was committed in the presence of children, in the sense that B and C were in the house and were present when you took Jessica upstairs and then when you brought her down after the assault.
37. A further major aggravating factor in this case consists of your actions after the event. You acted in a cowardly way. Your first thought was to protect yourself, not to seek immediate medical help for Jessica. You delayed seeking such help in the hope that you could avoid drawing attention to what had happened. You then concocted a story to explain her injuries which you hoped would exonerate you.
38. There are also mitigating factors. The offence was not premeditated. You are of previously good character. You are now 27 years old and were 25 at the time that the offences were committed. You have never been in trouble with the police before or convicted of any offence. It is clear to me that this offence was out of character. The family, friends, and work colleagues who gave evidence

made clear that you were generally placid and calm, and did not have a history of being aggressive or short-tempered. You are immature for your age and suffer from anxiety.

39. It is clear to me that you were out of your depth when the offence occurred. You had moved into a chaotic household, containing four children, two of whom had profound learning difficulties, in which discipline was essentially non-existent. You had no experience of living with or caring for young children. However, this is of very limited value indeed as mitigation. If you were not coping or were feeling stressed, you should have sought help, or, if necessary, moved out. It cannot possibly excuse your treatment of Jessica.
40. In my judgment, taking all relevant considerations into account, the aggravating factors far outweigh the mitigating factors. This offence is at the top of Category C.
41. I move on to the offence of child cruelty. You assaulted Jessica at least twice, on or about 12 and 15 December 2019, causing the injuries which I have described above, and which were noted with great concern by nursery staff. There is a Sentencing Council Guideline for child cruelty. In my judgment, your offending falls within category B, medium culpability, as there was more than one assault, and you must have used significant force to cause the injuries which can be seen in the photographs and which were reported by the nursery staff. It is not easy to fit the consequences of your offending into the appropriate harm category, as Jessica died within a week or two of the assaults upon her. However, the fact that you killed Jessica within a short time of the offence of child cruelty is not, in my view, a good reason to place your offending in a lower category. It is clear from the photographs and medical evidence that you caused extensive bruising to Jessica's head and a bleed on her brain, albeit a small one. In my judgment, this case is towards the upper end of Category 2B. The starting point for Category 2B is 1 year's custody, and the range is from a high level community order to 2 years, 6 months' custody.
42. The main aggravating features in relation to this offence are that you failed to seek medical help for Jessica, and tried to cover up the causes of her injuries, by suggesting that they were the result of head-banging, a fight with her twin, or some other cause. Indeed, you sought to dissuade Hannah Butler from taking Jessica to hospital, no doubt because you were fearful that the medical staff might suspect that the injuries were the result of assaults. Although not one of the aggravating features set out in the Guideline, I regard the particular vulnerability of Jessica, over and above most children, as being a further aggravating factor.
43. The mitigating features are the same as for the offence of manslaughter.
44. Since manslaughter and child cruelty are specified offences for the purpose of the Sentencing Act 2020, I must consider whether I should impose an extended sentence for these offences on the basis that you are a dangerous offender. This means that I must consider whether there is a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences.
45. Taking into account all of the information that I have before me, including the views expressed in the Pre-Sentence Report, and notwithstanding the seriousness of these offences, I have decided that you are not a dangerous

offender, and so that I should not pass an extended sentence upon you. The writer of the Pre-Sentence Report assessed you as posing a low to medium risk of committing further serious specified offences. The offence of manslaughter, and the offence of child cruelty which preceded it, were completely out of character. You have no history of violence or loss of temper. You are not generally prone to committing offences of violence. Without in any way minimising the seriousness of your offending on these occasions, I do not think that there is a significant risk of you committing further specified offences.

46. I now come to the sentences that I will impose for each of these offences.
47. Each of these offences is so serious that only a custodial sentence can be justified. They will be the shortest that are commensurate with the seriousness of the offences.
48. For the offence of manslaughter, you will go to prison for 9 years.
49. For the offence of child cruelty, you will go to prison for 2 years.
50. These two sentences will be consecutive. Therefore, the total sentence is 11 years.
51. You will serve up to two-thirds of your sentence for manslaughter in custody. You will serve up to one-half of your sentence for child cruelty in custody. You will serve the remainder on licence. You must keep to the terms of your licence and commit no further offence, or you will be liable to be recalled and you may then serve the rest of your sentence in custody.
52. I certify that you have spent 394 days on remand subject to a qualifying curfew and I direct that one half, 197 days, will count towards your sentence. If this calculation is later found to be wrong it will be put right by correcting the record administratively.