



JUDICIARY OF
ENGLAND AND WALES

R v Claire Riley and Susan Aucott

Northampton Crown Court

Sentencing remarks of the Honourable Mrs Justice Carr DBE

15th September 2016

Introduction

Claire Riley, 23 years of age, and Susan Aucott, 56 years of age, daughter and mother respectively, you have now each pleaded guilty to an offence under the Dangerous Dogs Act 1991 (“the Act”).

Claire Riley, you have pleaded guilty to the offence of being the owner of a dog which caused injury resulting in death whilst dangerously out of control, contrary to s. 3(1) of the Act. Susan Aucott, you have pleaded guilty to the offence of being in charge of a dog which caused injury resulting in death whilst dangerously out of control, contrary to s. 3(1) of the Act.

It was a 6 month old baby, Molly Mae Wotherspoon, who died. She was your daughter, Claire Riley, and your granddaughter, Susan Aucott. She was savagely attacked in the ground floor living room of your house by an American Pit Bull called Bruiser owned by Ms Riley. American Pit Bulls are a banned breed under schedule 1 of the Act. Molly Mae suffered multiple and deep lacerations mostly to her head and face, although she had bite injuries to every limb. Her skull was fractured and she had four puncture wounds to her brain. She died from excessive blood loss.

This was a tragic and totally avoidable incident. Dog owners and those in charge of dogs carry heavy responsibilities, both for the welfare of the dogs and for the safety of those around them. Parents and grandparents owe duties to their children and grandchildren respectively. Bruiser was a large, strong and aggressive dog weighing some 33 kilograms. He should never have been living cooped up in a small house with a new baby, and the two of them should never have been left alone by Claire Riley in charge of someone such as Susan Aucott, nor should Susan Aucott have agreed to be so left in charge. The situation was compounded by the fact that, to the knowledge of both of you, you Susan Aucott, had problems with alcohol. Bruiser posed an obvious and overwhelming risk to Molly Mae. By your guilty plea, Claire Riley, you have accepted that you did not reasonably believe your mother to be a fit and proper person to be in charge of Bruiser.

By recently increasing the sentence for these offences to a maximum of 14 years Parliament has made its intention to increase the awareness and mark the gravity of offending such as

this very clear. There must be a strong deterrent factor in any sentencing exercise such as this.

The Facts

Claire Riley, you had bought Bruiser in about June 2012. The dog lived with you and your partner, Molly Mae's father, Derri Wotherspoon. You lived in your small house with Bruiser and another pet dog, Pups, a small Staffordshire bull terrier. The property had only a small rear outside area.

Molly Mae was born in March 2014. In June 2014 your partner was sent to prison for a substantial period of time. He was no longer there to walk or look after Bruiser. Susan Aucott, you never walked Bruiser and you never saw your daughter walk him. Claire Riley, you say that you did walk Bruiser, to what extent is not clear, but not so much that your mother ever noticed. Both dogs were kept in separate cages in the kitchen area when inside the house. The cage for Bruiser was too small and too flimsy for him, as confirmed by the expert veterinary evidence. Indeed, he escaped it without apparent difficulty in order to attack Molly Mae.

The attack took place on a Friday night, 3rd October 2014. Susan Aucott, you had agreed to babysit your granddaughter to allow your daughter to go out with a friend in the evening. This was not something that she often had the opportunity to do. Claire Riley left the house at about 8pm, leaving you and Bruiser and Pups alone together.

Susan Aucott, you drank wine. You clearly have and had, as your daughter, Claire Riley, very well knew, a problem with alcohol. Indeed an incident had occurred one morning in August 2014, only weeks earlier, when Claire Riley called out the police because her mother was drunk and refusing to leave the house. Claire Riley told the police that that she did not want Ms Aucott around Molly Mae when she was drunk.

On the evening in question, Susan Aucott fed Molly-Mae and settled her down to sleep in her Moses basket on the floor in the living room. You made some food and telephoned your mother. Bruiser and Pups were in their cages in the kitchen right next door. At some stage you heard Bruiser out of his cage – this does not appear to have unduly alarmed or surprised you. You then saw Bruiser in the living room. You say that he had managed to open the door himself.

He launched an attack on Molly-Mae. Susan Aucott tried to intervene but to no avail. At 2233 she telephoned emergency services. Police arrived and forced their way in. Bruiser had to be subdued with PAVA spray – he was ferocious and totally out of control. Molly Mae was declared dead at the scene.

There can be little doubt that Bruiser was a vicious and dangerous dog. He has been described by various professional vets as incredibly aggressive. A vet of 15 years' experience described him as "one of the most aggressive dogs" that she had ever encountered.

Sentencing Council Guideline

In sentencing each of you I have regard to the Sentencing Council Definitive Guideline on Dangerous Dog Offences applicable to all those sentenced on or after 1st July 2016. I also have considered the medical and pre-sentence reports prepared on each of you.

Claire Riley

The appropriate offence category for you is that of medium culpability, which gives a starting point of 4 years' custody and a range of 2 to 7 years' custody. You failed to act on your prior knowledge of Bruiser's aggressive behaviour. I am quite satisfied that you knew that Bruiser was a very aggressive dog. You lived with him on a daily basis. You were present at the visit to a veterinary practice with him in January 2014 when Mr Wotherspoon struggled to handle the dog. The vet on that occasion recorded Bruiser's level of aggression : he was "very aggressive...will bite and fly at you". Even taking into account that Bruiser may have been in pain at the time, the incident was telling. Additionally, you warned a third party visitor to your home in June 2014 not to go near Bruiser. You had received complaints about the dogs' barking from neighbours via the District Council. You should never have kept Bruiser alongside Molly Mae, whatever the wishes of your partner may have been. You were aware of the need to move Bruiser on elsewhere, but failed to do so. There were no adequate safety measures in place where an incident such as this could reasonably have been foreseen. You were Bruiser's owner and there were welfare issues, including the size of the cage and a lack of stimulation and exercise when in the house, of which you were aware. There was no attempt to introduce Bruiser to Molly Mae so as to lessen the risk to Molly Mae. In terms of lesser culpability, there was caging available, but it was clearly inadequate for a dog of Bruiser's size and power.

Factors increasing seriousness

There are multiple factors increasing seriousness. The victim was a baby and in this case wholly reliant on you for her care and protection. The attack was sustained and repeated. Your mother would never have been a match for Bruiser, based on size and power alone, as your guilty plea reflects. But moreover, you knew of your mother's longstanding alcohol problems, having called the police out only weeks before because your mother was drunk (in the morning) and you did not want her around Molly Mae as a result. You were prepared to take the risk of leaving Molly Mae alone with someone with a propensity to drink too much at night in the same small house as a large, aggressive dog.

Mitigating factors

You are effectively of good character and still relatively young. You are remorseful, and have suffered the tragic loss of your daughter. You have accepted your responsibility for this incident in large measure. You pleaded guilty, albeit very late and on the day of trial. I will give you a generous credit for that, nevertheless, since it does not appear to me that the legal position on strict liability offences was made fully clear to you earlier.

You were in an abusive relationship with Derri Wotherspoon and you say under pressure from him to keep Bruiser. There is evidence of violence on his part towards you since this incident. But he was in prison and away from you at the time. And Bruiser was your dog. You were capable of separating from him as you say you have now done. Molly Mae's safety should have been paramount.

Since the incident, you have been diagnosed with depression and anxiety. I have read two reports of Dr Alexandra Getz, consultant psychiatrist, prepared on your behalf. You have been on various antidepressants. You report broken sleep and very low mood and little appetite. You feel that a custodial sentence will break you. You have high levels of anxiety, experiencing difficulties in leaving the house, and present as mentally fragile. You demonstrate certain features of post-traumatic stress disorder. Dr Getz concludes that your mental state remains poor – there has been no improvement since December 2015- and that a custodial sentence will likely exacerbate it. In the event of a custodial sentence you will require robust input from prison healthcare. Your father in a letter to me pleads for

sympathy and leniency, emphasising his worries and concerns about you if you are sent to prison and the impact on the family as a whole.

I take account of the fact that you have very recently become pregnant again and your baby is due to be born next spring. This sentencing process has been adjourned to allow your first trimester to pass successfully. Your pregnancy is high risk, following a previous stillbirth. You worry about losing the baby and you have had considerable support from your family. There is of course no medical or other evidence to suggest that your pregnancy could not be managed safely in or from prison. I confirm that in deciding your sentence I have considered the guidance set out in *R v Petherick* [2013] 1 WLR 1102, in particular at paragraph 17 to 25. The rights of your Article 8 family life are engaged, as is that of your family. Imprisonment will almost always interfere with family life. The interference must be proportionate given the balance between that interference and the legitimate aims that sentencing must serve, including the need to punish serious crime and the needs of society for appropriate deterrence. The existence of dependent children is of course a relevant factor to sentencing : see *HH v Deputy Prosecutor of the Italian Republic, Genoa* [2012] UKSC 25 at paragraphs 128 and 129.

Sentence

Having regard to all the circumstances of this case, I have no doubt that the custodial threshold is passed. The shortest term commensurate with the seriousness of the offence that I can pass, taking into account all aggravating and mitigating factors, including your state of health and pregnancy, is one of 24 months (or 2 years). But for your guilty plea it would have been 30 months.

I have considered very carefully whether I should suspend this sentence, and have balanced the competing interests in the sentencing process. I have taken full account of your personal circumstances and everything that has been said on your behalf including by your father. I have come to the conclusion, however, that, given all the circumstances of this offending, suspension is not a realistic option. I have reflected the mitigation available to you by imposing the short custodial term that I have. You and your baby when he/she is born can be accommodated within the prison system until your release. This sentence will therefore be an immediate custodial one.

You will serve up to one half of your sentence in custody. You will serve the remainder on licence. You must keep to the terms of your licence or you will be liable to be recalled and you may then serve the rest of your sentence in custody.

I also disqualify you for 10 years from having custody of a dog under s. 4(1)b of the Act. The manner in which Bruiser was kept in any event but also in the vicinity of a young baby, and your decision to leave Bruiser alone with the baby and your mother, demonstrate that you are not a fit and proper person to have custody of a dog. You may, at any time after one year from this order, apply to the court for a direction terminating the disqualification.

I also order forfeiture and destruction of a photo of Bruiser, (exhibit DJC 1), his lead, harness and cage (CJC 6 and SPH 2). The victim surcharge order will apply as appropriate.

You may go down.

Susan Aucott

In terms of culpability, you believed that Bruiser was a pitbull cross but did not know that he was a banned breed. You failed to act on your prior knowledge of Bruiser's aggressive behaviour. Your understanding of Bruiser's nature and aggression was made very clear to

police on the night of the attack : you knew that he had been aggressive from day one. I am quite satisfied that you, like your daughter, knew that Bruiser was a very aggressive dog, and you accept this. You were at your daughter's house with Bruiser very regularly in the months before this incident, if not on a daily basis. There were no adequate safety measures in place where an incident such as this could reasonably have been foreseen. You were not Bruiser's owner, and of course not able fully to control your daughter's actions. But you were experienced in looking after dogs and aware of their needs. There were welfare failures here, including the size of the cage and a lack of stimulation and exercise when in the house, as you knew. There was a lack of regard for Bruiser's aggression and the potential consequences for Molly Mae.

Against that background, and whilst you made some attempt to intervene and there was some caging available, my overall assessment is that, like your daughter, you carry medium culpability. Your attempts to intervene were always going to be futile. You were almost totally uninjured yourself. Equally, the caging was inadequate to the task, nor was the door going to stop Bruiser. Whether or not Bruiser had to your knowledge escaped from his cage previously, and I do not need to make any finding in that regard, the fact that you were not surprised in any way that he did so on this occasion speaks volumes. It was obvious that he could escape if he wanted to.

In these circumstances, the elements of medium culpability dominate.

Factors increasing seriousness

Again, there are multiple factors increasing seriousness. You have irrelevant previous convictions dating back to 2006. Of relevance, however, is your recent flouting of conditions relating to the ownership of another pit bull. You had an exemption certificate for another pit bull, Kane. You breached each of the conditions of that certificate : you did not keep him at the prescribed address; you passed him on to another, your son Jamie Riley; you failed to maintain third party insurance. This shows a disregard for safety and the law where these types of dog are concerned.

In addition, the victim was a child. The attack was sustained and repeated. As for alcohol, whilst you could not have saved Molly Mae even if sober, the fact that you were prepared to drink to excess when in charge alone of Bruiser and Molly Mae is an aggravating factor, increasing as it did the risk to Molly Mae. Contrary to what you told the police in interview subsequently, I am quite satisfied that you had drunk more than a single glass of wine on the night in question. You did nothing to attempt to remove Molly even though Bruiser had got out of his cage and pulled at the door handle of the kitchen to open the door. There is body worn video footage which shows your condition in the immediate aftermath of the attack. And multiple witnesses speak of your intoxication that night. You were negatively influenced by alcohol, having drunk to excess, and you have accepted that I must sentence on this basis. Your reactions would have been impeded, although as I have said nobody suggests that you could have saved Molly Mae that night.

Mitigating factors

You have clearly suffered the grief and trauma of losing your grandchild in your presence, and feel guilty for what happened. Your sense of remorse extends to the impact of these events on your family as a whole, and the harm done. Molly Mae was a very positive factor in your life. You pleaded guilty, albeit very late in the day, on the date originally listed for trial. I will give you a generous credit for that. Again it does not appear to me that the law was fully understood by you earlier.

I have read a recent report of Dr Peter McAllister, consultant psychiatrist, prepared on your behalf. It records your history of alcoholism dating back at least to 2007. You are frail and suffer from irreversible alcohol-related polyneuropathy. There is also mention of depression in 2011 and then again later in 2013 and 2014, which depression has worsened since the events of October 2014, and also a cancer scare before this incident. You have no serious mental illness, no memory difficulties, no post-traumatic stress or any anxiety disorder.

Sentence

I have no doubt that the custodial threshold is passed. The shortest term commensurate with the seriousness of the offence that I can pass, taking into account all aggravating and mitigating factors, is one of 24 months or 2 years. But for your guilty plea would have been 30 months.

I have considered very carefully again in your case whether I should suspend this sentence perhaps with an alcohol treatment requirement, and have balanced the competing interests in the sentencing process. I have taken full account of your personal circumstances and everything that has been said on your behalf. I have come to the conclusion, however, that, given all the circumstances of this offending, suspension is not a realistic option. I have reflected the mitigation available to you by imposing the short custodial term that I have. This sentence will therefore be an immediate custodial one.

You will serve up to one half of your sentence in custody. You will serve the remainder on licence. You must keep to the terms of your licence or you will be liable to be recalled and you may then serve the rest of your sentence in custody.

I also disqualify you for 10 years from having custody of a dog under s. 4(1)b of the Act. You failed to comply with the terms of Kane's certificate. You know that Bruiser was at least part pit bull. Adding to that your alcohol problems, you are not a fit and proper person to have custody of a dog. You may, at any time after one year from this order, apply to the court for a direction terminating the disqualification.

The victim surcharge order will apply as appropriate.

You may go down.

POSTSCRIPT

Finally I commend the courage and professionalism of all those who attended the scene and at hospital and who dealt with Molly Mae on the night of 3rd October 2014. It was a highly traumatic event even for experienced emergency police and medical and veterinary personnel who nevertheless carried out their duties effectively and to the best of their abilities.