



JUDICIARY OF  
ENGLAND AND WALES

**R v Matthew Scully-Hicks**  
**In the Crown Court at Cardiff**  
**7<sup>th</sup> November 2017**

**Sentencing remarks of Mrs Justice Nicola Davies DBE**

Elsie was aged just 18 months when you killed her, a young, vulnerable and defenceless child. She had been entrusted to the care of yourself and your husband, Craig Scully-Hicks, her adoptive fathers. Shortly before 18:19 on 25 May 2016 you inflicted injuries of such severity upon Elsie as to cause her immediate collapse and her death on 29 May 2016. Elsie suffered a cardiac arrest. She sustained hypoxic ischaemic encephalopathy, brain injury including subdural haematoma, bleeding in the eyes, the retina, the perimacular folds and in the area of the optic nerve. She sustained a full thickness fracture of the skull and fractures to three posterior ribs. The injuries were sustained when you gripped Elsie around the chest, your fingers were on her back exerting pressure which fractured her ribs. Having gripped Elsie you shook her with such force as to cause further injuries. The fracture to the skull was caused by an impact with a hard surface. Her collapse would have swiftly followed, that having occurred you called the emergency services.

Elsie came to live with you, Craig and her adoptive sibling on 10 September 2015. You chose to be the stay-at-home father, Craig continued in full-time employment. By the time Elsie arrived in your home you had established a routine with her adoptive sibling,

you expected Elsie to fit into that routine. Text messages in September and October 2015 indicate that during that period Elsie's sleeping was an issue as was her crying. In those texts you refer to meal times and bed time as your worst nightmare, Elsie would be crying and screaming. In more than one text you describe Elsie as having a "diva strop", you refer to Elsie in strong and derogatory language. I accept that these texts were at the start of Elsie's placement in your home but they capture a difficult period as you attempted to adjust to the arrival of a young child with her own character and personality. The texts demonstrate your frustration at what you described as Elsie's attitude, her crying and her strops. To those who saw you regularly, be it health care professionals, social workers or friends and family you were a loving and caring father. The difficult times were when you were alone with Elsie or with her and her adoptive sibling. You deny being unable to cope with two children but the texts indicate otherwise.

The texts in this case end in October. On 5 November 2015, on your account, Elsie accidentally fell when at an activity table in the kitchen, only you and Elsie were in the house. As a result of that fall it is now known that Elsie sustained fractures of the tibia and femur of her right leg. You told Craig and the doctors you saw that this was an accidental fall. Within days Elsie was not weight-bearing on her right leg. Following discussion with Craig and his family you took Elsie to her GP who referred her to the orthopaedic trauma clinic at the University Hospital of Wales. There Elsie's pelvis and legs were x-rayed. The doctor who viewed the x-rays identified only one fracture, that of the tibia, he missed the second fracture. Had the doctor accurately interpreted the x-ray, hospital protocol would have required him to show the x-ray to a consultant. Dr Nia John, a Consultant Community Paediatrician at the Cardiff and Vale University Health Board, who has a safeguarding children role, said that had the existence of both fractures been detected, the management would have been different, a child protection medical would have been carried out, Dr John would have sought further professional advice. Tragically the opportunity was missed.

Following the events of 25 May 2016 a doctor reviewed Elsie's November x-rays and identified both fractures. She provided the first of what was to be a consistently held view of those with relevant medical knowledge and experience, namely that the existence of these fractures in a young child who is not independently mobile was rare, it would be very unusual to see such fractures without significant trauma, at least one of

the two fractures would have required a twisting mechanism. The fall you described would not have resulted in two separate fractures, each with its own mechanism, in a child of Elsie's age. Having heard the medical evidence I am sure that the two fractures were not the result of an accidental fall as described by you, these injuries were inflicted by you and were non-accidental. They were caused by your frustration with and anger towards Elsie, whose crying and behaviour did not easily conform to the routine which you had established.

That you were frustrated and angered by Elsie's crying is borne out by the evidence of your next door neighbours and a neighbour who lived close by. It was in December 2015 that your next door neighbour first heard a baby crying. She would hear you say "shut up" which you repeated a number of times, on occasion using swear words when telling the baby to "shut up". It was her impression that you were exasperated and frustrated because the child was crying. The crying continued up until you moved from the house in Wellwright Road in April 2016. Another neighbour in the same house described your voice as sounding like a controlled tantrum. It was associated with the baby crying. On an occasion between February and April 2016 he heard the baby crying and the person, who I find was you, saying "shut up you little fucking brat". The next time the neighbour heard the baby crying he heard you say "shut up you silly little cunt". Another neighbour heard you shouting in similarly strong terms. What this behaviour demonstrated was your continuing frustration with and anger towards Elsie whose crying was causing considerable difficulty for you.

Evidence was before the court of a large bruise on Elsie's forehead on 16 December 2015, a further bruise at the same site in January 2016 and a fall down stairs on 10 March 2016 resulting in bruise-type injuries to Elsie. It was only in respect of the March fall that you sought medical treatment. You have given an account of how the bruise was sustained in December and how the fall occurred in March, on each occasion you were alone in the house with Elsie. As to the December incident, Elsie was at her play kitchen. She pulled herself up to a standing position using the handles, the door opened as the magnet in the door gave way, Elsie lost her balance and hit her head on the worktop of the play kitchen. In court was the play kitchen. You accepted that the doors of the kitchen open with the merest pressure and that in pulling herself up using one handle the door would have opened outwards towards Elsie. I do not accept that Elsie would have fallen forwards as the door opened, she would have fallen backwards and

would not have struck her head on the worktop of the kitchen. On the health visitor's account, which you deny, you told her that you had sought medical treatment for Elsie, no medical treatment was sought for Elsie in respect of the bruise. I do not accept your account, I am satisfied that the bruise which Elsie sustained on 16 December 2015 was caused by you, it was not an accident. There is no contemporaneous evidence relating to the January 2016 bruise.

On your account the fall on 10 March 2016 was the result of Elsie pulling herself up on the top stair gate which had an unsatisfactory catch, the gate opened and Elsie fell down the stairs. Craig gave evidence of the problem with this gate, the fact that the catch did not easily fit. At the hospital the doctor who saw and treated Elsie accepted your account of the fall as being consistent with the injuries found. An independent medical expert called by the Crown did not criticise the hospital doctor for so finding. By reason of the evidence of the problem with the catch on this gate and that of the findings of the hospital doctor I cannot be satisfied that the injuries sustained on 10 March 2016 were as a result of your actions.

You are an intelligent man. You would have known that you were struggling to cope with Elsie. You knew that in November and December your frustration and anger towards Elsie had resulted in injuries to her. You told no-one the truth of what had occurred nor the reason for it. Regular visits were made by social workers and the health visitor. To no-one, not even your husband, did you have the courage to speak of your difficulties. You put your own self interest before that of the young child you had been entrusted to protect. To Craig and the professionals you continued to present as a concerned, caring and loving father. What people did not see or hear, because they were not in the house at the time, was the frustration and anger which you were demonstrating because of your inability to cope with your young adoptive daughter.

On 25 May 2016 Elsie was healthy and well. She had visited Gym Tots with you in the morning, during the afternoon she had been involved in activities with you, her adoptive sibling and your niece. Your niece left at 17:20. Tea that day took longer than normal, on your account it did not end until 17:45. You called the emergency services at 18:19. Elsie's adoptive sibling had been with her in the front room following their tea. Her sibling was present when you rang the emergency services, gave Elsie CPR and was present when the emergency service personnel arrived and commenced their treatment.

Even if not present at the time of the assault Elsie's sibling witnessed its immediate aftermath. The timing of the phone call is relevant, it came shortly after the meal and preceded Elsie's bed time at 19:00. These would appear to be the times when Elsie could cry and demonstrate what you had described as attitude. It was Elsie's behaviour, your frustration with it which turned to anger, which led you to inflict the serious injuries which swiftly led to her collapse. The force which you used in gripping Elsie was sufficient to cause the fractures of the ribs, the shaking sufficient to cause severe brain and eye injury. Professor Freemont, a bone and joint pathologist, described the fracture of Elsie's skull as complex, its cause being an extreme impact, something hitting the skull or the skull hitting something.

In deliberately inflicting serious injuries upon your eighteen month old adoptive daughter you abused the trust which had been placed in you as Elsie's adoptive father. It was a gross abuse of that trust. It was an abuse of the responsibility which had been placed upon you as her adoptive father to protect and care for this young, vulnerable and defenceless child.

Your actions in killing Elsie have devastated three families: the birth family of Elsie, Shayla as they knew her, Shayla's grandmother has written of the loss not only to herself but to Shayla's birth siblings; the family you had sought to build with Craig Scully-Hicks; your own birth family, your parents have sat through every day of this difficult trial with stoic dignity.

The offence of which you have been found guilty is that of murder. There is only one sentence and that is life imprisonment. Pursuant to the provisions of Schedule 1 of the Criminal Justice Act 2003 the starting point for the minimum term of imprisonment which you will serve is 15 years. Having identified the minimum term it is for the court to determine the aggravating or mitigating factors which are present.

Within the statutory aggravating factors are two; namely the fact that Elsie was particularly vulnerable by reason of her age and the abuse of a position of trust. Further I find that aggravating your offending is the fact that your actions on 25 May 2016 were not isolated. I am satisfied that you inflicted injuries upon Elsie in November 2015 which caused the fractures to her leg and in December 2015 the large bruise to her forehead. You had, and were aware that you had, a predisposition to injure your adoptive daughter. You took no steps to prevent a recurrence of the earlier incidents

when Elsie suffered injuries as a result of your actions. Whether Elsie's adoptive sibling was present at the time you inflicted the injuries cannot be determined. What is clear is that the sibling was present from the outset of your call to the emergency services. I regard the sibling's presence in the immediate aftermath of your assault on Elsie as aggravating the offending.

As to mitigation the prosecution's case from the outset was that there was on your part an intent to cause at least serious bodily harm. Having heard the evidence in the case I cannot be satisfied that there was an intention to kill. I regard your good character as a mitigating factor, to detract from that by reason of the court's finding in respect of the November and December 2015 incidents would represent double counting.

It has been submitted on your behalf that a statutory mitigating factor is the lack of premeditation. In finding that you acted in anger I accept that represents a lack of premeditation. However, the absence of premeditation is tempered by the fact that your anger towards Elsie did not represent an isolated occasion and you knew that your anger could lead to deliberately inflicted injury.

There is no mitigation for a guilty plea in a case where only you, Elsie and her adoptive sibling were in the house. No remorse has been shown. You were living in comfortable social circumstances with the close support of professional agencies, your husband and wider family. You have been assessed by two independent psychiatrists who found no psychiatric condition which would have affected your actions.

Having begun with the starting point of 15 years as the minimum term of imprisonment and taken account of the aggravating and mitigating features identified the appropriate minimum term of imprisonment which you must serve is one of 18 years. Credit will be given for 141 days of tagged curfew, if the figure is incorrect it can be corrected administratively.

The period of 18 years imprisonment is not a fixed term after which you will be automatically released, it is the minimum time you will spend in custody before your case can be considered by the Parole Board. It will be for the Parole Board to say, at that time, whether or not you will be released: and if they do not you will remain in custody. If and when you are released you will still be subject to licence, and this will remain the

case for the rest of your life. If for any reason your licence were to be revoked, you will be recalled to prison to continue to serve your life sentence in custody.

**ENDS**