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RUEBEN BRATHWAITE

Swansea Crown Court

Sentencing Remarks of Mr Justice Picken - 14 September 2018

1. Rueben Brathwaite, you have pleaded guilty to murdering your stepmother, Fiona Scourfield, in March this year. At that time you were 16 years' and 11 months' old, your date of birth being 5 April 2001. You are now 17 years' and 4 months' old.
2. As your counsel, Mr Paul Hobson, has rightly observed, and as you yourself have described it in a letter which you have written to me, the circumstances of this case are horrific. The level of your culpability is very high indeed.
3. Briefly, Fiona Scourfield was 54 at the date of her death. She, your father, Charles Brathwaite, and you lived together at Broadmoor Farm, St. Clears in a log cabin in the 14 acres of land attached to the farmhouse which was owned by Fiona Scourfield's mother, Charlotte (sometimes known as Lorraine). Fiona Scourfield was a ceramicist and a passionate animal lover. She looked after some 32 animals on your smallholding and worked, often with your assistance, in support of animal charities. Fiona Scourfield was plainly a good and decent person.
4. Your father is a landscape gardener and tree surgeon. I should say immediately that I have received a letter from him which I have read with care. I am acutely aware of the appalling position in which he finds himself: as somebody who has lost the woman he loved as a result of the actions of the son whom he continues to love and, indeed, support. He is entitled both to sympathy and to admiration in equal measure. You are very fortunate to have his continued support as your father.
5. Also deserving of sympathy is, of course, Charlotte Scourfield, Fiona Scourfield's mother, whose moving statement I have had read to me today.
6. You began living with your father and stepmother in the log cabin from June 2013 onwards, after a deterioration in your relationship with your mother.
7. Fiona Scourfield and you got on reasonably well, although it is right to acknowledge that you told the police in interview after your arrest that you felt upset at your life because "*yf*

I was to make a mistake or do something out of place, she would make me feel as if I was in the wrong". It appears that it was this feeling of upset that led you, wholly unjustifiably of course, to do what you did. This, and the fact that you had developed an interest in murder in the lead-up to the incident, accessing images of killings via the internet.

8. On 6 March 2018, you returned home from school in the late afternoon on the school bus. Sometime later, the police received a '999 call' from you. In that call you explained what you had done. You said that you had hit Fiona Scourfield over the head with an axe in chillingly straightforward terms. You said this:

"Yeah, with like, you know the blunt side of an axe, like you turn it around and it's the heavy side, err, I hit her with that and then my Dad has a samurai sword in his bedroom and I sort of sliced her throat and stabbed her with that too, erm, she is definitely dead, I cut her throat and there was so much blood, I think I cut an artery as well".

9. You went on to explain that you had hit Fiona Scourfield with the axe *"maybe 8 or 9 times"* and that you could see her brain, before explaining that the reason why you had done what you did was that you were fed up with your life and that you wanted to commit suicide but that you could not bring yourself to do that and *"so I thought if I could possibly kill someone else, it would you know, get me out of ..."*. Then, no less straightforwardly, you went on to describe how Fiona Scourfield took good care of you and loved you, before saying this:

"I had the intention of killing her, but what I wanted to do was knock her out with the axe and then cut her throat so she didn't die in too much pain you know. My intention wasn't to murder her in some psychotic way, I just wanted to, I just wanted her dead so that I could have a life, but, I'm just fed up of, ok, I'm putting the sword, it's got blood on it, I'm putting the sword in the caravan now, I'm not trying to hide it from you, I'm being open, I'm just going to hide it, to put it away."

10. The police and paramedics then arrived. You were immediately detained and arrested. You were compliant with the officers and were taken to Haverfordwest police station. There in the custody suite, you asked one of the officers whether he had ever taken a murderer into custody before.
11. The police located Fiona Scourfield. Her body was slumped in the front doorway of the property. It was obvious that she was dead. Severe injuries to her head and throat were immediately apparent. Approximately a metre away from the body, a small axe was

recovered. A sword sheath and a crowbar were recovered nearby. The sword itself was recovered in the doorway.

12. In interview the next day, you were no less matter-of-fact, explaining that you got home from school at about 4 pm after “*a regular day*”. Fiona Scourfield and her mother were sitting there with two dogs next to them. About 20 minutes later, Charlotte Scourfield left. Then, having been chatting to your stepmother, you went outside, grabbed an axe from your father’s workshop and brought it just outside the entrance to the cabin or chalet. You told the police that you then went back inside and looked underneath your father’s bed where you knew that there was a sword. You grabbed that, unsheathed it and took it outside. Then, with the axe in your hand, you went around to the window of the living room and indicated to your stepmother that there was something wrong with the cat in order to get her to join you outside. As she stepped outside of the door, you struck her on the front of her skull with the blunt end of the axe. She fell unconscious to the ground and then you repeatedly struck her. Then, as you saw blood coming out of her skull, you used the samurai sword to slice at the neck. It was at this stage that you called the police.
13. You explained also, disturbingly, that you had taken two photographs of her – one after the attack with the axe and the next after you had used the sword. You had tried to upload these photographs to the ‘4chan’ website but had been unsuccessful in that. You stated that you wanted to do this as a kind of confession. You stated that you had been viewing imagery of extreme violence on the internet for about a year. You added that you thought of doing what you did the night before. You had thought of killing yourself but you decided to kill your stepmother instead as a way of getting arrested and, as you put it, out of your life.
14. There is only one sentence that the law allows to be passed for the offence of murder. That is a mandatory sentence of imprisonment or detention for life where the offender is aged over 18. In the case of an offender who is aged under 18 at the time of the offence, the appropriate sentence is detention at Her Majesty’s pleasure: see the Powers of Criminal Courts (Sentencing) Act 2000, s. 90.
15. I am required to specify the minimum term, pursuant to Section 269 and Schedule 21 of the Criminal Justice Act 2003, which must elapse before you can be released on licence.

The applicable starting point for the minimum term in the case of an offender aged under 18 is a period of 12 years: see Schedule 21, paragraph 7.

16. Pursuant to paragraph 5A of Schedule 21, Parliament has set a 25-year starting point for the minimum term for anyone aged over 18 who takes a weapon to the scene of a murder intending to commit any offence or have it available as a weapon and who uses that knife or weapon in committing the murder. There is no issue that this is a case in which a knife was taken by you to the scene and so that, had you been aged over 18, the appropriate starting point would have been 25 years.

17. I make it clear that I do not adopt that starting point in your case precisely because of your age. The starting point remains 12 years, not more. It is nonetheless appropriate, as Mr Hobson accepts, to have regard to the fact that you brought the axe and the sword to the scene as an aggravating feature of your offence. That this is appropriate is made clear in ***Att.-Gen.'s Reference (No. 126 of 2006) (R v H)*** [2007] 2 Cr.App.R.(S.) 59 cited in *Archbold* at paragraph 5-384 which describes the authority (accurately) as having decided *“that whilst the starting point specified for an offender under the age of 18 at the time of the offence is 12 years (see para. 7), it is clear that the appropriate minimum term remains fact specific and may be well above or well below the starting point; that nothing precludes the court from reflecting on all the express features identified in the starting points for adult offenders in paragraphs 4 (whole life starting point), 5 (30-year starting point) and (now) 5A (25-year starting point) and, when they are found to be present, treating them as features which aggravate an offence to which the 12-year starting point applies; and that whilst the schedule underlines the long established sentencing principle that the level of ultimate criminality of an offender, who is young, is likely to be (but may not necessarily be) lower than the criminality of an older offender, there is no mathematical table for this purpose and no list can provide an accurate reflection of the way in which a young offender may or may not have learned from, or been damaged by, the experiences to which he has been exposed”*.

18. The same point was recently made by Sir Brian Leveson P in ***R v Markham & Edwards*** [2017] EWCA Crim 739 when he stated as follows at [46]:

“Having determined the correct starting point (12 years), the aggravating factors included those which, for an adult, would have justified a starting point of a higher order. Thus, for an offender over 21 years-old, cases in which the starting point would ‘normally’ be a whole life order include a double murder where each involved a substantial degree of premeditation or planning; for an offender over 18 years-old, a double murder would, in any event, ‘normally’ justify a starting point of 30 years, and any murder

involving a knife or weapon brought to the scene, a starting point of 25 years is identified. Given that, for those under 18, the appropriate starting point is always 12 years, features which would have changed the starting point for an adult become relevant as aggravating the offence and can affect the appropriate minimum term.”

19. The fact that, as Mr Hobson points out, the weapons were owned by your father and were kept at the property where you lived, so that they were readily available, is something to be borne in mind but the fact remains that you made the clear decision to go and find each of them with the intention of using them to kill your stepmother. Indeed, I note from the Carmarthenshire Youth Support Service report prepared for the purposes of this hearing and based, in part, on discussions between you and Mrs Davina Davies that, when you first went outside after finishing your tea, you initially found a crow bar but thought that this was too light, and so you alighted upon the axe. You told the police something similar during interview. You also were aware that your father kept a samurai sword beneath his bed and you recognised that this could be used to cut Fiona Scourfield’s throat.
20. This is consistent also with the murder having been pre-planned which it plainly was. Indeed, Mr Hobson acknowledges that this was the case since he accepts that there was, as he puts it, a degree of premeditation, your having indicated to the police that you had thought about killing your stepmother the night before.
21. Mr Hobson submits, however, that there was no planning at that stage, observing that, based on what you told the police in interview, the plan was formed at around the time that you returned home from school and so less than two hours before the killing. I am doubtful about this, having considered the contents of Mrs Davies’s report. You told Mrs Davies that, having considered suicide, your thoughts then turned to your father and stepmother. You thought, however, that your father was too powerful and that he would potentially ‘fight back’. Fiona Scourfield, on the other hand, it seems you reasoned, was less likely to be able to do that due to her smaller stature. This is clearly, therefore, a case where the aggravating factor identified in paragraph 10(a) of Schedule 21, namely “*a significant degree of planning or premeditation*”, is applicable. Mr Hobson submitted that nonetheless the degree of planning or premeditation was not as great as it could have been. That may be right but, on any view, this was not a spur of the moment attack since you decided to do what you did either the night before or in the period after you had left

school, and this should not be overlooked in arriving at the appropriate minimum term: in short, there needs to be an uplift to reflect the premeditation involved in this case.

22. Otherwise, although not statutory aggravating features, I consider that there are two further matters which are aggravating in this case. First, the savagery of the attack against a defenceless woman, your stepmother and somebody who cared for you, makes the offence all the worse. Secondly, there is the further highly disturbing fact that, no doubt inspired by the graphic images which you had seen on the internet in the months leading up to the attack, you attempted to upload photographs of Fiona Scourfield at two stages during the attack. In this regard, it should be noted that you told Mrs Davies when she met you for the purposes of her preparing her report that your viewing included shocking images of suicides and beheadings and that your obsession progressed to watching material which included mass murders and massacres.
23. I turn, next, to the mitigating factors listed in paragraph 11 of Schedule 21. Obviously (g), namely the “*age of the offender*” is applicable. Your youth, both now and at the time that you killed your stepmother, is an important aspect which I have very much in mind, whilst at the same time acknowledging that the 12-year starting point is itself a very much reduced starting point compared with what would have been 25 years had you been aged over 18.
24. Mr Hobson did not suggest that any of the other factors listed in paragraph 11 is applicable in your case. In particular, he did not suggest that (c) applies, namely “*the fact that the offender suffered from any mental disorder or mental disability which (although not falling within section 2(1) of the Homicide Act 1957 (c 11)), lowered his degree of culpability*”. This is, no doubt, in recognition of the fact that the psychiatrist who has examined you as instructed by your solicitors, Dr Sanikop, has concluded that you were not suffering from any mental health condition at the time of the offence.
25. I should say, in this regard, that I have read not only what Mrs Davies has to say in her report concerning your feelings of isolation and unhappiness but also what you have had to say in a letter to me, particularly concerning your feelings of depression in the months leading up to March this year. I note that you and your father, who has also written to me, suggest that you are suffering from such a condition and that the sentence which you receive should reflect this. Unlike Dr Sanikop, however, neither of you is an expert in the field of mental health. In those circumstances, I must obviously approach the matter of

sentence on the basis that, as Dr Sanikop explains, you suffer from no mental health condition. Indeed, Mr Hobson explains that Dr Sanikop has been asked to look at what you have stated in your letter, and has confirmed that his opinion is unchanged.

26. Otherwise, although non-statutory features, it seems to me that the fact that you have no previous convictions and the fact that you made full admissions both in the '999' call and later in interview are mitigating factors which should also be borne in mind. So, too, is the fact that in your letter to me you appear, now at least, to have some insight as to the enormity of what you did and to be showing signs of remorse.
27. I come, then, to the minimum term which I consider is appropriate in your case. Weighing the aggravating features and the mitigating features against each other leads me to increase from the starting point of 12 years to 18 years. This, however, takes no account of your guilty plea which it is common ground was entered at the first reasonable opportunity, namely after a psychiatric report had been obtained which addressed issues of fitness to plead and any medical defences which may have been available. In the circumstances, there is no issue that you should receive full, one-sixth credit (the maximum available in cases of murder) for your guilty plea. This reduces the 18 years to 15 years.

[Stand up, Rueben Brathwaite]

28. I sentence you in respect of the murder of Fiona Scourfield to detention at Her Majesty's pleasure with a minimum term of 15 years. From this must be deducted the 189 days that you have spent on remand in custody for this offence. The victim surcharge must also be paid.
29. It is important to emphasise, so that you and the public can understand the position, that the minimum term is just that - a minimum period which must be served before you are considered for release. After it is served, there is no guarantee that you will be released at that time, or at any particular time thereafter. It is then only if the Parole Board decides you are fit to be released that you will be released. Moreover if, and when, you are released you will remain subject to licence for the rest of your life.