

The Hon. Mrs Justice May DBE

REGINA

-v-

STEPHEN NICHOLSON

SENTENCING REMARKS

On 25 July 2018 Lucy McHugh was brutally murdered. She was 13 years old. Her body was found in woodland at Southampton Sports Centre by a man walking his dog early the next morning. She had been stabbed in the neck and elsewhere as she lay on the ground.

The defendant, Stephen Nicholson, has been convicted of murder, together with 3 counts of rape and 1 count of sexual activity with a child. The 3 counts of rape concern three occasions of penetrative sex with Lucy, oral and vaginal, when she was aged 12. The jury found Nicholson not guilty of count 5 charging multiple occasions of vaginal penetration with Lucy after her 13th birthday. Earlier in the trial, on a defence application which was unopposed by the prosecution I directed the jury to return a not guilty verdict on count 6 charging multiple occasions of oral penetration with Lucy after her 13th birthday.

The jury further convicted Nicholson of count 7 being an offence of sexual activity with a child, involving a separate complainant to whom I shall refer as AB. Under the provisions of the Sexual Offences Amendment Act 1992 no details may be published about a person during their lifetime which may identify them as having been the victim of a sexual offence, hence the use of initials.

Lucy

Any sudden death is a tragedy, but the violent death of a child is particularly shocking. A future full of unknown promise cruelly obliterated; all that potential unrealised. Lucy was described by her teachers as bright, bubbly, intelligent, eager to learn. In the course of her evidence Lucy's grandmother said their nickname for her was "Brains" because she was so quick.

But as a girl on the brink of her teens Lucy was also vulnerable and newly romantic; easy prey for someone with an interest only in satisfying his own appetites and no regard at all for the age of a girl who seemed to him to be sexually available.

The man who took Lucy's life was just such a person. Nicholson was 24 in July 2018. Lucy's mother Stacey and her partner Richard had allowed him to stay in their house. He had lodged with them since May 2017. Nicholson's mother only lived down the road, but he and she had fallen out. Richard was Nicholson's best friend at the time; Stacey had got him a job at her place of work, a company providing home care to the elderly.

Nicholson kept at the family home his collection of pet reptiles, including at one point a 9ft boa constrictor, a tarantula and two chameleons, also his tattooing equipment. He himself has extensive body decoration. It is not difficult to understand how he captured the attention of an impressionable young pre-teenage girl. It seems that Lucy developed a crush on Nicholson, shortly after he started to live with her family in 2017. She was 12. Instead of kindly rebuffing her, keeping his distance or indeed moving out, Nicholson encouraged Lucy and cynically exploited her interest in him. She was available, in the house, in the bedroom opposite his, and he took full advantage.

Notes written by Lucy found after she died tell the full story of their relationship: at once pathetically heartfelt and stomach-turningly explicit, the notes give details of the loss of her virginity to Nicholson in May 2017, the repeated sex between them which followed, and the emotions which Lucy experienced throughout. In one which shows a touchingly intelligent understanding on the one hand and fateful inexperience and naivety on the other – she was only 12 at the time - Lucy tells Nicholson that "*whatever this is*" between them has to end; clearly it did not. The mix of mature insight and sad confusion in this and other notes which Lucy wrote serves powerfully to demonstrate why there is a need for an age of consent and why it is set at 16.

Nicholson's decision to kill Lucy

The jury by their verdicts were satisfied that Nicholson used and abused Lucy sexually. She had made no secret of their relationship to friends at school. Hearing reports from pupils, Lucy's teachers were naturally concerned. Although Lucy denied any sexual relationship to her teachers, they immediately did the right thing, referring their concerns to the local Multi-Agency Safeguarding Hub, first in 2017 then again, after Lucy had moved to a different school, in 2018. The evidence at trial did not cover what enquiries social services made each time, all the jury learned was that the team had investigated and had found nothing to concern them. The obvious question is how social services could have arrived at that conclusion, not once but twice, given what Lucy was telling her friends at the time, and what Nicholson is now known to have done with her in the family home.

It is clear from her notes and from what Lucy told her older cousin that her relationship with Nicholson had become a terrible burden to her by May/June 2018, possibly long before. He was violent to her, Lucy told her cousin, and she was scared of him. At home, Lucy and Stephen were often arguing. He spoke about her, a 13-year-old child, in unkind, abusive and derogatory terms. At times he was incandescently angry at Lucy, shouting in her face, calling her a "*cunt*". Though so young, Lucy seems to have stood up to him, telling him on the Sunday before she died that it "*was his fault*" and that she "*had a hold over [him]*". That weekend her mother and Richard, tiring of the arguments and with a new baby in the house, had asked Nicholson to leave; he went to stay at a friend's, then at his mother's down the road. He left all his stuff and his reptiles at Richard and Stacey's house. That same night Lucy told Richard that she wanted to tell her mother and him something, but her mother came home late after Lucy was asleep and the moment passed.

On Tuesday 24 July Nicholson did not work a full day, instead calling in sick at lunchtime. He told the office that he had sickness and diarrhoea. As he would have known, it was company policy for carers to remain off for 48 hours after the last symptoms had passed, to minimise the risk of infecting frail or elderly clients. Nicholson was not sick: that afternoon he cycled up to the flat of an elderly man whom he knew in Curzon Court, right beside the Sports Centre. The flat was dirty and cluttered with old clothes, papers and magazines. Nicholson was there for some 3 hours; I have no doubt he spent the time planning how to go about removing Lucy

from his life. She had ceased by then to be of interest to him as a compliant object for his easy sexual gratification and had instead become a serious obstacle to his continuing comfortable life at the family home, where he had a base for his tattooing and a place for his collection of dangerous reptiles. There was also the real risk of Lucy making good her threat to reveal his abuse of her to her mother and Richard, “outing” him as a paedophile. So far as Nicholson was concerned, Lucy had to go.

Whilst at Curzon Court that Tuesday afternoon, Nicholson ordered a pair of new trainers for delivery first thing the next morning. He probably also dug out of the piles of old clothes a disposable outfit in which to murder Lucy the next day.

Only Nicholson knows exactly what was said in communications between him and Lucy on the evening of Tuesday 24 July and first thing on Wednesday morning 25 July over Facebook Messenger. He deleted the written messages soon after reading them; the last was a conversation. At 8.15am on Wednesday Nicholson cycled from his mother’s home to the flat at Curzon Court arriving at around 8.30. At around 9am he took care to make a trip to the nearby Tesco Express, to be captured on the store CCTV wearing clothes other than those in which he was to murder Lucy shortly afterwards.

Just before 9, very soon after she had spoken with Nicholson over Facebook Messenger, CCTV captured Lucy leaving her home and starting out on the half hour walk up to the Sports Centre. She made the journey on her own. She had no phone. She can be seen walking purposefully, looking at her watch, taking off her jacket, carrying a bottle of energy drink. It was a hot day. Those CCTV clips are terribly moving to watch now, knowing that she was walking to her death. The last piece of any known footage of Lucy is at 9.30 when she was captured walking past the same Tesco Express that Nicholson had visited half an hour before. A woman walking her dog in the Sports Centre around 10am saw a girl matching Lucy striding past her, in a straight line, going up to the top cricket pitch. It was the last time Lucy was seen alive by anyone other than her murderer.

Clearly she was going to meet Nicholson, pursuant to an arrangement made the previous evening or early that morning. Perhaps she thought that he was going to resume their relationship, to show kindness, or even affection. Nicholson took her into the woods to the side of the top cricket pitch and there, deep into the foliage off one of the paths, he stabbed her to death. The pathologist noted that Lucy had some stab

wounds on her arms and wrists which could have been defensive ones, as if she had tried to protect herself. There was one anomalous incised wound right across her wrist, as if the murderer had tried to make it look like Lucy cut herself. There were some 27 cuts and stabs in all, most to Lucy's face and neck. Those that killed her were a collection of 4 or 5 repeated stab wounds, all in one place to the right side of her neck. These cut her carotid artery leading to sudden high-pressure blood loss, unconsciousness and, very soon after that, her death.

After he had killed her, Nicholson returned to the flat at Curzon Court before cycling home. He detoured from his usual route to dump the outfit in which he murdered Lucy, stained with her blood, deep in bushes beside the stream in Tanners Brook.

Later that day he pretended to commiserate with Stacey over her worry about her missing daughter; on Thursday he appeared horrified and concerned for her and Richard when the body was found. But in the meantime he burnt his old trainers, disposed of his phone and changed his Facebook password. He was arrested on the Friday evening, but the Motorola handset taken from him then had only been in use for 24 hours. Nicholson told the police in interview that on the day of Lucy's death he had cycled to and from the flat in Curzon Court by the straight route on the main Coxford Road. He said nothing to the police then or later about any detour to Tanner's Brook.

Policework

Nicholson's true route home on 25 July was eventually uncovered in a groundbreaking piece of inspired and careful detective work which involved obtaining data from the cloud. The police did not then have Nicholson's Samsung phone – months later they discovered it hidden in his brother's locker at work – but were able to obtain the location data associated with it. Plotting the longitude and latitude points from that data showed that Nicholson had not returned home on the 25 July by the straight route as he had said, but instead had detoured down through Tanner's Brook. Once they knew that, police began a massive fingertip search in that area and on 30 August 2018 that search bore fruit: a partially burnt Tesco bag with rolled up bloodstained clothing which produced forensic results linked to Lucy. It was the murderer's outfit. DNA and fibre results strongly pointed to that outfit having been worn by Nicholson.

The work of the Major Crime Team of the Hampshire Constabulary throughout this investigation has been exemplary. It is perhaps invidious to pick out some rather than others but the following people deserve particular commendation: DS Bryan Carter, overall case manager, DC Robert Cross, officer in the case, DC Bethany Ford in charge of disclosure, Nathan Wright the investigator responsible for the cloud data gathering, and lastly Elizabeth Dobson, the analyst whose work led the police to Tanner's Brook.

I would also like to commend the Family Liaison Officers. Their work is always demanding, but particularly so in a case like this: DC Kayleigh Rush, DC Geoff Pike and DC Mariette Ladd.

AB

There are inevitably, many strands which make up a circumstantial case. Here, one of those strands concerned an event in 2012, which was not reported at the time and which only came to light as a result of all the publicity surrounding Lucy's terrible murder. AB, now 22, was 14 in 2012. She and her friend had arranged to get a tattoo from Nicholson, which he agreed to do even though they were underage and did not have consent from their parents. AB and Nicholson started to chat online, and the conversation became more flirtatious. He asked if she would have sex with him and she agreed. Nicholson took AB up into the woods at the Sports Centre, to a spot within about 50m of where Lucy was murdered 6 years later and there they had sex. He was 18, she was 14. This event was the subject of the last count on the indictment. Having seen reports of Lucy's murder and where her body was found, linked to photographs of Nicholson, who was then a suspect, AB came forward and reported what had happened to her. Nicholson denied it, but AB was able to give a very clear description of the inside of the flat at Curzon Court, where he had taken her first before leading her into the woods at the Sports Centre. The underage sex with AB, and the location where it happened, provided further support for Nicholson's involvement in Lucy's murder, if the jury were sure that AB's account was correct; by their verdict, they were.

Effect on others

Every crime of murder not only ends one life but grievously harms so many others. Statements from Lucy's father and Lucy's mother, which I have read closely this morning, speak to the terrible impact on the whole family of her death.

They have the sympathy of the court. Their dignity and restraint throughout the many distressing passages of evidence in this case have been commendable. No sentence of the court can compensate for their loss, and it should not be thought that the sentences I must shortly impose are in any sense an attempt to value Lucy's life.

Mandatory Life Imprisonment and Minimum term

The sentence for murder is fixed by law. It is a life sentence. The court must also specify the minimum term which the defendant must serve before he can be considered for release on licence. It is important to emphasise, so that the defendant and the public can understand, that the minimum term specified by the court is no more than a minimum: there is no guarantee that a defendant will be released when the minimum term has expired, or indeed at anytime thereafter. Moreover, if and when he is released, he will remain subject to licence for the rest of his life and may therefore be recalled to continue serving his life sentence if he re-offends. It is in those ways that a life sentence protects the public for the future.

In deciding the appropriate minimum term in each case, the court is required to follow the provisions of schedule 21 of the Criminal Justice Act 2003. That schedule establishes a starting point. It then sets out non-exhaustive lists of aggravating and mitigating factors which may cause the court either to increase or to reduce the minimum term from that starting point. The court must also reflect in the minimum term the seriousness of the other offences of which the defendant has been convicted, as the custodial sentences for those offences will run concurrently with the life sentence.

Application of Schedule 21 to this case

The Crown suggests that the seriousness of this offence, taken together with the associated sexual offences, is "particularly high", engaging a starting point of 30 years under paragraph 5 of Schedule 21. Alternatively that, as the defence accepts, the starting point should be one of 25 years under paragraph 5A by reason of the fact that Nicholson took a knife to the scene.

Paragraphs 5 and 5A give the starting points, but neither would by any means be the end point, as aggravating and mitigating features then need to be considered and balanced out in arriving at the final term.

In this case, both routes in my view lead to the same end result.

Aggravating factors

There are a number of aggravating features:

- (i) Lucy was particularly vulnerable because of her age.
- (ii) The evidence at trial established, so that I am sure, that there was a significant degree of planning and premeditation involved in Lucy's murder. Nicholson chose an outfit to be disposed of later, took and used gloves, ordered a new pair of trainers and arranged in advance to meet Lucy at the Sports Centre.
- (iii) Although death following the severing of her carotid artery would have been swift, there were defensive wounds on Lucy's arms. She would have been aware, for at least some minutes before she lost consciousness, that Nicholson intended to kill her, not to resume a relationship with her. She must have suffered, mentally and physically, albeit mercifully briefly.
- (iv) the attack was particularly ferocious and brutal, having regard to the number of wounds and their location in Lucy's neck.
- (v) Nicholson made various attempts to burn or hide physical evidence and to keep phone and Facebook data from the police.

So far as the rapes are concerned, in my view each falls into Cat 2A of the applicable Guideline which has a starting point of 13 years, range up to 17 years. Section 236A applies to those offences, requiring the imposition of a 1-year extended licence; had they stood alone I would have imposed a sentence of 17 years plus the s.236A extension for the 3 offences together. Given the life sentence that I must pass, however, and the length of the minimum term, s.236A is of no practical effect in this case.

The offence against AB dating from 2012 falls into Cat 1B, starting point 1y, range up to 2 years. I bear in mind that Nicholson was himself barely an adult at the time. Had this offence stood alone I would have passed a sentence of 9 months.

I have had in mind the principle of totality when considering all the offences together.

Nicholson has relevant previous offences, albeit dating back to when he was himself a child. The first was in 2009 when he was aged 14. Coming back late to his children's home on amphetamines one night he took adult staff members hostage, threatening

them with knives, holding one to the throat of a female staff member. He corralled staff and children into a room, locked them in, stole over £1000 from the safe holding another resident at knifepoint and drove off in a staff car. He received a 24-month detention and training order. Whilst being held in a YOI he and two others barricaded themselves inside the servery there, caused £1000s of damage and then attacked staff, repeatedly stabbing at one of them with sharp implements taken from the servery. These offences show that Nicholson was clearly no stranger to the carrying, and use, of knives.

As to mitigation for the offences against Lucy, there is none. This was a pitiless attack on a child following months of sexual exploitation. The prosecution has described it as an “execution” and I am satisfied that that is an appropriate term for what Nicholson did. The combination of his cold narcissism and hot anger dictated that Lucy should be put out of his way and he saw to it that she was.

The days which Nicholson has served on remand will be deducted from the minimum term; I am told that the number of days is 140, if that proves to be inaccurate it can be amended administratively.

There will be the necessary victim surcharge order which the court will draw up.

SENTENCE

Stand up please. Stephen Nicholson, on the morning of 25 July 2018 you murdered Lucy McHugh, having sexually exploited her in an utterly selfish and depraved way. She was a 13-year old child. Your selfishness and savagery have blighted her family’s lives forever.

The sentence is one of life imprisonment. You will serve a minimum term of 33 years, less the 140 days you have spent on remand. After that it will be for the Parole Board to determine whether, and if so when, you should be released. If and when you are released you will remain on licence, liable to recall if you commit any further offences or breach the terms of that licence, for the rest of your life.

There will be concurrent determinate sentences of 17 years for each of the rapes on Counts 2 to 4 and 9 months for the offence of sexual activity with a child under Count 7.

I DIRECT that a transcript of these sentencing remarks be attached to your file for the benefit of the Parole Board.