



JUDICIARY OF
ENGLAND AND WALES

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KEVIN FLANAGAN AND KATHLEEN SALMOND

SENTENCING REMARKS OF MRS JUSTICE CARR DBE

The victim surcharge will apply as appropriate.

Introduction

Kevin Flanagan is now 39 years of age. He stands convicted by the jury of the murder of Lisa Bennett on 9/10 May 2013 and on his guilty pleas entered in July of this year to the prevention of the lawful burial of her body, and fraud in relation to her state benefits.

Kathleen Salmond is now 40 years of age, and stands convicted by the jury of the murder of Lisa Bennett on 9/10 May 2013, the prevention of the lawful burial of her body, and fraud in relation to her state benefits.

I now sentence them for these offences. Both of them have refused and waived their right to attend. Neither has the courage to face the court or the full consequences of their actions in public or in particular the courage to face Lisa Bennett's family.

The facts

At the time the two of them were in a very close relationship and living together in a ground floor flat in Kingston Court, Weoley Castle. They were both habitual drug users, living off state benefits and money from selling drugs when they could.

Lisa Bennett was 39 years old and had recently left prison, where she had met Kathleen Salmond. Through Kathleen, she met Kevin Flanagan. Lisa Bennett was vulnerable, as both defendants knew. She was homeless, living off state benefits, in poor health and addicted to drugs and alcohol. As her mother said, people would befriend her because of the extra money she received in benefits.

The three of them would take drugs together in the flat occupied by Kevin Flanagan and Kathleen Salmond. Lisa Bennett would also drink alcohol, as would the defendants on occasion. In the days and weeks leading up to her death, on the evidence, it is clear that Lisa's presentation and lifestyle deteriorated. She was more subdued and unkempt than usual and had pawned not only jewellery but also, in the company of the defendants, her telephone handset.

At the time of her death, Lisa Bennett was staying with the defendants in their flat. During the day on Thursday, 9 May 2013 the three of them went out, Lisa Bennett to collect her daily medication. They then returned to the flat. During the night of 9/10 May 2013 Kevin Flanagan and Kathleen Salmond killed Lisa Bennett. Whether or not they first administered drugs to her, they both drowned her in the bath, as Kevin Flanagan confessed to his elder brother later that year. I am sure that at the time they both intended to kill her. Having done so, they disposed of her body by putting her in a communal wheelie bin outside their flat. Over the following days, they also disposed of her belongings. The next Wednesday her body was collected and incinerated alongside general community waste. She has never had a burial and her family never a grave to visit. I do not accept that they acted out of sheer panic, as Kevin Flanagan suggested in his evidence. Rather, in concealing and disposing of the body, the defendants were motivated by self-interest and self-interest alone.

I am sure that the defendants' motive to kill was gain, namely to divert Lisa Bennett's state benefits into their own coffers, in particular to support their drug-taking. That was the prosecution case before the jury from the start to finish of the trial. If, in line with the confession, Lisa Bennett expressed suicidal thoughts, it was the expectation of financial gain that nevertheless drove their actions. I do not consider that anything that Lisa Bennett may have said at the time in terms of wanting to die mitigates their offending which, as indicated, was driven by greed. The defendants were intimately involved in Lisa Bennett's financial affairs, visiting pawn shops with her and having access to all of her personal details. Their lives revolved around money, the next benefit cheque and how to fund their next fix.

Moreover, the very next working day, Monday 12 May 2013, they carried out their intention. That is powerful evidence of their motive. Kathleen Salmond made a long call to the Department of Work and Pensions pretending to be Lisa Bennett, with her personal details ready to hand, when she knew that Lisa Bennett was dead. During that call, and a second on 23 May 2013, Kathleen Salmond secured the payment of all of the benefits into an account in her name. The bank statements show how they then withdrew the benefits immediately upon payment.

The defendants' motive to conceal and dispose of Lisa Bennett's body was to cover up their crime and to allow them to steal Lisa Bennett's benefits.

They both engaged in a sophisticated web of lies to pretend that Lisa Bennett was alive – again to divert police attention away from them and so that they could take her benefit monies for themselves. With breath-taking cruelty they sent false texts not only to Lisa Bennett's own number but also to Lisa's contacts, and in particular to her mother, suggesting that Lisa Bennett was still alive. Whilst Kevin Flanagan sent most of the texts, I am sure (from their content and style, and as Kevin Flanagan stated,) that Kathleen Salmond also sent some of the false texts and would have been aware of Kevin's actions, as he was aware of hers. They were both well-versed in using Lisa Bennett's telephone number when they wanted or needed to.

They also both lied repeatedly to the police in what were common lies. The lies were broad and deep. Kevin Flanagan was quite prepared to point the police in the direction of innocent others, including one man in particular, in an attempt to deflect attention from himself. Even after the benefit payments stopped in October 2013 (and then only after the intervention of a third party), they continued the lies that Lisa Bennett was alive and that her money was being collected by someone on her behalf. The defendants' total gain amounted to just under £4,900. Whilst not vast,

these monies would have significantly facilitated their drug-taking lifestyle. And they no doubt hoped at the outset that it would continue and be greater.

This was a true joint enterprise involving violence and exploitative deception with tragic consequences. It was suggested for Kathleen Salmond during the course of trial that she was the victim of domestic violence and abuse at the hands of Kevin Flanagan. Kevin Flanagan strongly denied this, although he refused to continue his evidence during cross-examination; Kathleen Salmond chose not to give evidence at all. There has been no hard evidence of any physical or mental assault on her at any time at the hands of Kevin Flanagan. Kevin Flanagan denied controlling her finances in any way that was unwanted. I am not prepared to infer such a possible imbalance in their relationship from such evidence as there was on the topic. The evidence from Joseph Flanagan and Richard Salmond on the nature of their relationship was vague and/or based on only very limited exposure. Kathleen Salmond has shown herself to be capable of being independently manipulative.

Both defendants have previous convictions, though not for anything as serious as these offences. Kevin Flanagan has 19 previous convictions for 65 offences dating back to 1996 including for theft, robbery and burglary. In 2015 (and so after these events) he was convicted of robbery and having a bladed article in a public place. Kathleen Salmond has 4 previous convictions for 10 offences dated back to 2010 including for assault, battery, burglary and theft.

Victim personal statement

It is clear from the telephone schedules and the evidence of Lisa Bennett's mother, that, despite all their differences, Mrs Bennett adored her daughter. She and Lisa Bennett's father have sat through every day of this trial. As she puts it, she loved Lisa with all her heart. They were in frequent contact and Mrs Bennett would send her money from time to time. She hoped that her daughter would be able to turn her life around. That chance was taken away from her. Lisa was a kind, caring, loving and generous person who went down the wrong track.

When Lisa Bennett disappeared, her mother's anxiety is evident from the number of texts and attempts to call her daughter in the following days and months. Mrs Bennett says that she was living in hope that Lisa was still alive and well. In the end, nothing could be worse than being murdered; but for Lisa Bennett there was more – her body was thrown away like a piece of rubbish. Her family has not been able to bury her, have a grave to visit, or a place to go and talk to Lisa Bennett. No length of time will change the heartache that Mrs Bennett feels.

Kevin Flanagan: aggravating and mitigating features

By way of aggravation on the count of murder, I take into account the concealment of Lisa Bennett's body and the callous manner of its disposal and the shocking false texts and lies to the police.

By way of mitigation, there is evidence that a childhood experience has led to the need for psychiatric treatment as an adult and may have played a part in the development of his drug addiction. I do not consider that he has shown any genuine remorse for what happened to Lisa Bennett or her family.

Kevin Flanagan pleaded guilty to counts 2 and 3 in July 2019. I allow him credit of around 20% on those counts accordingly.

Kathleen Salmond: aggravating and mitigating features

By way of aggravation on the count of murder, I take into account the concealment of Lisa Bennett's body and the callous manner of its disposal, the shocking false texts and lies to the police.

As for mitigation, Kathleen Salmond had a tough upbringing, with much of it in care. I am told that she has suffered serious domestic violence in previous relationships. Her relationship with Kevin Flanagan was dysfunctional, involving drink, drugs and possibly on occasion violence. She has a history of taking overdoses. There is no suggestion for her of any insight or remorse into this offending.

I also take into account her health. As set out in a report of Dr Rafiq, she suffers from incomplete tetraplegia due to a cervical spinal cord injury following a suicide attempt in July 2013. She has power and movement in her upper arms. Her fingers are left in a tight grip and sensation in the upper arms is variable. She can, however, roll a wheelchair, pick up and answer a mobile telephone. She has a heart pacemaker and suffers from low blood pressure which can lead to light-headedness. She also suffers from bowel problems, recurrent chest and urine infections. According to Dr Kumar, she has a mixed anxiety and depressive disorder.

A serious medical condition (even when difficult to treat in prison) will not automatically entitle an offender to a lesser sentence than would otherwise be appropriate but may enable a court, as an act of mercy, to impose such a sentence (see *R v Bernard* [1997] 1 Cr App R (S) 135). A sentencing court does not need to enquire into the prison facilities for treatment but should assume that the prison authorities will be able to deal with any particular disabilities that an offender may have (see *R v Qazi* [2010] EWCA Crim 2579; [2011] 2 Cr App R (S) 8).

Whilst I propose to make some discount to reflect these medical difficulties, it is to be noted that her disabilities are conditions that would very significantly affect her life outside a prison establishment, as well as inside. Nevertheless, a custodial sentence may weigh more heavily on her than on others.

Sentence

I am obliged by law to sentence each of the defendants to imprisonment for life on the count of murder of which they now stand convicted and I do so. I then have regard to Schedule 21 of the Criminal Justice Act 2003 and the scheme within it. That scheme is a flexible one, with a just outcome in each case depending on the specific facts and circumstances of the offending. Detailed consideration of aggravating or mitigating factors not taken into account for the purpose of fixing the starting point can result in a minimum term of any length whatever the starting point (see paragraph 9 of Schedule 21). The examples given against each starting point are illustrative and not exhaustive. Each case will always turn on its own facts.

I take into account the principle of totality. I propose in each case to treat the offence of the prevention of lawful burial as an aggravating feature of the lead offence of murder and to pass concurrent sentences. As already indicated, the offence of fraud is bound up in the starting point to be adopted on the murder. (In so far as it is necessary to have regard to the Sentencing Council's Definitive Guideline for Fraud Offences, this was high culpability offending (given its sophisticated nature of offence and that the fraud was conducted over a sustained period of time) and harm category 5 (but at the very top end) with no adjustment for victim impact.)

I am satisfied that the seriousness of the offences of murder was particularly high, being done in the expectation of gain as a result of the death. I bear in mind that the starting point of 30 years for such a level of seriousness covers a broad range of offending. However, I am satisfied that the appropriate starting point in the case of each defendant is 30 years. This was clear murder for gain falling within the spirit of paragraph 5(2) of Schedule 21. The context of the offending, including the fact that the gains made were not huge, is something that can be taken into account when arriving at overall sentences that are, in my judgment, just and proportionate to the offending in question.

This very high level of starting point carries with it the essential gravitas of their overall offending. It encompasses the fraud. There are then the further aggravating and mitigating features to consider.

Kevin Flanagan: minimum term

Having regard to all the aggravating features and all the mitigating features in his case, I consider the appropriate minimum term on the count of murder to be 32 years.

On the count of prevention of lawful burial, I impose a sentence of 4 years and 10 months' imprisonment after credit for guilty plea, and on the count of fraud a sentence of 8 months' imprisonment after credit for guilty plea. Bearing in mind the principle of totality and the need to avoid double-counting, these sentences are to run concurrently to the minimum term for murder.

This is the minimum term which he will serve in custody, before the Parole board may consider his possible release. Time spent on remand in custody, which is now 2 days, will be deducted from this minimum term, producing the final minimum term of 31 years and 363 days. If this is incorrect, it can be altered administratively.

Kathleen Salmond: minimum term

Having regard to all the aggravating features and all the mitigating features in her case, I consider an appropriate minimum term on the count of murder to be 27 years.

On the count of prevention of lawful burial, I impose a sentence of 6 years, and on the count of fraud a sentence of 10 months' imprisonment. Bearing in mind the principle of totality and the need to avoid double-counting, these sentences are to run concurrently to the minimum term for murder.

This is the minimum term which she will serve in custody, before the Parole Board may consider her possible release. Time spent on remand in custody, which is now 29 days, will be deducted from this minimum term, producing the final minimum term of 26 years and 336 days. If this is incorrect, it can be altered administratively.

In my judgment these minimum terms accurately reflect the seriousness of their offending in context and taking account of the statutory starting point and all relevant aggravating and mitigating factors. It is important that they – and everyone concerned with this case – should understand what their sentences for murder in fact mean. The minimum term is not a fixed term after which they will automatically be released but the minimum time that they will spend in custody before their cases can be considered by the Parole Board. It will be for the Parole Board to say at that time whether or not they will be released. If it remains necessary for public protection, they will continue to be detained after that date. They may never be released. If they are released they will be subject to licence and this will remain the case for the rest of their lives. If for any reason their licence were to be revoked, they would be recalled to prison to continue to serve their life sentence in custody.

