



JUDICIARY OF
ENGLAND AND WALES

AT THE CENTRAL CRIMINAL COURT

THE QUEEN

-v-

DAVEY EVERSON & KIRSTY BURDETT

SENTENCING REMARKS OF MRS JUSTICE CHEEMA-GRUBB DBE

1. Davey Everson you have been convicted of the murder of Millie-Rose Burdett who was just two months old when she was taken to hospital having collapsed while in your care. Kirsty Burdett you have been convicted of allowing the death of your own baby girl. Both of you have been also been convicted of cruelty towards JJ Burdett, Kirsty's son, a toddler aged just 3.
2. The facts are stark. The two of you entered into a relationship in the summer of 2018 when you, Kirsty were pregnant by a previous partner. Your relationship quickly became intense. You were both hot-headed as your text conversations show. You would argue fiercely and then make up. When Millie-Rose was born in October you, Davey expressed the intention to step in and be a father to her. But even before that date your violence towards JJ had been reported to Social Services and soon both children were treated as in need. You appeared to wish to cooperate with the assessments being done on your family. Davey Everson you said you wanted to take part in parenting courses. You were both given advice by a phalanx of social workers, health visitors, a senior family support worker and mid-wives. Your mother Kirsty, Julie Burdett was round almost every day after Millie-Rose came home from hospital on 16 October.
3. You had many sources of help. But all your promises were empty talk because you Davey Everson had a short fuse, which you described as anger management issues. You continued to treat the children roughly and used inappropriate, excessive force when holding, playing with or feeding Millie-Rose. She was a young baby and she cried. You caused bruises to her tiny cheeks on more than one occasion, you caused her mouth to bleed by pushing the bottle in hard. You swore at her when she was struggling with a large teat on her bottle. Most gravely, I am sure that you were responsible for 12 separate anterior complete rib fractures the infant suffered when she was about four weeks old. The mechanism by which you did this you have never revealed. In the opinion of Professor Mangham, the expert musculo-skeletal pathologist you are likely to have compressed her chest hard in an attempt to stop her crying. This must have been obviously excessive force which I am sure you would have recognised was no way to treat a tiny baby. You kicked JJ so that his feet left the ground, you would drag JJ around, one day in early December, sulking and angry after your football team had lost a match you shoved JJ into the car, hurting him.

4. The evidence shows that you, Kirsty loved your children, you took Millie-Rose to the doctor in November when you were concerned that she was crying excessively for a week although neither the GP nor the hospital discovered the broken ribs. But at the same time and subsequently, you covered up for your boyfriend, you lied to your mother, to social services and eventually to the police. What you finally admitted to the police after your arrest, that you knew Davey was being violent to your children and taking his anger out on them, was not enough for you to try to protect them from him. You told the police that Davey was horrible to JJ, hit him, hit his head and kicked him, that he was do something to your son every weekend. You could have protected your children. You had family nearby, he didn't live with you every night, the police had even been called to a domestic incident after which you decided to take him back. You knew this young man was immature and incapable of coping with young children and you claimed that you wouldn't leave him alone with them but in reality you didn't care enough to remove them from the risk he obviously posed of causing them serious harm. Put simply, you put your own interests before those of your children.
5. On 6th December you had an argument evidenced by texts exchanged between you. One of the things that upset you, Davey Everson was that Millie-Rose was beginning already to resemble her biological father and this riled you. You told Kirsty so and indeed, you told Julie Burdett too. I am sure that in your mind this was a personal rebuff to you and being a father figure to the child was no longer such an attractive prospect. JJ you had never clicked with, you demonstrated a thoughtlessness towards him even when social workers were present.
6. On 14th December the two of you argued again. Kirsty you later told the police that you were intending to end the relationship but at that time you needed Davey Everson's money to buy food. He came over and the following morning he caught JJ opening a Christmas present and slapped the boy hard to the face. He cried. You argued loudly and your neighbour heard shouting and screaming but then you both went out shopping together with the children. When you returned Millie-Rose needed a feed. Despite his treatment of JJ that morning, the ferocity of the argument you had had and all you, Kirsty Burdett, knew of how he treated Millie-Rose you left him alone to feed her. Davey didn't want to give her the feed, he was getting ready to lie in bed and watch a film but he took the baby and you went into the bathroom to use the toilet and look at your phone. You have given inconsistent accounts of what you said and heard thereafter but what is clear is that within no more than 20 minutes or so Millie-Rose was fatally injured by your boyfriend. He brought her into you and she was floppy in his arms. She never recovered consciousness. Despite the dedicated and persistent efforts of the emergency services that afternoon, and the intensive paediatric care she received at Watford General Hospital and Kings College Hospital Millie-Rose died on 11 January 2019. She was barely 3 months old even then. The impact statements from her father and grandmother speak of the real blow of her loss.
7. What happened in the time she was left alone with you Davey Everson you have not revealed. You lied to Kirsty and the police claiming, variously, that Millie-Rose had choked and lost consciousness while you were feeding her, or while you were winding her. You claimed to have tried to resuscitate her before taking her into the bathroom where Kirsty called 999. The truth is that there was no reason

for her to have lost consciousness without assault and no medical reason for her collapse except that by that time you had shaken the baby violently leading to severe brain damage and, either while doing so, or separately, fractured over a dozen of her ribs, both to the front and back. You had caused 4 wedge fractures to her spine which would have required severe force. You caused fractures to both her legs which require pulling apart forces on either side of the site of fracture. You didn't once admit doing any of this and you even denied that you had shaken her when asked directly in interview.

8. The jury has found that you intended to cause Millie-Rose really serious harm. I sentence you on the basis that you were angry with a baby who was either crying or otherwise not doing as you wanted her to do. I am sure that you didn't just shake her briefly in frustration and I am also sure that you didn't do all the damage to her that I have summarised because you lost your self-control for a few moments. The evidence is of a more deliberate and more extensive assault. I am sure that you inflicted at least three separate assaults, the shaking whilst squeezing her very hard around her ribs, the forced bending of the spine and the leg fractures. You have expressed no remorse.
9. Who are you Davey Everson? You are 23 years of age having been born on 23 March 1997. You were 21 at the time of the murder. You have no previous convictions, cautions or reprimands. You have mild learning disability and you have had Attention deficit hyperactivity disorder since childhood. You do casual work as a labourer or removal man and you had previous experience of baby-sitting young children successfully, although not babies.
10. The sentence for murder is fixed by law. It is life imprisonment that is the sentence I pass. I must fix the minimum term you must serve before you can be considered for parole. Schedule 21 to the Criminal Justice Act 2003 provides the starting point of 15 years. There are aggravating features but I am careful not to double count them:
 - i. Millie-Rose was particularly vulnerable because of her age and you had been trusted by her mother to feed her.
 - ii. You had treated Millie-Rose with disregard for her welfare on a number of occasions before 15 December 2018 despite the warnings and advice of your girlfriend, her mother and professionals. This behaviour included throwing her up into the air, losing hold of her and catching her roughly and squeezing her cheeks with force to cause instances of bruising.
 - iii. In particular, and quite separately to the fatal assault on 15 December, you had caused her acute and lasting pain for half of her short life by breaking 12 of her ribs within the four weeks or so before 15 December 2018. This was a serious, forceful and sustained assault on a tiny baby and requires a significant uplift to the starting point.
11. There is mitigation in your case:
 - i. Your age at the time and immaturity which was attested to by witnesses.
 - ii. Your previous good character.

- iii. I sentence you on the basis of an intention to cause really serious harm rather than to kill.
 - iv. The fact that you labour under the disadvantage of a mild learning disability will mean that custody will bear more heavily on you, and is some personal mitigation, although this does not, in my judgment affect your culpability whatsoever. The Guideline on Sentencing Offenders with Mental Disorders, Developmental Disorders or Neurological Impairments contains a great deal of helpful material but, as it states in paragraph 2 “The fact that an offender has an impairment or disorder should always be considered by the court but will not necessarily have an impact on sentencing”. Your impairment did require you to have an intermediary for the trial and I recognise the vulnerability that your cognitive difficulties cause you to experience in the criminal justice system. In regards to the offence however, there was, in my judgement, insufficient connection between the offending and your impairment to affect culpability and you were able to exercise appropriate judgment, make rational choices and understand the nature and consequences of your actions.
 - v. Similarly, you have ADHD and this too will have some impact on the way you manage in custody, particularly in current circumstances which mean you are likely to be confined to a cell for longer periods than usual, but again, I do not consider that you have suffered from ADHD has any significant bearing on culpability given that my judgment is you didn’t kill Millie-Rose in a few moments of loss of control but that you deliberately assaulted her in anger.
12. Taking all these matters into account, overall I judge that the correct minimum term is 18 years imprisonment minus 203 days which you have spent in custody before today. This leads to **17 years & 162 days as the minimum term to serve**. If that figure needs amendment it can be done administratively. This is a minimum term. You may be held for much longer and you cannot be released until you persuade the Parole Board that you are no longer a danger.
 13. On count 3 I apply the relevant guideline. The cruelty to JJ was an offence of lesser culpability and category 3 harm. The sentence is 4 months imprisonment concurrent for totality.
 14. You Kirsty Burdett are now 25 having been born on 6 January 1996 and you were 22 at the time of the offences for which I must sentence you. You have a previous unrelated caution, otherwise you too are of good character. You were Millie-Rose and JJ’s mother. Motherhood is a choice and it carries weighty responsibilities.
 15. On Count 2 Kirsty Burdett I apply the Sentencing Council Guideline for offences contrary to s.5 Domestic Violence, Crime and Victims Act 2004. I conclude that your failure to protect Millie-Rose and so to allow her death was an offence of medium culpability. You were aware that Davey Everson deliberately disregarded Millie-Rose’s welfare repeatedly, despite warnings from your mother, and you and advice from professionals and you failed to protect her from him. Indeed, you berated your mother for contacting Social Services when she was concerned about

the bruises to Millie-Rose's face. This is a high culpability factor. You were able to and did seek help for Millie-Rose, including taking her to hospital at a time when she was, unknown to you, almost certainly suffering from multiple broken ribs. In that sense your care of Millie-Rose was inconsistent and could be good but equally, you did not always welcome the visits and support of professionals intending to help you. Accordingly, overall medium culpability is my judgment. Harm is category 1.

16. The starting point for sentence is 5 years imprisonment within a range of 3 to 8 years. There are two significant aggravating features: the extreme youth of the child whose death you allowed and your efforts to cover up the way that Davey Everson was treating Millie-Rose, including lying to your own mother.
17. By way of mitigation is your lack of previous convictions. You were in an intense emotional relationship which affected your judgment and I am satisfied that as an immature young parent coping with two children, your own longing to be significant in someone's life motivated you to ignore what was happening to your children. I also bear in mind the impact that a custodial sentence will have on you especially in current health circumstances. You are now the mother of two children, JJ who is being fostered and Charlie who was born in January 2020. He is also with foster carers. Family Court proceedings are outstanding. You have had supervised contact with both your sons. The court has been provided with information about the likely impact on your children of imprisonment and the answer is that their relationship with you is so limited and their lives settled with carers that they will adapt well. I have read the letter you have written. You say that you are a very different woman now. You have lost one child to murder and your two other children are not in your care.
18. The sentence is **6 years imprisonment**. You will serve half that period in custody before you will be released on licence for the remainder of the sentence.
19. On count 4 which I consider to be an offence of lesser culpability and category 3 harm I pass a sentence of 2 months imprisonment concurrent for totality.
20. The victim surcharge applies. You may both go down now.

12 February 2021