

R v MATTHEW JONES

Newport Crown Court

Sentencing Remarks – 17 July 2019

1. Matthew Jones, the jury's verdict is that you are Guilty of Manslaughter. I must now sentence you in the light of that verdict.
2. This is a very sad case. Your 15-week old son, Cody, died on 8 December 2016 after an incident which occurred when he was in your sole care at home as his mother and your then partner, Paula Williams, was out helping one of her sisters pack up house. You were alone with Cody for no more than an hour, yet at the end of that period Cody had sustained injuries to his head which were so severe that the next day he died as a result.
3. Your case was that what happened to Cody was an accident. You said that you were holding Cody with your left arm under his bottom and your right arm supporting his back, with Cody's head against your chest, as you were reaching to pick up some teething gel from Cody's cot. As you did this, you maintained, Cody pushed himself backwards away from your chest and landed on the bed on the top of the shoulder and the bottom of his neck with his feet in the air. You said that he, then, bounced off the bed, twisting as he did so, before then landing back on the bed with his forehead as the first point of contact and taking his full weight.
4. The prosecution's case was that Cody died not as the result of any accident but in consequence of the deliberate violence inflicted on him by you as a reaction to Cody crying and your inability to settle him. Their position was that Cody's injuries in the form of multi-focal bleeding in the brain and multiple retinal haemorrhages are consistent not with accident but with shaking and impact and, in any event, either shaking or impact.
5. In support of this case, the prosecution relied upon a wide range of expert medical evidence. The experts - seven in all – spoke with one voice: that what happened was no accident and that what you said happened cannot have happened. The jury's verdict shows that this was also the view which they reached in this case. They rejected your case that Cody merely fell on to a bed from a low height and that he did so by accident. They accepted instead that Cody was killed not because you intended to kill him or cause him really serious harm but because you, his father, essentially 'lost it' when frustrated at

Cody's crying and your inability to settle him. You allowed that frustration, worsened by a tiredness brought about by the long hours which you were working in order to provide for your family, to spill into a temper. It was that temper, previously described by you as a 'white rage', which led to your doing what you did to Cody on 7 December 2016.

6. It is against this background that I must now proceed to sentence you, the father of a young boy described by his grandfather, Michael Williams, as "*a lovely chirpy little chap*". The tragedy is, of course, that Cody died but it is also, obviously, that you as his father find yourself where you now are being sentenced as a result of his death. I appreciate and acknowledge that no sentence which you receive is ever likely to match the sense of responsibility which you feel for your role in Cody dying. You will have to bear that burden, no doubt, for the rest of your life.
7. Others are, quite obviously, so very sadly and so very seriously also affected by Cody's death. His mother, Paula, no longer has the son whom she so obviously loved and to whom she was, in your own words, the "*perfect mother*". I have read with care the dignified and thoughtful statement which she has prepared and in which she describes the emotions which she and all her family have undergone as a result of Cody's death. Nobody could be anything other than moved by what Paula has had to say. Paula's parents and, indeed, your own parents no longer have Cody as their grandson. I have read with equal care the no less dignified and thoughtful letters which your mother and father have each written to me. You are fortunate to have parents like them. Cody's cousins no longer have him as their cousin. Paula's new child will not know the little boy who would have been her older brother. Neither your family nor Paula's family are now able to look forward to seeing Cody grow up.
8. In approaching the matter of sentence, there is no issue that the offence is so serious that neither a fine nor a community sentence can be justified. The sentence which I will pass will be the least that can be imposed having regard to the seriousness of the offence.
9. Nor, I am satisfied and to be clear, is there any issue that you are not 'dangerous' for the purposes of the Criminal Justice Act 2003. The sentence in your case will, therefore, be a determinate sentence.
10. In fixing the length of that determinate sentence, I must have regard to the Sentencing Council's Manslaughter Definitive Guideline. This requires me, when dealing with a case of 'unlawful act manslaughter', first, to assess the level of culpability.

11. In your case, there can be no suggestion that ‘very high’ culpability is involved. This is not a case in which there is, in the words of the Guideline, *“the extreme character of one or more culpability B factors and/or a combination of culpability B factors”*.
12. Mr Paul Lewis QC, for the prosecution, submits that this is a Culpability B case and so which involves ‘high culpability’. He highlights in this regard the Guideline’s reference to cases where death was *“caused in the course of an unlawful act which carried a high risk of death or GBH which was or ought to have been obvious to the offender”*.
13. Mr Richard Smith QC, on your behalf, acknowledges the applicability of the factor highlighted by Mr Lewis QC. He submits, however, that yours is a case which is nonetheless at the lower end of Culpability B - nearer to the top end of Culpability C.
14. I agree with Mr Smith QC about this. You did not intend to cause Cody harm falling just short of grievous bodily harm – one of the other factors indicating higher culpability. Mr Lewis QC, indeed, does not suggest that you did. As I have already observed, what happened was the result of a loss of temper in the face of Cody’s crying and as a result of your frustration at not being able to settle him.
15. Nor, clearly, however, and as Mr Smith QC recognises, is this properly to be regarded as a Culpability D or ‘lower culpability’ case where death was caused in the course of an unlawful act *“where there was no intention by the offender to cause any harm and no obvious risk of anything more than minor harm”*. When you did what you did to him, you must have intended, however momentarily but in a temper, to cause Cody some harm. Nor is this a case where it can be said that there was no obvious risk of anything more than minor harm being caused to Cody by doing what you did.
16. This brings me to Culpability C and the factors listed in the Guideline as indicating ‘medium culpability’, namely cases *“falling between high and lower including but not limited to”* cases *“where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability”*.
17. This could legitimately be regarded as a Culpability C case - in other words, as a case falling between Culpability B and Culpability D – albeit, clearly, at the upper end of Culpability C.

18. I propose, in the circumstances, to approach the matter of categorisation in the manner suggested by Mr Smith QC, namely on the basis that this is a case at the bottom end of Culpability B or the upper end of Culpability C.
19. In terms of sentencing ranges, for a Culpability B offence the applicable range is from 8 to 16 years' custody with a starting point of 12 years, whereas for a Culpability C case the applicable range is between 3 and 9 years' custody with a starting point of 6 years' custody. Prior to consideration of factors increasing seriousness, therefore, I would regard the appropriate starting point in this case as being 9 years' custody – the upper end of the Culpability C sentencing range and a year longer than the 8-year lower end of the Culpability B sentencing range.
20. As to the aggravating factors, none of the statutory aggravating factors listed in the Guideline is applicable.
21. As to other aggravating factors, the first of those listed is "*History of violence or abuse towards victim by offender*". Mr Lewis QC highlights in this context the injuries which it emerged after his death Cody had suffered prior to the events of 7 December 2016. Specifically, it was discovered that Cody had at some stage sustained a fracture to the acromion in his left shoulder and that he had also suffered three broken ribs. I leave out of account an earlier subdural bleed which Mr Lewis QC accepted before the jury might have been the result of birth trauma rather than anything which happened after he was born. Although it is possible that the jury reached no decision as to who was responsible for these earlier injuries, they must have been caused by somebody since they are not the type of injuries which a child as young as Cody could have caused himself. That somebody must have been you since you yourself accepted that nobody with whom Cody came into contact in his all too short life would have sought to hurt him. That said, I cannot be sure that you deliberately set out to cause these injuries. I accept that, on the contrary, they were the result of your extreme tiredness rather than any desire to hurt your young son. Nor, in view of the expert evidence given at trial, is it the case that the injuries were anything other than asymptomatic, meaning that it would not have been apparent that Cody was, in fact, injured.
22. Another aggravating factor listed is "*Victim particularly vulnerable due to age or disability*". Clearly, as Mr Smith QC acknowledges, given that Cody was only 15 weeks of age, this is applicable.

23. There is also the further aggravating factor that, as Cody's father and as the person in charge of his care at the time that he suffered the injuries which he did, this is a case in which there was plainly an abuse of trust - as also listed in the Guideline as an aggravating factor. Again, Mr Smith QC accepts that this is a factor which applies.
24. Taking account of these various aggravating factors sees the 9-year starting point to which I have referred increased to 11 years. I must, however, come on to consider the factors reducing the seriousness of the offence and your personal mitigation. There are a number of such factors in your case.
25. The fact that you have no previous convictions at all is one such factor.
26. Secondly, aside from having no previous convictions or reprimands or cautions, you are a man of positive good character. Mr Philip Lewis, the Chairman of Brynmawr RFC and somebody who has known you from childhood, describes you in glowing terms as a clubman who has worked with young players and as somebody who has been involved in charitable work. It is clear also that, besides being a talented rugby player, you are a very hardworking and industrious young man who worked hard to provide for your family. Furthermore, you were described by Paula herself as being a good and loving father – albeit that, obviously, she did not know that Cody had suffered the previous injuries which he had. You are, in short, a person of considerable strengths – as so eloquently pointed out by your parents in the letters which they have written. It is right that all of this is borne in mind when the length of sentence is decided.
27. Thirdly, even though you did not accept at trial that you were criminally responsible, I accept that you are nonetheless remorseful for your role in Cody's death. You yourself observed that you failed him when he was in your care on 7 December 2016.
28. Fourthly, as the prosecution accept, the offence of which you have been convicted was not premeditated. It was, on the contrary, and as previously pointed out, the result of a loss of temper and was committed against the background of your having worked long and unsociable hours over a prolonged period.
29. Lastly, although not factors listed in the Guideline, I take into account also the medical difficulties which you have encountered since Cody's death. Although, in view of the jury's verdict, these are difficulties which must be regarded as stemming from your own unlawful conduct, it is appropriate nonetheless that they are not overlooked – any more

than is the fact that, as already observed, you must live with the knowledge that your son died as a result of what you did to him.

30. Weighing all these matters in the balance, having regard to the overall circumstances and the tragedy which underlies this case, and exercising an appropriate level of compassion, I have reached the conclusion that the 11-year sentence to which I have referred after taking out of the aggravating factors in this case should be reduced, after taking account of the factors reducing seriousness and reflecting personal mitigation, to 9 years' imprisonment. That, in my assessment, is the appropriate sentence in your case.
31. I note, in passing only since it is a case which predates the introduction of the Guideline, that a sentence at this level is broadly on a par with the 8-year sentence regarded by the Court of Appeal as being appropriate in a case cited by Mr Smith QC in support of his submissions before me, namely *R v Larkin* [2018] EWCA Crim 2165. That case also involved shaking "*through frustration or exasperation or anger*": see [20]. It appears to have entailed particularly strong shaking: see [18]. It was not a case, however, where there were any previous injuries, although the sentence also covered a perverting the course of justice offence.

[Stand up, please]

32. The sentence is, therefore, 9 years' imprisonment.
33. You will serve up to one half of that sentence in custody before you are released on licence. When you are released, you will be on licence. You must comply with the terms of the licence and commit no further offence or you will be liable to serve a further period in custody.

[Please go with the officers]

34. I end by, again, expressing my very considerable sympathy to everybody who has been affected by this very sad case.