



JUDICIARY OF  
ENGLAND AND WALES

**R**

**-v-**

**Anghel**

**In the Crown Court at Warwick**

**Sentencing Remarks of Mrs Justice Cockerill**

**20 June 2023**

*The defendant is to remain seated until told to stand.*

**INTRODUCTION**

1. You may sit until I reach the end of my remarks.
2. Elena Anghel you have pleaded guilty to the manslaughter by reason of diminished responsibility of David Mario Lazar, your grandson, who was known to his family as Mario. I must now sentence you for that offence.
3. You were originally charged with the murder of Mario. You indicated that you would plead guilty to manslaughter on the basis of diminished responsibility prior to the Plea and Trial Preparation Hearing. That was, as the prosecution has agreed, the first realistic time that this plea could have been intimated. The Prosecution, having investigated the background to your offending by instructing a second psychiatrist, indicated the acceptability of that plea shortly before the PTPH date. You were then unable to enter a plea at the PTPH because of the absence of an interpreter. You then formally entered that plea today and the allegation of murder was not pursued.

4. I have had the benefit of arguments on sentence from Mr Tehrani KC for the Crown and Ms Haughey KC on your behalf. I take account of everything they have eloquently said.

### **THE FACTS**

5. In deciding upon the sentence for this offence I must set out the facts on the basis of which I sentence you. I must sentence you only upon the basis of the facts that I am sure about. If I am not certain about something I must give you the benefit of the doubt.
6. The essential facts, on the basis of which I will sentence you reveal a truly tragic case – indeed it was described by one of the professionals involved as one of the most tragic cases that he had witnessed in his career.
7. That is because on Tuesday 25th January 2022 at approximately 3.30pm you used a kitchen knife to intentionally and repeatedly stab your grandson, Mario, producing wounds to the face and body and causing his death. It was a sustained attack with 29 separate injuries later noted on the post mortem report. Two of particular significance were a wound which penetrated to the cranial vault and left temporal lobe of the brain and what appears to be the fatal injury which penetrated the heart cavity causing significant blood loss.
8. The killing occurred at the family address, 60 Poplar Road, Coventry. The family had been living there since March 2021, where you joined them a month or so later. Mario was a beautiful bright boy who had started school a few months before. Your daughter Cristina, his mother, describes Mario in the following terms, “Mario was the most precious thing to me. He was my world. He was always happy and smiling, dancing, always had a smile on his face he was a beautiful boy.” You also had a good relationship with Mario, and he loved you.
9. On the afternoon of 25 January you were looking after Mario. Mario’s mother and father were at work; both of them were working very hard to support their family. It is plain to me that they both adored Mario and they tried to arrange their working hours to be with him as much as possible. But they were happy to leave him for a couple of hours in your company.

10. On the 25 January Mario's father dropped Mario at school and Cristina at her work, you seemed normal. When he dropped Mario home later after school you greeted Mario as normal, and started making soup - that is what he wanted to eat. His father asked Mario if he wanted to come to work with him, but Mario said that he wanted to stay home with his you.
11. You were next seen at after 5pm in the Co-Op store on Earlsdon Street – just round the corner from home - in a highly distressed state. When police attended, you made some admissions to a Romanian speaking police officer which led to police attending 60 Poplar Road where Mario's body was found, as was the kitchen knife you had used. Police attempted to revive Mario but it was too late.
12. You were arrested then, but your mental state was such that you were interviewed only on Tuesday 15th November 2022. At that time you admitted killing Mario although only in terms of stabbing him 2-3 times with a kitchen knife.
13. The sad truth was that when you killed Mario you were exceedingly mentally unwell. It was not your first episode of mental illness. You spent your life in Romania up until 2021, when you came to this country to help look after Mario, to whom you were close. While living in Romania you had a long history of mental health issues; while we do not have full information on those we do know some details. I can summarise by saying that they resulted in a total of eight stays in psychiatric units between 2009 and 2020 – both formal and informal. You were noted as presenting with a form of psychotic disorder and depression. You had received medication for those conditions. At the same time you were on steroids following the removal of your adrenal glands in 2010. A significant point is that you had never previously exhibited any violence when suffering from a bout of mental illness.
14. When you came to this country however you did not pursue treatment for your mental health conditions. The result was that for a time you took your medication irregularly - as and when you thought you needed it. But the turn of the year you ran out of medication and the result was that when your illness came back, fast and acutely, you had no medication or support in place. You went in almost no time from appearing normal to being acutely ill; the joint

report which is before me describes it as a “precipitous relapse” – a phrase which speaks of a very, very sharp sudden onset.

15. Those around you (including your daughter, who had seen you ill before and had then taken you to obtain treatment) saw no signs of significant changes to your mental health in the days leading up to this or even in the morning. But within that day your relapse progressed extraordinarily. Both Dr Kennedy and Dr Scally have wanted to emphasis to me this morning how unwell you were: the words “acutely” “very” “extremely” were all used.
16. By the afternoon you were suffering what Dr Scally calls elaborate systematised delusional beliefs. You were subject to extreme paranoid delusions, during the course of which you were convinced that your grandson was in such danger of terrible suffering that it would be best to kill him. And that is what you did.
17. It is important to note also that the assessment of those treating you following your arrest was that you were not mentally fit to be interviewed until September 2022 with the interview taking place mid way through November 2022, over 9 months after the death of Mario.
18. Since your arrest you have been hospitalised and examined by a number of mental health professionals. Dr Ruth Scally, a UK Responsible Mental Health Clinician has diagnosed you with schizophrenia and a moderate depressive disorder and has been treating you for those conditions. You remain depressed, though you no longer seem to suffer from significant ongoing paranoia or formal thought disorder.
19. Another doctor Dr Sajid Muzaffar, instructed by the defence, concurred with the diagnosis of schizophrenia and depression and found that you suffered a full blown relapse within a couple of weeks of running out of medication.
20. You have also been examined by Dr Nicholas Kennedy on behalf of the prosecution and Dr Vivek Furtado for the defence. They also agreed with the diagnosis of paranoid schizophrenia. On this all the expert evidence (provided by doctors all of whom are approved under section 12.2 of the Mental Health Act) speaks with one voice.

21. I have had full regard to the victim personal statement from your daughter Cristina which has been read out in court this morning on her behalf. It is a deeply moving document.
22. She says that she still cannot believe that this has happened and the pain of this never goes away, despite the pictures of Mario which she keeps all over the house, and despite the likenesses which she discerns between Mario and baby Yanis, born since Mario's death. It speaks eloquently of the terrible loss that she has endured - and also speaks heart-rendingly of her struggles to understand and to forgive what you did and how you went from being apparently well to carrying out such an act. Her grief and her graciousness are equally evident. It is plain to me from that statement that her life and that of her family will never be the same again. She is acutely worried about Yanis and cannot leave him alone.
23. The pain of the entire family has been plain to me in court today, particularly when Mr Grieve-Smith so movingly read out that Victim Impact Statement.
24. The statement makes clear that nothing I can say and nothing I can do can bring Mario back, which is all Mario's parents really want. In that sense it may seem that no sentence I can impose is adequate. However I am bound to sentence you in accordance with the principles set down by law; but I also hope that the evidence with which I have been provided and my explanation of it may assist Mario's parents in coming to terms with the terrible tragedy of his loss.

### **SENTENCING PRINCIPLES**

25. The objects of sentencing in most criminal cases are set out in s 57 of the Sentencing Act 2020 ("the Sentencing Act"). The position from which I start is to have regard to those objects, which include the punishment of offenders, the reform and rehabilitation of offenders and the protection of the public.
26. The Sentencing Council has provided guidelines to judges sentencing for this type of offence. The guidelines are intended and very carefully designed to do exactly what their name suggests and assist any court in achieving a right and proper balanced sentence according to the facts of the individual case.

27. Thus s 59 of the Sentencing Act states that I must follow any sentencing guidelines which are relevant to the case unless I am satisfied that it would be contrary to the interests of justice to do so.
28. In this case I have regard to the Guideline for Manslaughter, and also that dealing Sentencing offenders with mental disorders, developmental disorders, or neurological impairments (the “Mental, Developmental and Neurological Guideline”). Very often the question of dangerousness will arise, but this is not said to be relevant here. I also consider the Guideline on Reduction in Sentence for Guilty Pleas.
29. I start with the Manslaughter Guideline. That Guideline require me to assess the culpability of your offence, the harm in the case of any case of manslaughter being taken as being of the utmost seriousness.
30. Assessing culpability in cases of manslaughter by reason of diminished responsibility is not simple because the fact of diminished responsibility necessarily means that the offender’s ability to understand the nature of the conduct, form a rational judgment and/or exercise self-control was substantially impaired.
31. My first task is to determine what level of responsibility you retained: High; Medium; or Lower. I do that by considering the extent to which your responsibility was diminished by the mental disorder at the time of the offence. I do that with reference to the factual and medical evidence and all the relevant information available to me. That finding will dictate the starting point for any sentence.
32. Having chosen that starting point I am required then to take into account aggravating and mitigating factors in your case. I will also need to consider the appropriate form of the order to be made – by reference to the Mental Developmental and Neurological Guideline - the extent to which, bearing in mind your retained responsibility, you should be subject to a hospital order (with or without a restriction order), a hybrid order or a conventional prison sentence.

33. In summary:

- a. A hospital order can be made under s. 37 of the Mental Health Act if there is mental disorder of a nature or degree which makes it appropriate for the offender to be detained in a hospital for medical treatment. There is no fixed end date. On discharge there is a regime for the imposition of appropriate conditions and aftercare under s 117 of the Mental Health Act via a community Mental Health team;
- b. A limitation order under s. 41 of the Mental Health Act – which means that an offender can only be discharged from hospital if the Secretary of State for Justice agrees - can also be made if it is necessary for the protection of the public from serious harm. Such an order has no end date. On discharge there is aftercare under s 117 of the Mental Health Act;
- c. A hybrid order under s. 45A of the Mental Health Act is designed to ensure that convicted offenders who could normally expect to attract a significant custodial sentence, do not end up serving significantly less time in the secure mental health system, but also can access necessary treatment for their mental disorder. Thus a sentence is set and if the offender's mental health improves enough for them to leave hospital they would serve the rest of their sentence in prison. Follow up after release is then via the probation service, not under s. 117 of the Mental Health Act;
- d. The s. 37 and s. 41 regimes stand outside of and are exceptions to the s. 57 Sentencing Act objects. Hospital orders do not have a punitive element. Their purpose is one of rehabilitation and protection of the public.

34. Here a hospital order is an obvious possibility, but I need to consider all the options, and in particular in assessing the most suitable outcome I need to remind myself of the importance of a penal element in a sentence and assess the extent of the penal element which would be appropriate and whether it is appropriate to dispense with any penal element in this case by making a hospital order. There need to be sound reasons for taking that course. I also need to bear in mind the question of protection to the public in relation to the different possible release regimes.

## **THE PRINCIPLES APPLIED**

35. Looking first at the question of the extent to which you retained responsibility for your actions, you have a background of psychiatric illness. The evidence of your daughter and the notes examined by the psychiatrists demonstrates that this has been an enduring difficulty in your life but that it was kept under control by use of medication. Your condition became less stable in the period leading up to the killing as a result of ceasing to take those drugs and you suffered the acute episode during which you killed Mario.
36. Your behaviour before and after your arrest entirely supports the view that you were suffering very serious mental ill health at the time of the killing. The fact that you behaved bizarrely in the Co-op led to the police being called; you continued to behave very strangely and were found to be unfit to be interviewed for some months after your arrest. The joint report concurs: it describes you as being at this stage “floridly psychotic”. That phrase which was explained by Dr Scally means that which means your delusions were all encompassing and that you had in effect lost contact with reality.
37. You have been assessed by four psychiatrists: Dr Scally (your treating physician) Dr Muzaffar and Dr Furtado instructed by the defence and Dr Kennedy instructed by the Prosecution. They have produced individual reports on your condition which deal with the issue of retained responsibility. Dr Muzaffar and Dr Kennedy produced a joint report setting out the main areas on which they agree. I have read all of those reports. I have heard from Dr Scally in court. They are in effect in agreement in all material respects.
38. Their evidence leads me to sentence you on the basis that at the time of the killing:
- a. You were suffering from paranoid schizophrenia and had been on and off since 2009.
  - b. There appears to have been a precipitous relapse in your illness and you were acutely unwell and suffering from delusions which were so real to you that you could not break free of them at the time of the offence.
  - c. This arose from abnormalities of mental functioning.

- d. The disease of paranoid schizophrenia from which you were suffering caused a defect of reason. In other words it caused hallucinations and delusions as well as severe distress arising from the delusions.
- e. This substantially impaired your ability to exercise self-control and to form a rational judgement; your delusional beliefs were impervious to reason and you were not able to challenge the idea that your grandson would be better dead. As Dr Kennedy noted, you could not even think to raise your worries with anyone – your delusions drove you straight to extreme violence.

39. This agreed expert evidence is strong enough for me to conclude that the nature and degree of your illness provides an explanation for your actions; I am sure that you would never have hurt, much less killed Mario had you not been very ill. That would suggest a very low level of retained responsibility.

40. A further relevant factor, on which the prosecution relied, is that despite your long history of mental illness and the knowledge which you had of how it was controlled through medication you did not seek help for your condition before you committed this offence. The prosecution was initially minded to say that this was a choice by you made when you were not afflicted by mental illness.

41. This is not entirely an easy question. As has been said in other cases this engages questions as to the extent to which the behaviour is voluntary, including the extent to which the mental disorder has an impact on the ability to exercise self-control or engage with medical services. So a failure to take prescribed medication is not necessarily a culpable omission; it may be attributable in whole or in part to the mental illness. The defence submitted that your failure to take your medication was driven not by wilful act but rather a lack of understanding of the nature of your illness, compounded by the language barrier and lack of understanding of the UK health system as well as the way your illness made you acutely suspicious of those around you.

42. My first duty is to decide on the level of responsibility retained by you for your actions. I have concluded that you retained a level of responsibility on the borders of low and medium. While the joint medical opinion that the psychotic episode drove your actions at the time of the attack would alone suggest that you bore a very low level of retained responsibility, I must factor in your voluntary decision not to tell your GP about your mental health issues and need

for treatment based on your long struggles with your mental health and your awareness that you had run out of drugs. With drug treatment your acute psychotic episode could and would have been avoided.

43. At the same time it does not appear to me that your past treatment, which does not seem to have included a formal diagnosis of paranoid schizophrenia, had been such as to bring home to you the imperative nature of maintaining regular medication. Dr Scally explained about the frequent need for psycho-education for patients with this diagnosis to understand the vital importance of maintaining their medication regime even when they feel well and stable. There is no evidence that you did, and the notes suggest that you did not, previously have access to the kind of education which you are now receiving. The culpability attaching to you for failing to engage with medical services is thereby less than it would otherwise have been.
44. It is by balancing all of the relevant factors together that I have concluded that you retained a low to medium level of responsibility for your actions. That finding means that the starting point for any determinate sentence would be 10 years.
45. There are factors which serve to aggravate the offending. The vulnerability of Mario is one, the use of a weapon is another. There is also your abuse of a position of trust, the location of the offence in Mario's own home and the suffering involved for him. Some of these however are in effect so bound up in the circumstances of the illness that it is wrong to count them separately or to place great weight on them.
46. I take into account as mitigating features that you have no previous convictions, that there was no premeditation and that you have expressed profound remorse – so much so that you have been diagnosed with PTSD. As Ms Haughey said in mitigation, your remorse is without limit. You also have a serious mental medical condition; though that is to some extent reflected in the plea for which such a condition is a requirement. You have also unstable physical health and require medication for that. I have also had regard to the other mitigation offered on your behalf.

47. The mitigating factors do in my judgment outweigh those which serve to aggravate the offence. On that basis I would have arrived at a determinate sentence of 9 years for the manslaughter before considering credit for plea.
48. Although you have only pleaded guilty today I take the view that you did so at the earliest opportunity because of the need to fully investigate the question of whether insanity was an available plea. That approach is not controversial. I would therefore give the full 30% reduction, leading to a sentence of 6 years.
49. I then have to consider how that assessment interrelates with the mental health element in this case. It is common ground that this is a case where it is open to me to make a hospital order under s. 37 of the MHA 1983 in that I have the written or oral evidence of two doctors, at least one of whom must be approved under section 12, that:
- a. the offender is suffering from mental disorder of a nature or degree which makes it appropriate for the offender to be detained in a hospital for medical treatment, and
  - b. appropriate medical treatment is available.
50. I have the relevant evidence and confirmations here. That does not however answer the question of whether I can be satisfied that having regard to all the circumstances, including the nature of the offence and your character and antecedents, and to the other available methods of dealing with you, that a hospital order is the most suitable method of dealing with the case.
51. I am urged to this conclusion by the defence, who contend that a hospital order with a section 41 restriction order is the best method of disposal here. That course is supported without reservation by all of the medical professionals opining. All of them have provided some detailed explanation of why that is the case. In short they consider the best way of negating the risks involved in your condition as regards the general public and the management of your condition is a course led by the mental health services.
52. The essential points relate to the fact that you will need treatment for the rest of your life and that it is important to ensure that you continue to take medication. On this past point the evidence is clear: this is best done in a hospital. The other major concerns are the risks which you would pose to the public if and when released. With a hospital order, once discharged from

hospital, if you do show early signs of relapse, then an application for recall to hospital can be made at very short notice – within hours, as Dr Scally explained - as you would have regular follow-up by community mental health services. By contrast under a section 45A order any relapse would be reliant either on your own insight or on a non specialist probation officer noticing. And even then the delay would be at least days.

53. As I say this evidence is given by all the medical professionals. All of them highlight the risks to the public posed by the relapsing nature of your illness. All of them agree that a Section 45A Order would not afford the same protection to the public.

54. This evidence as to the relapsing/remitting nature of your illness (borne out by your past history) is significant. So too is the evidence as to the risks involved in a potential need for re-admission during the course of sentence and putting in place a robust supervision and management plan on discharge/release.

55. Overall – and this aligns with more than one authority in the Court of Appeal – in this case a hospital order with a s. 41 restriction will offer more protection for the public than a hybrid order would.

56. Although I have given careful consideration to the need for a penal element in this case I conclude that (given in particular where this case falls on the scale of retained responsibility) this is not a case where the need for the penal element is so compelling that it should weigh heavier than that element of public protection which here aligns with the best course for rehabilitation. I do therefore consider that this is a case where there are good reasons for concluding that - despite there being retained responsibility verging on medium - a penal element is not appropriate and a section 37 disposal combined with a section 41 limitation order is the most suitable way of dealing with this very particular case.

## **THE SENTENCE OF THE COURT**

57. Having heard the medical evidence which has been given in court today by Dr. Scally and having read the reports prepared by the other doctors I have named all of whom are approved by the Secretary of State under section 12(2) of the Mental Health Act 1983 I am satisfied that

- a. You are suffering from a mental disorder, namely paranoid schizophrenia;
- b. This disorder is of a nature which makes it appropriate for you to be detained in a hospital for medical treatment; and
- c. Appropriate medical treatment is available for you at Ardenleigh Women's Medium Secure Unit in Birmingham.

58. I am of the opinion that because of all the circumstances of your case including:

- a. the nature of the offence of manslaughter to which you have pleaded guilty; and
- b. your character and your past, which includes a longstanding and complicated history of mental illness;
- c. and having considered all the other available ways in which I might deal with you;

the most suitable method of dealing with your case is by making an order under section 37 of the Mental Health Act 1983.

59. I therefore make an order that you will be re-admitted to and detained at Ardenleigh Women's Medium Secure Unit in Birmingham. I am satisfied that arrangements have been made for you to be readmitted within 28 days to this hospital where you have already been for many months.

60. I have also considered whether this order should be subject to special restrictions which are specified in section 41 of the Act. Having heard the evidence of Dr. Scally I am satisfied that because of the nature of your offence/act and also having regard to your past (including your history of mental illness) and to the risk that you will commit further offences if you are not detained, it is necessary to protect the public from serious harm and it is not possible to say for how long that will be so. Accordingly I order that you will be subject to the special restrictions set out in section 41 of the Mental Health Act 1983 without limit of time.