

**In The Crown Court At Winchester**

**The Hon. Mrs Justice May**

**Rex**

**-V-**

**(1) Samuel Warnock**

**(2) Jasmine Warnock**

**Sentencing Remarks**

The court is sentencing Samuel Warnock for the offence of manslaughter of his baby daughter Miyah, who died aged 17 weeks, and Jasmine Warnock for the offence of child cruelty relating to the same infant.

Miyah Warnock was born on 18 June 2021. Samuel and Jasmine had been in a relationship since 2017, although there was a period in 2018 when they separated. During the separation Jasmine reported domestic abuse by Samuel to the police, describing him as controlling and jealous, although more recently she has gone back on the accusations she made then, saying that a new boyfriend had forced her to make them.

In any event the pair got back together and Jasmine fell pregnant with Miyah. After the birth they had a good deal of support from both sets of grandparents, who would take Miyah regularly for days and nights to give the parents a break. Jasmine went back to work shifts at a local pub, leaving Samuel in sole charge at home when Miyah was not with either of her grandparents.

There were a number of occasions after Miyah was born when the grandparents noticed bruising to the baby and pointed it out. Jasmine said that Samuel had lost feeling in his hands which caused him to grip the baby too hard. Samuel himself reported numbness to the GP at that time; tests showed no significant lack of feeling in his hands. On another occasion he described having fallen down the stairs holding Miyah, blaming a weak knee. Again he went to the GP, X-rays of his knee showed no cause for it to give way as he had said. Friends noticed him being reckless in his handling of Miyah – holding her up like the baby lion in the Lion King, waving her around, not supporting her head, which wobbled.

On 18 September 2021 Samuel Warnock called 999 reporting that Miyah was limp, struggling to breathe and that her eyes kept rolling back. Paramedics attended and assessed the baby. They found her heart rate normal, she appeared settled and there was no sign of any breathing difficulties. Sunday 19<sup>th</sup> to Monday 20<sup>th</sup> September Miyah was staying with her paternal grandmother. Mrs Warnock senior reported that Miyah had been unsettled, crying as if in pain when she was picked up. She brought Miyah back on the Monday evening at around 8.20pm and left at about 8.45pm. In the next 25 minutes until Jasmine's return from work, Samuel was alone with his daughter. Jasmine came back to find him on the phone to the emergency services, Miyah unresponsive, clearly very unwell. When paramedics arrived she was not breathing and had no pulse, she was deeply unconscious. Paramedics managed to restore spontaneous circulation and breathing and Miyah was taken by ambulance to Bristol Children's Hospital where she remained for the next month until she died. She never regained consciousness. Brain scans showed widespread hypoxic ischaemic injury; examination of Miyah's eyes showed multiple bilateral retinal haemorrhages, both of these are signs of a shaking injury. The parents

were told she was unlikely to survive. Subsequent pathology examination indicated cervical nerve root damage also indicative of the baby's head being shaken back and forth. There was no sign of rib fractures often seen with gripping and shaking, nor any skull fracture. However Xrays showed a partially healed fracture to Miyah's left foot, indicating a compression injury in the two weeks prior to Miyah's admission to hospital. Cause of death was recorded as non-accidental injury to the brain in a single incident.

Samuel and Jasmine Warnock attended hospital irregularly to see their daughter in the month she was there, staff noted that they only stayed a short time. They said they had a young puppy to get back to. Samuel Warnock sent messages from hospital asking people to bring cannabis. On 6<sup>th</sup> October a social worker called the home to speak to Jasmine. She heard the father [SW] screaming and shouting at their young puppy. I do not read overmuch into these observations: having a baby in hospital, who you have been told is unlikely to survive, is highly stressful for any parent, under whatever circumstances; and people will respond in different, sometimes quite bizarre ways, to grief and stress.

Both parents were initially arrested for causing GBH with intent. They were released on bail. After Miyah's death they were again arrested and charged, but not before Jasmine had fallen pregnant again. A second child was born in September 2023 and is currently in long-term foster care.

Samuel Warnock was charged with Miyah's murder and Jasmine with causing or allowing her death. They were both aged 27 at the time she died. The trial was listed to start on 15 January this year but before the jury were sworn discussions between the prosecution and defence, which had started prior to trial, concluded with acceptable pleas entered on the second day: Samuel Warnock to manslaughter and Jasmine Warnock to child cruelty.

The case was adjourned for reports which the court now has. There is also a victim personal statement from Andrew Rideout, Jasmine's father and Miyah's grandfather. I understand that Jasmine is now estranged from her parents who withdrew support after Miyah's death, as a result of her turning to the Warnock family and minimising Samuel's actions towards Miyah. Jasmine's family clearly doted on Miyah and have been cruelly affected by her untimely death. All deaths leave a sad loss, but there is something particularly wretched about the death of a baby, so vulnerable and defenceless, barely beginning on life.

Turning to sentence, there are guidelines for both offences, which I must apply. There will be the usual victim surcharge order for both defendants.

Starting with manslaughter, the prosecution have urged that this is properly categorised as a high level Cat B, or Cat A, culpability by reason of the extreme nature of the Cat B culpability factors. They refer to a combination of subjective intent, being to cause injury just short of GBH, and the objective risk of harm. I have concluded that the case falls squarely into Cat B, since Miyah's death was caused in the course of an unlawful act (shaking) which carried a high risk of death or GBH which was or ought to have been obvious to Samuel Warnock. There were no signs indicative of a particularly lengthy or vicious shaking, no rib or skull fractures, accordingly I cannot be sure that Samuel Warnock intended to cause harm falling just short of GBH when he shook his daughter that night, as opposed to being reckless about the harm he was causing by doing so. Therefore I decline to begin with a raised starting point within Cat B. There are, however, a number of weighty aggravating factors, the most prominent being signs of previous mistreatment of and past injury to Miyah. In addition to this Samuel Warnock has previous convictions for violent offences (albeit at a much lower level of severity) including battery, criminal damage and assaulting an emergency worker. Clearly his mistreatment of his daughter was in gross breach of trust as Miyah's father. Moreover he was dealing class A and class B as revealed by

text messages on his phone, and was himself smoking cannabis in the house whilst caring for Miyah, paramedics detected a strong smell of the drug when they attended. Finally, this offence was committed whilst he was on bail for two separate matters: assault of an emergency worker and being concerned in the supply of cannabis.

Miyah's vulnerability as an infant is what gave rise to the high risk of death by causing her head to swing back and forth, as baby's neck muscles are insufficiently developed to protect them, which is why baby's heads always need to be supported. This vulnerability is what causes the behaviour to be placed into Cat B, so to regard Miyah's vulnerability as an aggravating factor on top of this would be to double count.

The probation report refers to police intelligence suggesting that there was a pattern of domestic abuse by Samuel Warnock towards his wife and I bear this in mind, although this information is perhaps of more significance when I come to consider Jasmine's culpability in failing to protect her daughter. However it does contribute to a picture of a recklessly irresponsible new father, prone to anger, easily frustrated, profoundly needy and consequently dangerously incapable of caring properly for a tiny new baby.

It appears that the offence was not premeditated, although against the background of previous mistreatment this affords limited mitigation. In a letter to the court which I have read carefully Samuel Warnock has indicated his regret for what happened to his daughter, although his minimisation of his actions in IV and subsequently up to his eventual plea January this year suggests that this has come late. The main mitigation is his plea, on Day 2 of the trial. Applying the Guideline on Reduction for Guilty Pleas section F3 I see no reason to allow a discount of greater than 10%; he could very easily have indicated a plea to the lesser offence from an early stage, once reports were in.

Samuel Warnock, stand up please.

Other than the plea and the lack of premeditation there is very little to balance against the aggravating features. I take a sentence before discount of 15 ½ years. Applying a 10% reduction results in a term of 14years.

I have considered dangerousness, that is whether there is a significant risk of your causing serious harm by the commission of further specified offences. The probation officer concludes that you present a high risk of serious harm to children, but qualifies this by pointing out that "the case is finely balanced as it is such a specific set of circumstances that led to this offence. The level of harm he has caused is high but the opportunity to further offend at this time, and in the future, will be limited."

Given what is said in the probation report, taking account of your motivation to change and the progress which you have made so far in custody, I have concluded that the statutory definition of dangerousness is not made out; it is therefore unnecessary for me to consider imposing an extended sentence. Even if I had concluded that the test for dangerousness was met, the length of sentence which I shall impose would in my view have been sufficient to deal with the risk.

For the manslaughter of your baby daughter there will be a determinate sentence of 14years.

You will be released from custody no later than two-thirds of the way through the sentence, namely 9 years and 4months. The time you have spent on remand will be deducted automatically. The remainder of the sentence will be served on licence in the community. You must comply with all the conditions of your licence, failing which you will be at risk of recall to prison to serve the remainder of the term in custody. You may go.

I turn to the case of Jasmine Warnock. You fail to be sentenced for the offence of child cruelty which was added to the indictment for the first time on 16<sup>th</sup> January. Like Samuel Warnock you were aged 27 at the time, you are now aged 29. Your second child is being cared for by foster parents. I read that that is likely to remain the case whilst you insist on returning to and remaining in the Warnock family home. You were remanded into custody in January this year for breaching your bail conditions by staying there instead of at the address approved by the court. I note the report from probation that although social services regard you as loving and caring for your son well, he is highly unlikely to be returned to your care whilst you remain living within the wider Warnock family. Your counsel has today stressed your intention to live independently, to work and provide a home for Alfie, so that you can have him with you all the time.

You entered your plea on a basis: there is no question but that you loved Miyah very much, and cared for her well. You were not present when the fatal injuries were inflicted and yourself inflicted no injuries at all to Miyah. You knew nothing about the foot injury which would not have been apparent. You intervened to stop Samuel on the Lion King occasion. The basis for your liability for child cruelty is that your knowledge of Samuel's volatility, his cannabis use, his tendency to anger and the bruising to Miyah noticed by others and pointed out by them to you should have acted as a warning that Samuel was mistreating your baby. Miyah was too young to tell you what he was doing to her, but you should have read it in the bruising, which was plain to see. Instead you ignored the red flags, you disregarded what your own parents were telling you and you bought into his excuses – numb hands, falling with Miyah with a weak knee.

The prosecution accept that you are to some extent a victim yourself – of Samuel's controlling, coercive and volatile behaviour at home – and that this impacted your ability to recognise what he was doing, or to influence or prevent him from doing it. It puts you into the lowest category of culpability, but it did not render you entirely powerless to act so as to protect her.

Cat D1 in the guideline has a starting point of 1 year with a range of High Level Community Order to 2 ½ years. There are no aggravating factors. In mitigation you have no relevant previous convictions and are effectively a person of previous good character. You were badly affected by your daughter's death and by the miscarriage which followed. Your supervised contact with your son shows you to be a capable, loving and caring mother. You have ceased using cannabis.

The probation recommendation is for a Community Order (CO)O with a Rehabilitation Activity Requirement (RAR) and unpaid work. The RAR days would require you to work with the Nelson Trust.

Whilst manslaughter is a statutory alternative to murder, child cruelty is not a direct lesser alternative to causing or allowing the death of a child. I do not see how you could have been expected to plead to an offence of child cruelty prior to its being put on the indictment. Accordingly I take the view that you pleaded at the earliest opportunity, for which you are entitled to a full discount. It is that taken together with the time you have spent on remand that allows me to pass a non-custodial sentence.

Stand up please

Taking into account your plea and all that I have read about you the sentence is a 3 year CO, one year longer than the probation recommendation. It is a condition that you perform 30 days of Rehabilitation Activity with the Nelson Trust, these days to be done within 2 years of that 3-year order. I do not impose any unpaid work, since I take the view that, as the CO is for the maximum period, a condition of RAR is sufficient and you need to work, to provide for yourself and your son, if he is to live with you.

You must comply with the condition and attend sessions with the Nelson Trust. If you do not then you can be returned to court and re-sentenced, and a sentence of in excess of the 4month equivalent you have spent on remand is likely to be imposed. If you commit any further offences within the 3-year period of the order you can be re-sentenced and the sentence added to any sentence for the further offences.

Mrs Justice May

18 March 2024