



Courts and
Tribunals Judiciary

R v Shannon DRIVER

Sentencing Remarks

The Honourable Mrs Justice Thornton DBE:

Introduction

Shannon Driver, you have been convicted by a jury of the manslaughter of Jaxon Syrett who was 18 months old when he died on 24 September 2020. I must now sentence you for his death.

Facts

Jaxon was the son of your then, partner, Kieran Irvin. Kieran had separated from Jaxon's mother, Chloe Syrett, by the time he was born. Jaxon lived with his mother but had regular contact with his father.

Kieran lived with his mother, Juliet, Jaxon's grandma, at Juliet's house. Jaxon's aunt, Abbie, also lived there. After you started your relationship with Kieran you also spent much of your time at the house.

On the 19th September 2020, Jaxon was staying at the house, to be part of the birthday celebrations for his father, Kieran.

At approximately 3.30pm on 19 September, Jaxon was left in your care because his father, aunt and grandma all had to go to work.

Jaxon was in good spirits when the others left you and him alone. He had enjoyed spaghetti Bolognese for lunch. He was giggly and trying to feed toast to the family dog. He gave his aunt Abbie a hug as she left for work.

Approximately an hour and half later after they had left you both alone you phoned Kieran saying Jaxon had fallen in the shower and was unconscious and needed an ambulance. Paramedics arrived within minutes of the 999 call and Jaxon was taken to hospital still unconscious.

He underwent surgery but his injuries were too severe for him to survive, and he never regained consciousness. Life support was withdrawn on 24 September 2020.

Only you know precisely what happened to cause Jaxon's injuries whilst he was in your care. You told the jury that he slipped over in the shower whilst you were showering him and banged his head falling unconscious. On your version of events his death was a tragic accident.

By their verdict the jury disbelieved you.

The medical evidence tells its own, very different, story about what happened to Jaxon that day. He had significant bleeding in his brain which exerted pressure on the brain and consequent swelling that caused irreparable brain damage. He had extensive and severe bleeding in both eyes, and bleeding in his spine. He had 25 fractures to his ribs and 2 fractures to his sternum. The fracture on his first front rib was a near complete fracture.

All the medical professionals involved with his case agree that Jaxon's injuries could not have been inflicted accidentally. They are consistent with a deliberate assault on him and a severe impact to his head shortly before his collapse. In particular, his injuries are consistent with him having been gripped tightly round his chest and shaken. Either his head hit a hard surface, like the enamel shower tray, as he was being shaken or he was shaken and thrown with his head hitting a hard surface.

You admitted in Court that you didn't want to be in charge of Jaxon that day. You were resentful at having to do so. I have no doubt that you lost your temper with Jaxon when he did no more than behave like any other mischievous toddler.

After the assault on Jaxon, you took deliberate steps to conceal evidence by putting Jaxon's towel in the washing machine. Even now, you have not disclosed what really happened that day, although I accept your expression of remorse and regret issued today through your Counsel.

Jaxon

Jaxon was a healthy, happy, toddler developing normally with his life ahead of him. He was described by his family as bubbly and mischievous. It was obvious from their evidence during the trial and from their victim impact statements that Jaxon was deeply loved by his parents, his grandma, his great grandma and his aunt, who were all devoted to his care. The sentence that I am about to impose cannot possibly compensate for the loss of Jaxon and their grief.

Guidelines and information considered

There are sentencing guidelines which I am required by law to follow.

One covers the offence of Manslaughter which may be committed in very many different ways. Here you have been convicted of unlawful act manslaughter which is when death is caused by a criminal act which a reasonable person would realise must subject some other person to at least the risk of some physical harm.

The other guideline provides guidance on sentencing defendants with mental disorders, developmental disorders or neurological impairments.

I have considered two psychiatric reports prepared on you during the course of the trial process as well as a third report prepared specifically for sentence by Dr Kouvarakis, a consultant psychiatrist and also a pre-sentence report.

Culpability

I have to assess your culpability to arrive at the correct starting points for sentence set out in the guideline.

In my judgment your culpability for your actions is high.

Jaxon's death was caused in the course of an assault which carried an obvious, high risk of death or really serious bodily harm.

You shook and/or threw an 18 month old toddler so violently as to cause devastating injury. The magnitude of force required to cause injury in shaken baby syndrome has never been measured for obvious reasons and it is difficult to quantify with confidence in any case.

However, the Home Office pathologist Dr Fitzpatrick-Swallow told the Court the force applied to Jaxon was excessive and to any onlooker, would have been obviously likely to cause injury.

Professor Mangham said the force used on Jaxon would have been alarming to anyone watching. He explained that the ribs of an 18 month old child are smaller and thinner than an adults so in one sense they are easier to fracture but in another sense they are more difficult to fracture because a child's ribs are more bendy and pliable.

As a matter of common sense the force required to inflict injuries at the severe end of the spectrum on an 18 month old toddler will have been far greater than in cases involving much younger and smaller children.

The medical experts were of the opinion that the injuries seen on Jaxon are comparable with injuries seen after a high speed car crash or a fall from a multi storey building.

The report of Dr Kouvarakis explains that your diagnoses of ADHD, complex PTSD and a personality disorder would not have affected your judgment or ability to make rational choices or to understand the nature and consequence of your actions. In particular, they would not have predisposed you to a lack of awareness in relation to the level of risk of harm to Jaxon.

Accordingly, your offending falls within category B of the relevant guideline with a starting point of 12 years and a range of 8 to 16 years.

A starting point is just that and I have to consider where your offence should lie in the range and have regard to aggravating and mitigating factors

Aggravating features

Turning to the aggravating features.

Jaxon was a 18 month old helpless and vulnerable child. He had been left in your care by his family who trusted you to look after him. I must avoid double counting in that Jaxon's vulnerability gave rise to the need for care which led to you being in a position of trust. Nonetheless the two factors do not cancel each other out. You took steps to conceal the evidence after your assault by washing Jaxon's towel. You had smoked cannabis that day.

You have a history of violent offending which occurs when you lose your temper. You have 6 convictions for 11 offences of violence.

They include convictions for assaulting police officers.

They include a conviction of battery in relation to your sister. You punched her in the face, threw her to the floor and stamped on her when she said hello to your son in town.

You were convicted of assault on an emergency worker, battery and assault occasioning actual bodily harm. You approached two men who were complete strangers to you whilst they were sitting on a wall eating take-away food. You pushed a bottle into the chest of one of them before smashing the bottle on a railing and throwing it at one of them.

I treat as another significant aggravating feature your admission in Court that you knew you were not permitted unsupervised contact with children.

You had previously threatened to throw your son out of a multi storey window, after which he was removed from your care by Social Services.

Your sister Lynsey told the Court she warned you about the risks of you looking after Jaxon given your previous history but you chose to ignore her. You choose to prioritise your relationship with Kieran Irvin and your need for accommodation over a vulnerable and helpless toddler.

Mitigating features

In your case, the mitigating features are also significant.

This was a case of a single incident of violence inflicted on Jaxon. There is no suggestion of repeated assaults on him culminating in a fatal assault.

You have been diagnosed with attention deficit hyperactivity disorder and complex PTSD and a personality disorder with borderline features. The report of Dr Patel, the prosecution psychiatrist refers to your personality containing features of dissociality.

Whilst, the report of Dr Kouvarakis concludes that there is no direct link between your mental disorders and your offending, his report explains that ADHD and

personality disorder can cause difficulty in controlling aggressive behaviour which means that it would be hard for you to fully control how much force you should use against a toddler in order to regulate/minimise the harm you could cause him. These disorders are at least partly responsible for your poor ability to control your anger.

Dr Patel explains that a core feature of the dissociation aspect of your personality is disregard for the rights and feelings of others, encompassing both self-centredness; lack of empathy, callousness and ruthlessness.

Dr Kouvarakis further explains that the mental health disorders which you currently suffer from are likely to have been caused, in part at least, by the abuse you suffered as a child. Dr Hillier explains that complex PTSD and personality disorder with borderline features are stress-related and trauma-derived.

Your childhood was brutal and bleak. You were brought up around drug misuse and prostitution. You suffered serious and significant abuse from a young age, which included sexual, physical and mental abuse. You and your siblings were neglected which required you as the oldest to take on the role of carer for your younger sisters. Your behaviour became increasingly disturbed as you got older.

At the age of 12 your father could not cope with you and put you into care. Your sister Lynsey accepted in her evidence to the Court that it had been particularly tough for you being sent into care when your sisters were not and that you had been seriously affected by the violence in your childhood. You were visibly distressed in Court when your father confessed to beating you regularly as a child.

Mitigating v aggravating factors

Having carefully considered the aggravating and mitigating features in the round, I have come to the view that, in your case, they balance each other out.

Dangerousness

Your traumatic upbringing has left deep scars on you.

Dr Kouvarakis and the author of the PSR both consider that there is a high risk of serious harm to any child placed in your care.

Dr Kouvarakis explains that you gave him the impression that you had no hostility to Jaxon and your offence was not fuelled by hatred against him but was mostly a result of your inability to manage your aggression at the time. He came to the conclusion that when you feel forced to care for someone it reminds you of the time spent with your mother trying to care for your siblings. He considers that it is possible that the circumstances you found yourself in being left in charge of Jaxon that day when you didn't want to be triggered your complex PTSD psychopathology which inhibited your ability to control your anger and aggression.

Dr Kouvarakis also considers you to pose a medium risk of serious harm to adults known to you, in particular, police officers. He says you told him that you have had violent fantasies at times, especially against men and that violent behaviour can be a release for you.

The PSR report expresses the view that your behaviour is so deeply rooted in the trauma of your own childhood and life, that it will take many years of you engaging with treatment to reduce the risk you pose to others.

The psychiatric reports of Dr Hillier and Dr Patel are of assistance in explaining your underlying diagnoses of mental impairments and how these difficulties will manifest themselves in your behaviour.

The conclusions reached by the professionals are consistent with my assessment of you having heard you give evidence and having listened to witnesses giving evidence about you.

You can be highly volatile, with a capacity for unpredictable violence. Your violence appears to have no boundaries extending, as it has done, to your son, your sister, complete strangers and of course, to Jaxon, who suffered extensive and severe injuries.

Accordingly, I am entirely satisfied that you present a significant risk to members of the public of serious harm. You are a dangerous offender.

Life sentence

I have considered whether it would be appropriate to impose a life sentence. In particular, I have considered the seriousness of your offending; your previous convictions; whether there is a reliable estimate of the length of time for which you may pose a danger and the available alternative sentences.

There is uncertainty as to the duration of the risk of harm to the public that you present. I have however borne in mind the Court of Appeal's assessment in R v Burinskis that this cannot, of itself, lead to the conclusion that a life sentence is justified.

I have considered the analysis of Dr Kouvarakis and discussed your case with him. He has identified the following factors as of significance in your case

- 1) your current medication regime appears effective in helping you manage your emotions and engage in psychotherapeutic sessions in prison. He considers that maintaining the medication and adjusting the dose as required will be helpful in helping you manage your anger. I have also observed the difference the appropriate medication regime makes to your behaviour. There was a significant contrast between your behaviour during the first trial which eventually had to be stopped due to your inability to participate effectively and the positive change in you during the second/third trial after your medication regime was changed. Dr Kouvarakis told me that you showed some insight into the effect of medication on your behaviour
- 2) Dr Kouvarakis considers you have engaged well so far in the psychological interventions you have started in prison and that you have identified useful areas to work on in relation to your emotions and anger.

- 3) Thirdly, in his opinion that whilst he cannot predict how you will develop, he would expect that over time as you get older and move into your thirties and forties your personality will mature and along with it, your behaviour.

Accordingly, I do not consider it necessary to impose a life sentence.

Determinate sentence or extended sentence

I have considered whether a determinate sentence will be sufficient to protect the public but conclude it will not.

There is uncertainty about the duration of the risk you present. The pre-sentence report recommends an extended licence period as you will need close monitoring and support in the community. The involvement of the Parole Board in your release under an extended sentence will provide necessary protection, as will the supervision provided by an extended licence period.

Accordingly, I consider the necessary protection for the public can be met by an extended sentence.

Credit

There can be no credit for a guilty plea.

Sentence

Shannon Driver, for the manslaughter of 18 month old Jaxon Syrett, who had been left in your sole care, I impose an extended sentence of 17 years comprising a custodial sentence of 12 years with an extended licence period of 5 years.

The time you have served on remand, which Counsel have informed me is 583 days, will be deducted from your custodial term. If that figure is wrong it may be corrected administratively.

Your extended sentence means that you must serve 2/3 of the custodial term before you may apply for parole. It will be for the Parole Board to make the decision on your release, up to the date you complete the custodial term.

Upon your release and until the end of the extension period, you will be the subject of a licence, liable to recall if you breach its terms. I impose the usual statutory surcharge.

Please go with the officers.

Final matters

There are three final matters before I rise.

I commend the Officer in the case Richard Hemmings and his colleagues for their hard work on a case which saw two aborted trials before a third trial resulted in a verdict. I commend, in particular, his patient and careful interviews with the defendant which enabled prosecution counsel to effectively cross examine her about what happened on the day Jaxon was assaulted.

I commend and thank the former clerk to the Court, Melika Tapper Gordon, for her quick thinking when a juror collapsed suddenly in Court and for her subsequent assistance in helping put together a panel of jurors at short notice just before the Christmas break.

Finally, I pay tribute to the dignity shown by Jaxons family, his parents, Kieran and Chloe, his grandma Juliet and his aunt Abbie. Some of whom had to give evidence about deeply distressing matters three times due to the collapse of the first two trials. I pay particular tribute to Jaxon's mother Chloe Syrett who had to endure questions about her parenting of Jaxon. As the evidence before the Court showed, Chloe was a loving and caring mother to Jaxon who did all she possibly could to protect him.

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