

REX V. DEVECA ROSE.

SENTENCING REMARKS

1. On Thursday 3rd October 2024, you were convicted of manslaughter in respect of your four young children and I must now sentence you.
2. There has been a lengthy period between conviction and the date of sentence as it has proved to be very difficult to get all the necessary reports prepared. There have been a number of short hearings to monitor progress. At some of those hearings I expressed my concerns as to whether sufficient importance was being given to the assessment of your current medical and mental health condition. I now have various reports and I will refer to them in the course of these sentencing remarks.

The facts giving rise to the convictions.

3. You met Dalton Hoath, and within a relatively short time that relationship saw the births of two sets of twins. Kyson and Bryson were born on 14th January 2017, and Logan and Leyton, almost a year later on 11th January 2018. At the time of their deaths, the older twins were 4 and the younger ones, 3.
4. You and Dalton separated when the younger boys were about 6 months old. As a result, much of the responsibility for day-to-day care of those four children fell to you. Your parents, Dalton's grandmother, mother and step-father, and to some extent Dalton himself, all played a role in assisting with care. In December 2021, you were living at 118 Collingwood Road, in Sutton, a private rental address.
5. School and nursery staff spoke about the lively nature of the four boys. They were clearly deeply loved by all who had any role in their care and development.

6. At about 6:30pm on 16th December 2021, you left 118 Collingwood Road. The ‘phone records show calls between you and two friends between 6pm and 7pm. You were on a call between 6:16pm and 6:32pm, there is then a four minute period where there are no calls, but then you are on another call from 6:36pm for the next 35 minutes. Both those calls are between you and Stephanie Balogan. She makes the call at 6:16pm and you then call her at 6:32pm. Stephanie says the conversations the two of you had that day were nothing out of the ordinary: the two of you were laughing and joking. To her you seemed fine. She says that the last call with you ends abruptly, no doubt for reasons that are now obvious.
7. When you left 118 Collingwood Road that evening you went to Sainsbury’s. Earlier that day you had gone to that same shop with all four boys. On this later visit, the shopping receipt shows you purchased a few items, but none could be said to be essential or vital.
8. Having left your home and the boys, those living in neighbouring properties were alerted to a fire at your home at about 6:50pm. One neighbour, Pradeep Nimalasena, heard a child from the upstairs say several times: “*There is a fire here*”. He called back to tell Bryson, the name he knew for one of the boys, to keep away from the window.
9. The first ‘999’ call was made at 6:54pm and the first fire engine to arrive was there within minutes. At 7:02pm two more fire engines arrive and fast work is done to extinguish the fire. Firefighters had been alerted to there being four children in the house. When firefighters locate the stairs they find a mattress and a door laying on the staircase itself. Once they get to the front upstairs bedroom they locate the bodies of the four boys and each is removed. Despite extensive first-aid care the four boys sadly died.
10. By 7:12pm firefighters had confirmed four casualties. You are captured on CCTV in Sainsbury’s at 7:03pm paying for items you had purchased. Your return home is timed by those at the scene between 7:10pm and 7:15pm. The call with Stephanie Balogan I mentioned earlier ends shortly before 7:12pm and so that timing would appear to be accurate.

11. After the fire and at trial, you suggested someone called ‘Jade’ was with the children when you were out, but that was not the case: the true position is that you had left four boys aged 4 and under on their own. There was evidence the front door needed to be locked to prevent the boys inadvertently getting out even when you were present and whilst it was not possible from an examination of the front door handle to say for certain if the locking mechanism was engaged, it is very likely the four children were unable to get out. Some light bulbs in the house did not work and so there was reliance on tea lights to provide sufficient light.
12. You were convicted of four counts of unlawful act manslaughter. The basis of the case was that you went out leaving four boys unattended in the unsafe conditions of the house: that you abandoned them. Had you been at home when a fire started, you may have been able to extinguish it, or if not, you would have been able to get the children safely out of the house, but you were not there, and the children were too young to know what to do. As a result of what you did, they were all killed.
13. This fire happened on a December evening when it would have been otherwise dark. The likely cause of the fire is a tea light or an unextinguished discarded cigarette. The fire investigation revealed numerous manufactured cigarette ends, cigarette packets, tea light cases (used and unused), joss sticks and disposable lighters in the front living area where the fire started and took hold, with particular concentrations of such items in the areas of two parts of the sofa in that same room. I note the absence of working smoke or carbon monoxide alarms. There were such devices in the premises, but they were either inoperable by reason no battery or a low battery, or were not functional.
14. There are no other words to describe this case as anything other than a deeply tragic one: the lives of four young children gone in just a few moments through an intense fire. Photographs from before the fire show four lively and engaging boys. I have no doubt they were a handful, but family as well as staff from school and nursery speak of the care and love you showed to them. It is of significance that you were acquitted of an offence of neglect as that, in my view, reflects that the jury found you were otherwise doing your best to care for the children despite the appalling condition

of the house you were all living in. There was no working bathroom or flushing toilet and the kitchen was unusable. It will be for others to look into why you and the children were permitted to live in such conditions.

15. In terms of victim impact, very moving statements from Dalton Hoath, Jason Hoath, Kerry Hoath, Casey Hoath and Sally Johnson about the profound impact on them of the loss of these four very young boys and the way in which their worlds have been turned upside down by the loss, have been read in court as part of the sentencing process.
16. At trial evidence was placed before the jury as to social services involvement between 2018 and 2021. Despite the record made at a home visit on 20th January 2020, suggesting a follow-up visit, that did not happen. The Health Visitor who completed that visit suggested you should have been on an enhanced plan that would have provided you with the required and necessary level of support needed to address the clear decline noted in living standards and concerns as mental health. No explanation other than the possibility of the pandemic was given as to why that was this was not addressed. Efforts were made to undertake a further visit in July 2021. One short visit took place on 12th July and then a further brief visit on 15th July 2021. Following this latter visit, the Family Support Worker who attended, sent an email to her manager setting out her concerns as to the state of the home, your mental health, and the Support Worker not being allowed to see the boys, but there was no follow-up or further engagement prior to the fire.

Reports on your mental and physical health.

17. Before trial a number of reports were prepared to shed some light on the state of your mental health at the time of the fire. Extracts from those reports were placed before the jury. Firstly, from April 2024, Dr Adam Jarvis, a clinical psychologist, noted you then presented with evidence of a number of mental health disorders: Depressive Disorder, Generalised Anxiety Disorder, Post Traumatic Stress Disorder, Social Anxiety Disorder, and Dissociative Disorder.

18. Dr Vivek Bisht, a consultant forensic psychiatrist, saw you on 1st March 2024. In his opinion the primary diagnosis was of recurrent depressive disorder. He observed that there appeared to be clear evidence of deterioration in your mental state for several months leading up to the fire. Medical records referred to indicate you had approached your GP with feelings of low mood, periods of tearfulness, inability to cope, erratic sleep pattern, diminished appetite, loss of weight and lack of motivation. Dr Bisht observed there was information you were struggling to cope being quarantined during the Covid -19 pandemic with little or no support to care for the children. You were commenced on an antidepressant, but were only compliant with medication for a brief period. He also noted you requested help with regard to low mood in April 2021, as things had further deteriorated to the point that you were struggling to hold on to your job. You were then found unfit to work and that position had been repeatedly renewed at the time of the fire. His opinion was that you were clinically depressed at the material time, but there was no evidence you were psychotic. He added that it is recognised depression can lead to impairment in attention and concentration, muddled thinking with poor judgment and decision making and that this might explain some of your actions on the day.
19. In June 2024, Dr Paula Murphy, a forensic psychiatrist, expressed the view that there was a high likelihood that you have an underlying Personality Disorder with borderline traits and a high likelihood that you have Recurrent Depressive Disorder. She also observed it is likely you were not coping at the time of the alleged offences and that your living space was one of the manifestations of this.
20. These observations on your mental and physical health must be seen alongside the evidence of events on the day of the fire and in particular what is said about the ‘phone conversations you had with friends where nothing of concern was raised.
21. Immediately before the start of the trial your physical health was a concern. There were clear signs of a need for treatment to your eyes following a visit you made to a high street optician who found severe optic disc swelling. The optician referred you to the Acute Eye Service at St Helier Hospital on 22nd August 2024. The hospital carried out an examination and having done so, sent you to the Emergency department for urgent investigation into the cause of the condition. You chose to self-discharge

before those investigations could take place. On 28th August you made contact with the eye department saying you were unable to attend for a planned appointment. This was highlighted to the ophthalmology team who found you had not stayed for the planned urgent investigations. When this trial was due to start a question of permitting you to go to a hospital local to this area arose. It was only when I made very clear what would happen if you did not attend hospital that you appeared to appreciate the gravity of the position of your physical health and that this trial was going to start. Emergency treatment was then given and the trial process adapted so that the trial could continue. I note from the various reports I have read that a number of those who have seen you, assessed you and reported on you have highlighted a degree of positive disengagement by you.

22. Since the end of the trial time has been given for the preparation of further reports. As I have already stated, this has taken rather longer than anyone anticipated.
23. I now have a Mental Health Treatment Requirement Assessment [T24-28] report from Dr Clare Bingham, a Consultant Clinical Psychologist dated 13th November 2024. For various reasons as set out in the report, such a course of treatment was not then recommended.
24. There is a Pre-Sentence Report dated 14th November 2024 [T12-23] which gives consideration to all sentencing options. It is clear from the start of that report, that the author had not been able to address all the matters they would normally look at due to a lack of engagement on your part. I note the observation at the end of the report: *“Given there is no clear treatment plan in place for her mental health issues, and the challenges she faces in engaging with services, I remain unconvinced about her motivation, and I find myself in some difficulty in recommending any community disposals at the current time.”*
25. There is a letter dated 13th November 2024 [T29-31], from Dr Roswell Martin, a Locum Consultant Neurologist addressed to the Consultant Ophthalmologist, Dr Charlotte Funnell. In the letter Dr Martin sets out the results of the examination as to sight loss through what is described as idiopathic intracranial hypertension [IIH]. The report ends: *“I am afraid there are not any other medical strategies outside,*

weight loss that can be of use in IHH, so that if she continues to decline lumbar puncture there is little further that we can offer from the Neurology Clinic, so I was not sure how helpful it would be to bring her back to this Department at the moment.”

26. Dr Funnell’s reports deal with an examination on 24th October 2024, [T32-33], a report on the history of events and an analysis dated 18th October 2024[T34-35] which covers the occasion when you self-discharged from St Helier and then received emergency treatment in September.
27. Also dated 14th November 2024, is a further report from Dr Paula Murphy, the forensic psychiatrist who had prepared two reports before trial. In her report she sets out in some detail the current position as best as she could ascertain it. The ultimate conclusion of her report was to suggest admission to hospital: “ *to fully assess her, ascertain her diagnosis, conduct a full risk assessment including the impact of her mental health on her offending and on her future risk of reoffending, and to provide treatment.* ”
28. As a consequence, this Court was asked to give consideration to the imposition of an interim hospital order. Due to some questions on your medical health posed by her a further report was also commissioned from Dr Funnell. Dr Funnell’s additional reports is dated 13th December [M122-126 (also M127-131)].
29. By the 20th December 2024, a joint report from Dr Bianca Inga and Dr Maria Fotiadou was available. As set out, Dr Murphy’s report of 14th November 2024, raised the question of the imposition of a hospital disposal under the provisions of the Mental Health Act with admission to the secure psychiatric services where you could have a more detailed assessment of your mental health, and so they undertook an assessment focusing on this recommendation and specifically to see if you met the criteria for such a detention. Dr Maria Fotiadou is a Consultant Forensic Psychiatrist with the South London and Maudsley NHS Foundation Trust, and Dr Bianca Inga, a Consultant Forensic Psychiatrist with the Oxleas NHS Foundation Trust. Both are members of the Royal College of Psychiatrists and approved for the purposes of Section 12(2) of the Mental Health Act 1983, as amended in 2007.

30. I note from their joint report:

“ She accepted that she needed support to address her previous traumatic experiences, her bereavement and anything else the team would recommend and would be willing to engage in such assessments and interventions in the community, providing support is offered to access the appointments.

She was unsure what other specific help she might benefit from, but welcomed any support her community psychiatric team or social services would offer, especially once a comprehensive occupational therapy assessment of her flat and activities of daily living can be conducted and specific recommendations made.

There was no evidence of thought disorder and there were no psychotic symptoms identified.

31. Having set out the details of their examination their conclusion is:

It is our opinion that Ms Rose presented with a mild depressive disorder with anxiety symptoms in addition to post traumatic stress disorder, on a background of significant trauma prior to the index offence linked with the domestic violence as well as over the last three years following the death of her children, compounded by the recent deterioration in her physical health.

We have carefully reviewed the information available to us and based on our current assessment, it is our view that her mental disorder is not at present of nature or degree to warrant, or make appropriate detention in a hospital for assessment and/or medical treatment. Medical treatment in hospital is currently not necessary nor justified in the interests of the Ms Rose’s health or safety or for the protection of others. Any treatment can be offered in the community.

We have identified the risks to others as being low at present however it is important to highlight that risk needs to be assessed if she were to have children in the future.

Ms Rose would benefit from a psychological therapy to address trauma, as stated she is in agreement with this. She will also need a comprehensive occupational therapy assessment of her environment and her daily needs regarding her poor vision.

Her physical health needs are complex, and they are no doubt impacting on her mental health distress as widely acknowledged. Clarifying first her diagnosis as well as having further information regarding the treatment and management plan, will be extremely important for Ms Rose and we trust that the colleagues from both ophthalmology and neurology departments are addressing this. The need for involving Ms Rose in her treatment and

management plan with clear explanations and information on risks and benefits of the interventions remains important and she may wish to be supported either by her family or her community team when complex decisions are made.

32. As such, it was clear, as at that date, a hospital order was not an option and so at the hearing on 20th December I set today's date for sentence.
33. In addition to the reports identified so far, there is an updated PSR [T100-103] as well as a further MHTR assessment [T104-112]. Both of these reports were made available yesterday [23rd January]. In essence, if not sentenced to immediate custody, a MHTR is now suggested to be appropriate. I note in particular what is set out in the summary of the interview that was conducted for this assessment compared with the earlier assessment last November, and also the concerns raised should a custodial sentence be passed. The later interview shows far more engagement by you. However, as the updated pre-sentence report realistically sets out, an immediate custodial sentence is likely given the seriousness of the offence.
34. On your behalf it is submitted that the impact the offence has had on you cannot be overstated. While it is accepted that you are criminally responsible for the death of your children, it is submitted that, in the light of your all of the features of the case, you, your background and the position at the time, your culpability is low and mitigated by the clear and apparent mental health issues existing in the lead up to and at the time of the index offences. It is also submitted that since the fire that you have lived in almost complete isolation: have lost all contact with friends and have only the support of your mother. It is said that you have been ostracised by almost all those who knew you and have been subjected to sustained and frightening abuse on line and are afraid to leave your home through fear of reprisals. The loss of your children has only been compounded by the swift and irreparable loss of your vision. In determining any punishment, this Court is invited to consider the severe limitations you will inevitably have to undergo.
35. On your behalf it is also submitted that this case is one that falls within the category D as to culpability and one where the only care that is needed can be given if a non-custodial sentence is imposed. It is said that the package of mental health care

proposed is what is required to rehabilitate and that a suspended sentence will ensure compliance. It is also submitted that an immediate sentence in prison is not what is required. Miss Power submits that the reports paint a picture of someone who was struggling to cope and seeking help at times long before the fire. She points to the long history of involvement you have had since your teens with social services. She highlights parts of the history prior to the fire and what is described as a perfect storm of acute mental and medical health issues. Miss Power points to the impact on you of the loss of the boys. There is also the loss of your vision and not being able now to see photographs and films of the boys. I have all of those points well in mind. These features of the case all make this a very complex and difficult sentencing exercise.

Sentencing guidelines.

36. The Sentencing Council definitive guidelines on unlawful act manslaughter clearly apply. I need first to consider culpability. Considering the characteristics listed in the guidelines and seeking, as the guidelines state, to avoid an overly mechanistic application, I note a factor in Culpability B: *‘death was caused in the course of an unlawful act which involved a high risk of death or GBH which was or ought to have been obvious to the offender’*. In Culpability C, I note: *‘where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm (or reckless as to whether harm would be caused) that falls between high and lower culpability’*. It may be argued that each equally fits the characterisation of this case. I observe in Culpability D and factors indicating lower culpability: *“The offender’s responsibility was substantially reduced by mental disorder, learning disability or lack of maturity”*. The guidelines use the term ‘substantially’. On your behalf it is submitted that this case comes within Culpability D. I do not agree. The state of your mental health at the time of the fire had some impact, but on the information available to me, I do not find your responsibility to have been substantially reduced.

37. The start point for sentence for Culpability B is one of 12 years’ custody and a range of 8 to 16 years’ custody. For Culpability C, the start point is 6 years’ custody with a range of 3 to 9 years’ custody. A note to the guidelines sets out: *“Where a case does*

not fall squarely within a category, adjustment from the starting point may be required before adjustment for aggravating or mitigating features.” A further note to the guidelines makes clear that the table setting out start points and ranges of sentence is for a single offence of manslaughter resulting in a single fatality. Here, there are four offences and four fatalities and, in my judgment concurrent sentences reflecting the overall criminality are appropriate. Although I have mentioned both Culpability B and C, in my judgment Culpability C is where this case falls. However, as to some extent it does not fall squarely into that categorisation, but perhaps more significantly, as there are four deaths, an adjustment is required to the initial the start point for Culpability C before looking at the aggravating and mitigating features. In my judgment that start point, before looking at those factors increasing seriousness and those factors reducing seriousness, is one of 12 years’ custody.

38. Turning next to factors increasing seriousness identified in the guidelines, I need to have regard to the fact that you were a heavy smoker and that there was extensive use of candles or tea lights for added light in the home. As such it might be thought that the risks of fire in a house where the living spaces actually used were very cramped, and where there was discarded rubbish around the home, were significant. You were the mother of the four boys and so there is an element of abuse of a position of trust. Your children were particularly vulnerable due to their age and it is clear that the last moments of their young lives would have been with some acute physical suffering as the fire took hold and they sought to get away from it. It is also the case that others were put at risk of harm including those neighbours and firefighters who attended. I cannot ignore your actions after the event in providing the account that there was a babysitter looking after the children: not only did that result in another entry into the building with further risk to the firefighters, but also it led to an extensive police enquiry as to their whereabouts. In setting out these factors I need to be careful not to double-count for those factors that impact on the initial assessment as to culpability.
39. On factors reducing seriousness or reflecting personal mitigation, you have no previous convictions, and have expressed remorse. It is clear that you will have to have to live with the knowledge that you bear responsibility for the deaths of your four children. I note a lack of pre-meditation, and the impact of your current medical and mental health, as well as your personal background and circumstances. I have

already referred to the reports on your mental health that formed part of the evidence at trial. I have considered the guidelines on Sentencing offenders with mental disorders. In doing so, and applying the guidelines I should make an initial assessment as to culpability in accordance with the offence specific guidelines, and then consider whether culpability was reduced by reason of the impairment or disorder. As the guidelines provide, culpability will only be reduced if there is sufficient connection between any impairment or disorder and the offending behaviour. In making that assessment I have reflected on the impact of those reports as to the likely position as at 2021 and the more recent reports.

40. Reports post-conviction deal with your current medical and mental health position. The current position is somewhat different to the position back at the time of the fire and the deaths. It is very likely to be the case that serving any sentence imposed in the light of your eyesight, and mental health issues will make that harder on you than on others and I have sought to incorporate those matters in assessing the factors reducing the seriousness of the offence.
41. In my judgment, to some extent the factors increasing seriousness and those reducing seriousness balance each other out. However, in light of all the submissions made I reduce the sentence to one of 10 years' custody. As I have noted in the course of the submissions this morning, you do not have the mitigation of a guilty plea.
42. Whilst this conviction requires me to consider dangerousness, and some of the reports I have referred to address the risks going forward, I do not find the test to be met here.

Sentence.

43. On each of counts 1 to 4 there will be concurrent sentences of 10 years' imprisonment. You will serve two-thirds of that sentence in custody. If your case is referred to the Parole Board then you may be eligible for release at that point and will be entitled to release at the end of the custodial term.
44. You have been on a qualifying curfew for 114 days and so 57 days will count towards the sentence imposed.

45. As the statutory surcharge applies, the appropriate order may be drawn up.
46. My clerk has prepared a file of all of the reports on your physical and mental health and that file will go with you to prison along with a copy of these sentencing remarks.

Recorder of London
His Honour Judge Mark Lucraft KC
Central Criminal Court,
Old Bailey, London EC4M 7EH
January 24th 2025.