



R v Jane Barnard

Sentencing Remarks

1. Jane Barnard, you have pleaded guilty to the offence of Wilful Neglect by a Care Worker, and it falls to me now to sentence you for that offence.
2. The offending to which you have pleaded guilty and for which you will be sentenced is your failure to report that you had wrongly administered morphine to Derek Davies, at a time when it is not possible to be sure that he would have survived had you done so, including at a time when it is possible that he might have done. You have been acquitted by the jury of the offence of gross negligence manslaughter in respect of the period involving the administration of the wrong drug, and in the period in which it is possible to be sure that Mr Davies would have survived had you reported that he had been administered morphine, and you will not be sentenced in relation to that period.
3. The Crown accepted at the trial that the time after which it was not possible to be sure he would have survived had the error been promptly reported was 11.00 on 6 September 2021. That appears to me to be consistent with the evidence, and it is in relation to your conduct after that point that you will fall to be sentenced.
4. That offending was serious. You continued to fail to mention the mistake which you had made, and which you knew was a serious one, involving 90 mg of slow release morphine being administered to a patient who was not on morphine. But it went further than simply not saying anything. When the paramedics arrived, they asked as to whether Mr Davies might have taken opiates, and you neither said anything yourself, nor did you contradict what Mr McEachern said when he indicated to the paramedics that Mr Davies could

not have had access to such drugs. When she rang, you not only failed to tell Dr Weegenaar of the mistake, but indicated that Mr Davies could not have taken opiates. During the whole of 7th September you did not communicate the fact of the mistake or what you had done to cover it up. Only on the 8th, at a point at which Mr Davies had, sadly, already died, did you reveal what had happened.

5. Mr Davies was a 75 year old man, with a number of significant frailties, who had recently been discharged from a month's stay in hospital. He was vulnerable. The conduct for which you are being sentenced while not causative of Mr Davies's death, was nevertheless committed at a time when you must have realised that there was at least a significant risk of serious harm as a result of your silence and indeed misstatements of the position.
6. As indicated in the moving – but also as Mr Langdon says, magnanimous - Victim Personal Statements of Mr Davies's daughters Karen and Alix, Mr Davies's death, and the way in which they were unaware of what had happened both at the time of his death, and afterwards, has caused them significant suffering and distress.
7. I accept, however, that you did not intend harm to Mr Davies, and that your conduct in this period was born of panic from your earlier conduct in having administered the wrong drugs and having not promptly reported it – in other words the conduct for which the jury has found you not guilty of manslaughter.
8. I must also take into account the personal mitigation in your case. You have no previous convictions, but instead the court heard evidence of your positive good character over many years.
9. You had worked at Wheatridge Court as a care worker since 1989. In that time, you had little in the way of blemishes on your record. Instead, you had gained the respect and affection of your colleagues, several of whom regarded you as the most caring person on the staff. The evidence as to your work and character given by Kim Jones, as well as by others, including Joan Pope, and in the letters read out, was impressive. I have no doubt as to your genuine remorse. It was your admission that indicated that there had been an overdose of morphine. As was put by your counsel, without it, it seems improbable that the mistake or the overdose would ever have been known about.

10. I also take into account that you have already suffered in respect of your mistake and this offending. You were suspended from work, and won't return to that work. This case has also been considerably delayed in coming to court and to a conclusion – some 4 years and 3 months.
11. You have pleaded guilty to this offence. The reason why the plea was not entered earlier was that you had been willing to plead to this offence, rather than manslaughter, in relation to the entire period, including the period when your actions and failures were causative of Mr Davies's death. I will proceed on the basis that you are entitled to full credit for your plea.
12. There is no Sentencing Guideline for this offence. I have taken into account the references in the Crown's Sentencing Note and the Guideline on the Imposition of Community and Custodial Sentences.
13. I have carefully considered the contents of the Pre Sentence Report with which I have been provided. I note the assessment of you as posing a low likelihood of reconviction, a low risk of recidivism, and given that you no longer work in the care sector, a low risk to others.
14. I consider that your offending passes the custody threshold. However, in light of all the circumstances, including your guilty plea, the appropriate sentence is not a custodial one. Your offending is, however, serious enough to require a community order, and I am satisfied that a community order meets the objectives of sentencing. You will be subject to these requirements: You will complete 100 hours of unpaid work within the next 12 months, working when and where you are directed by your supervising officer. In fixing the number of hours, I have borne in mind all the features I have already mentioned, including the degree to which you have already been, in effect, punished already.
15. If you fail to complete the unpaid work or to do it properly, you will be in breach of the order: that means that you will be brought back to court and may be given further requirements, fined or even resentenced for this offence, and that could result in the imposition of custody.
16. The surcharge provisions also apply to this offence, and the order will be drawn up accordingly.

17. I will also make an order for costs. The amount I will set is £1000. It will be payable within 28 days.