IN THE CROWN COURT AT CANTERBURY CROWN COURT

R v WHARMBY

SENTENCING REMARKS

Introduction

1. Little Hunter Hodges came into this life early, and he left it far, far too soon.

2. Tyla Wharmby, on 29 of October 2026 you were convicted at this court after trial of the murder on 15 July 2022 of Hunter Hodges and also of inflicting on him grievous bodily harm with intent to do so on at least one occasion in the recent weeks before his death.

3. Hunter was born on 16 April 2022 he was thus a premature 12 week old when he died from the devastating injuries you inflicted upon him in the early hours of 15 July 2022 in Ramsgate.

4. You were not related to Hunter Hodges but were at the time the partner of Hunter's mother, Shannon Hodges. You had moved in with her a few weeks before the first serious injuries, the grievous bodily harm, were inflicted by you. I shall deal in a moment with the nature of those injuries.

5. There is only one sentence the law allows me to pass for the offence of murder and that is a sentence of imprisonment for life. That is the sentence I will pass but I am also required by the Sentencing Act 2020 to specify a minimum term which must elapse before you can be considered for release on licence. I also have to take into account the offence of grievous bodily harm with intent upon Hunter.

6. I stress two matters at the outset. They are both important.

7. First, you and those concerned with this case or watching these proceedings or reporting them must understand what your sentence of imprisonment for life in fact means. The minimum term is not a fixed term after which you will be automatically released. It is, rather the minimum time you must spend in prison before your case can be considered by the Parole Board. After the expiry of that minimum term, it is for the Parole Board to decide whether or not you are fit to be released. There is no guarantee that you will be released once the minimum term has expired or at any particular time after that. If and when you are released you will be subject to a licence and this will remain so for the rest of your life. If for example you were to offend and your licence were to be revoked you will be recalled to serve your sentence in prison.

8. The second important matter is this. Hunter was a tiny baby. He had the hope and expectation of a long life ahead of him. He has been deprived of that by you. Usually in a murder case it is possible for me to say something about the life - the character, the achievements and the personality of the person who died. For the obvious reason that Hunter was so little he had no time to develop that personality or live to experience the relationships and the enjoyments that others can do.

9. Shannon has described she was happy about the pregnancy with Hunter. That he used to smile all the time; she thought he was cheeky and he was

mischievous and bubbly for a new baby. I have heard from the victim impact statements and particularly that from Hunter's natural father Seamus, what pleasure this lovely little baby gave to others. I shall return in a moment to his deeply moving impact statement.

10. The grief felt at Hunter's loss it is clear, it will never go away. Shannon, Seamus, and the wider family have suffered and will continue to suffer the effects. Shannon describes her overwhelming grief mixed with guilt that Hunter's life was taken by someone she trusted. She describes his death as devastating her life.

11. Particular among those who has suffered is young EH, Shannon's older son who lived with you and Hunter. His Special Guardian who has cared for him from 2022 and now will do so until he is 18 has recounted the heart-rending details of what she describes also as the devastating and lasting impact upon him of his brother's death. EH was there in the flat at the time, that night. You have never explained exactly where he was, what he saw, what he heard. I cannot on the evidence be sure of those things. EH's Guardian recounts how this seven-year-old cannot understand why he may not live with his own mother anymore, which is a direct result of these events, nor why his little brother whom he adored is no longer around. It has prompted emotional outbursts and what the court has been told are daily meltdowns by this little boy which despite various therapeutic interventions has meant a real impact on his ability to learn and to be part of normal life at all.

12. The minimum term that I will impose must not however be seen by anybody as intended to be a measure of the value of Hunter's life. That is absolutely not what it is intended to be. Nothing that I can do will compensate or can adequately reflect the loss of this young child's life. The period that a murderer must serve does not reflect the value the life taken away and does not attempt to do so.

13. Turning to the background and key facts that are relevant to your sentence. What I now relate are matters of which I am sure having seen you and others give evidence, having read and seen a large volume of evidence including evidence, from the expert witnesses who explained medical and other technical background and other important aspects of the case. I mention, of course, only some of that evidence to give context to these sentencing remarks and to explain my reasoning.

Background and relationships

14. Tyla Wharmby, you were born on 15 December 2001 so at the time of Hunter's death you were 21; you are now aged 24.

15. Shannon Hodges was born on 17 January 2003 so at the time of Hunter's death she was 19. She had become pregnant with her first child EH when she was 15. She and EH's father had later separated. In August 2021, Shannon began a relationship with Hunter's father Seamus Tuckell and very soon fell pregnant with Hunter. Hunter was born on 16 April 2022 at 31 weeks, almost 2 months premature. He was discharged home on 5 May 2022 to his father Seamus Tuckell with Shannon, after some weeks of premature baby care. Shannon had been in a relationship with Seamus for somewhere between 6 months and a year. She ended it in May 2022.

16. By late May of 2022 you Tyla Wharmby were in a relationship with Shannon Hodges and by July were living with her, her then 2 1/2 -year-old son EH and baby Hunter in her flat in Ramsgate.

17. Previously you had been in a relationship with Paige from 2020. She has a boy and girl from an earlier relationship who in 2022 were five and three. Although your relationship had ended in September 2021 she became pregnant by you after that and on 23 August 2022 Paige had your child. She gave evidence to this court about her interactions with you and your interactions with her children in the past. She described how she had sought to remain friendly with Shannon, and did so, as she Paige was carrying your

child. However, she described you as a person who had in effect "a light switch" and could suddenly when provoked turn violent. She had noticed it after about a year with you; and when her son became emotional and sometimes screamed like a siren you would react to him in a violent and nasty way. You reacted violently to her also when she was seeking to discuss matters with you one evening not long before the events in question.

18. Paige described a side of you that some of the other evidence also reflected. You would look after Shannon's children, if and when she asked, would help with hygiene, caring, getting them to sleep, feeding them in a manner that was not worrying to her. The evidence from mobile phones, from Facebook and other apps showed a series of enthusiastic communications with you referring to Shannon's boys as yours and expressing publicly your intense love for them and for their mother. Your approach to Shannon, as I believe it initially was to Paige, was of intensive, indeed overwhelming attention, flattery, involvement and focus. You have a strong and in my judgement manipulative personality. You took over important conversations with professionals; you dominated your partners' domestic lives to an extent. You convinced these women as Paige herself said, that they themselves could not step in –you had a way of making them feel they were not doing the right thing. The evidence also shows that you had for a significant time suffered from difficulty in controlling your anger. You did I am sure have a "switch" and when provoked, it was not unusual for you to "lose it".

Social services involvement and the grievous bodily harm to Hunter

19. Tragically, in the weeks leading up to his death, Hunter was also the victim of your violence. Social Services had become involved following a frightening incident on 20 May 2022 when Hunter was with his father Seamus after he and Shannon had had a disagreement. You and a group of people from Shannon's family congregated outside Seamus's flat demanding the return of Hunter. You and Shannon's brother Cole broke into the house by smashing the glass of the front door. Seamus Tuckell, who was looking after Hunter hid in a locked bathroom with him– you with Cole hunted for him through the house. You were arrested and later cautioned for criminal damage. Social services became involved at this point by a

referral from Seamus Tuckell and also a reference from Shannon's mother. Although not in a permanent relationship with Shannon, you were seen being romantic with her at this time.

20. Thereafter, Shannon took Hunter back contrary to Seamus's understanding of the plans for his son. The time came when social services visited Shannon and Hunter on 14 June 2022 and were introduced to you. Shannon said you were helping her look after the children. At this time she expressed concerns about Hunter's feeding that he was being sick and only taking a little milk.

21. There followed a series of trips to the hospital with Hunter, for example on the morning of 23 June Shannon took him to hospital because she was concerned about his diarrhoea and vomiting and his lack of proper feeding. It was suggested at hospital he might have an upper respiratory tract infection or bronchiolitis. At the Social Workers' home visit of 24 June, Hunter appeared to be asleep in his Moses basket. Shannon however was worried and returned to hospital that evening. She felt there was really something wrong. She reported a three-day history of coughing, diarrhoea nose and throat symptoms, and vomiting, with increased breathing effort and fever spikes. He had been more irritable than usual; his feeding had decreased. Shannon said you usually did the talking at such times and on this visit you jumped in even more than usual before her in the discussions.

22. The hospital thought Hunter's problems might be sepsis or an infection, and he was admitted, and started on intravenous fluids and antibiotics. No infection was shown on blood tests. It was suggested he might have been overfeeding. Hunter was discharged on 27 June. Later that same day Shannon brought Hunter back to the hospital again She reported Hunter had three times that day intermittently turned purple, then mottled, became pale and floppy, coughed and gasped for air. There was associated cough and again, on 28 June, mottling. In fact, this was the effect of the grievous bodily harm that you had inflicted on this baby at around this time, the signs of which were discovered by the doctors on his post-mortem examination, caused by you violently shaking him and inflicting serious injury. He was discharged home on 29 June 2022. A further Social Worker visit on 30 June

2022 did not note anything untoward. You explained to them on that occasion that you did the night feeds, as it was the case that you did not sleep much, you had ADHD. The last social work visit was on 14 July 2022, the day before you killed Hunter. The visit had been arranged to sign off Hunter and Shannon from the assessment and from Social Worker supervision.

The night of 14-15 July

23. On the night of Hunter's death, I am sure from the evidence that Shannon heard Hunter crying in the night. It had woken her up, and her son EH was unsettled but once EH had been re-settled in the room you all shared, and EH had gone back to sleep, she also fell back asleep. She heard Hunter crying a lot later on, crying and screeching, but blocked it out, she did not attend to him because you did the nights. She fell back asleep. You then did attend to Hunter and took him into the other room, though Shannon was unaware of that.

24. The next she knew was being awoken just before 5:30 am by you, coming into the room with gravely ill Hunter in your outstretched arms. Shannon could see that the baby's head appeared to her to have doubled in size and it was squishy. He was awake she said, but looked lifeless – he was grey, his eyes were rolled back and he was floppy. She did not know where EH was. He was not in his bed.

25. At the start, you gave a story consistent with you having had the care of Hunter immediately before he showed the symptoms of a swollen head, paleness and collapse. You made a statement to police stating that Hunter woke you up and you picked him up and the back of his head was all swollen and his skin was pale yellow. You also said to ambulance men that Hunter had been crying, and you had brought him into Shannon because his head was swollen and squishy and when you touched it, it made Hunter scream. You repeated this sequence of events to others. You later callously, and as the verdict showed, untruthfully, changed your story to say that it was Shannon who had had Hunter before his injuries were seen, implying that she had inflicted them. I am sure you brought the gravely injured Hunter in

to her, and Shannon, not knowing what to do, phoned her mother who told her to phone an ambulance immediately which Shannon did. When you realised the implications of the true chain of events you changed your story. I am sure that you realised that the person who had observed these problems first with Hunter had to be the person who inflicted the injuries that caused them.

26. Analysis of the usage of your telephone and that of Shannon's during the night and early morning however, made clear that what you sought to say about Shannon's involvement was not true. She was asleep undisturbed after EH had settled and she managed to fall asleep thereafter until the moment you came in with Hunter, injured and woke her just before 5.30 a.m. You, after a short period apparently asleep, had spent time in the night moving about, and as you admitted, on your mobile telephone. At a time likely shortly after the fatal injuries had been inflicted on Hunter, you were cruising online pornographic websites on that phone.

27. When you had brought the dying Hunter in to Shannon around 5.30 a.m. you then disappeared elsewhere in the flat and did not come back until she had called you several times. She said you seemed to be ignoring her.

28. The injuries that were inflicted upon Hunter were extreme, horrific and the detail of them is hard to hear.

29. The medical evidence before the court came from a highly distinguished and experienced team of consultants with expertise covering neuropathology, ophthalmic pathology, paediatric neurosurgery and forensic pathology. It spoke with one voice: what Hunter suffered was appalling - just about everything that could have been broken was broken said the highly experienced paediatric neurosurgeon. There had been a severe impact on the right-side skull with fractures and deep bruising inside and out. There was softening and fragmentation of brain tissue associated with subarachnoid haemorrhage, bruising in the upper part of the brain. There were pinpoint haemorrhages in the cortex. Blood supply to and from

the heart had been compromised by the increase in intercranial pressure from the head injury. There had been bleeding into the inner white matter of the brain representing severe contusion. A lack of blood supply elsewhere in the brain caused by the severe trauma, caused the brain to swell, ventricular bleeding in the brain cavity and signs of developing tissue death. There may also have been severe shaking by you in addition to impact here. Examination showed optic nerve sheath haemorrhage accompanying the intercranial haemorrhage. The cerebral haematoma was described as so large it has gone down to the spinal cord.

30. The level of force used was severe – the severe injuries proved that. The effects would have been immediate - a question of moments, and straightaway very obvious, profoundly so. You inflicted the kind of damage that can be seen in severe fatal accident head trauma such as a high-speed motor vehicle collision or fall from a storey or two of a building. All were agreed these are the kinds of injuries seen in abusive head trauma cases. There was no plausible accidental explanation.

31. The evidence from the postmortem examinations also revealed that Hunter had been the victim of serious injury in the weeks before his death at your hands. Non recent brain injury was clearly seen.

32. Hunter had been taken by his mother, and you had accompanied her, on occasion, to the hospital where the hospital staff believed the baby to be suffering from infections, colic and other difficulties. It is clear, in retrospect with the detailed examination post-mortem that the symptoms from which he was suffering in the course of June 2022 were the result of injury inflicted upon him by you. There were signs of old healed subdural haemorrhage over the brain and in the neck segment of the spinal cord plus axonal damage, in effect damage to the wiring of the brain in the brainstem structures. This was also described as severe head injury and represented at least one occasion when you had inflicted serious injury on Hunter in the past. It was caused by excessive hyper flexing and extension of the head and neck – serious shaking.

33. At this time Shannon contacted Hunter's natural father Seamus. It is almost impossible to articulate how distressing this period must have been for him. He had had no opportunity to see or care for his baby son in recent weeks, and yet suddenly his child was perilously ill in hospital and requiring transfer to another hospital in London. Seamus went to the hospital, making the journey by road to London and Kings College Hospital. His impact statement for this hearing is truly heartrending. He has expressed eloquently the horror of attending the local hospital – in fact the hospital where he worked, to see his young son near death. It has taken a dreadful, probably irreversible toll on his health and his well-being. He states he lost his son twice – when he was taken in May and then for ever, when killed by you.

34. Hunter was airlifted to Kings College Hospital in desperate attempts to save his young life- which in spite of singularly heroic medical efforts, failed. The suffering inflicted not only on Hunter but on those who loved him, particularly his natural father is hard to imagine.

35. There is an interview of you Tyla Wharmby, captured on camera by the body worn footage of an officer outside the hospital in Ramsgate around this time in which, with apparent calmness and composure you explain what you then said had happened. This was a story you did not adhere to as I have explained. You came to realise your jeopardy and sought to implicate Shannon.

36. I turn now to considering the matters I must take into account when deciding upon the minimum term that I will impose in respect of the two offences for which you have been found guilty namely the grievous bodily harm with intent upon Hunter about a month or so before he died, and his murder.

37. In deciding upon the minimum term you will be required to serve I take the starting point prescribed for offending of this nature by Schedule 21 to the Sentencing Act 2020 which in this case is to be found in paragraph 5. This

is not a case to which paragraphs 2 to 4 of Schedule 21 apply. Accordingly, I begin with the starting point for determining this minimum term which is 15 years. It is, however, only a starting point and in your case it cannot be the end point. I am obliged to take into account the aggravating and mitigating factors which the Sentencing Act requires to be taken into account, together with such other aggravating and mitigating factors as appear to me to be relevant in order to arrive at the appropriate minimum sentence. Further, in this case under section 322 of the 2020 Act I must consider the associated offence of inflicting GBH with intent to do so upon Hunter between 1 June 2022 and 7 July 2022 and impose a minimum term that reflects all the offending.

Aggravating Factors

38. Turning first to statutory aggravating factors. Hunter was a tiny baby whom you, as a matter of routine would feed during the night. He was premature, and although 12 weeks old when he died, he was more like a 4-week-old in size, being born 2 months earlier than full term. Hunter was therefore dependent upon you and very vulnerable. You regarded him you said to others on many occasions at the time, as your son, though your relationship with his mother and thus with him was very new indeed. The vulnerability and extreme youth of Hunter and your gross abuse of trust are both aggravating features (see Schedule 21 paragraph 9), but I bear in mind that those two factors are closely related, and I do not double count them.

39. As to other aggravating features, although this was not a planned or a premeditated killing, the evidence before this court showed clearly that extreme force was used. I am sure the gross and ferocious violence shown towards this little baby erupted from a sudden fit of anger provoked by his crying and inability to settle. The force used against this defenceless child was extreme. The level of force is an aggravating feature. You smashed this baby against either the floor the wall or a hard piece of furniture inevitably extreme suffering: Hunter did not die nor even fall completely unconscious at once. The paramedics and the hospital staff fought to save him.

40. I regard it as an aggravating feature, although a less serious one, that you were aware of your tendency when provoked or under pressure to become violent very quickly as I set out above. The court heard the evidence of Paige your previous partner about the rough treatment you had given to her young son if you felt provoked. You were as you admitted in evidence under pressure financially and through lack of sleep. Indeed, in the weeks previous to Hunter's death, the jury found you inflicted really serious injury upon him as well. It is relevant you at no time sought to step away from the night-time duty which you undertook, nor to seek any help, even though there was frequent access to social services' personnel and also to the hospital. This does not really have the character of a one-off incident, out of the blue.

41. It is also an aggravating factor that you changed your story about whether Hunter was injured when you first gave him to Shannon, and the time at which you had given him to her. You sought to blame Shannon for Hunter's death when you realised that it was plain to the medics this was inflicted injury, and that the catastrophic injuries to Hunter would have become apparent immediately. Not only did you seek to blame her in your evidence, but your acts have meant that she is separated from her own remaining children now by Court order as her victim impact statement recounts. This separation from her children is a factor which makes the consequence of your actions more serious.

GBH the Associated Offence

42. I must consider a minimum term which reflects the seriousness of the combination of the. Murder and the offence associated with it. This element necessarily aggravates the seriousness of the murder. The injuries that led to Hunter's death were catastrophic. However, they did not occur as a single incident in this baby's life. As the post-mortem revealed to everyone significant injury had been inflicted upon this baby at least once before. By their verdict the jury was sure that it was you that inflicted these injuries. That conviction for GBH with intent reflects the gravity of the injury done to Hunter which, with the clarity of hindsight, one can now see was reflected in the symptoms Hunter showed.

43. The sentencing guidelines for an offence of GBH with intent if sentenced separately would attract a sentence with a starting point of 7 years and a range of 6 to 10 years for a category A2 offence such as this with grave injury to a vulnerable victim like Hunter.

Mitigating Factors

44. I now turn to the mitigating factors and potential mitigating features.

45. It is a statutory mitigating factor under Paragraph 10(a) of Schedule 21 to the Sentencing Act 2020 that as the Crown accepted, you intended to cause serious bodily harm rather than to kill Hunter. Whilst this is a mitigating factor it is not of great weight in this case. This is not one of those cases where a baby is just shaken too hard by an exhausted parent and dies. In this case the force was extreme as the injuries evidenced. You whacked Hunter's head against a hard surface: a floor or wall possibly a piece of furniture. Extreme force was used against this defenceless baby, in effect smashing his head in. This could not have been done without appreciating that there was a real prospect he would not survive what you were doing to him. Furthermore, in a tiny child like this, the dividing line between an assault that will cause serious harm and an assault that will cause fatal injuries is narrow and indistinct. In setting out to cause really serious harm you could not be sure what the outcome would be.

46. It is also a statutory mitigating factor that this was not a premeditated killing. as I have said, it is some mitigation, but in the context of the facts here, it is not substantial. You had used violence against Hunter before; there had been at least one earlier incident. It was just this sort of risk of sudden uncontrolled violence you presented to Hunter. The existence of your earlier infliction of serious injury on him gives this case a rather different context from a one-off sudden burst of violence as I have said, even if it was not pre-meditated. You were aware what you were capable of doing to this baby.

47. It is a statutory mitigating factor under Paragraph 10(g) of the Schedule to the 2020 Act, and a factor I do take into account as mitigation on your behalf, that you were relatively young at the time of these events, namely 21. The law recognises that the age of 21 is a time when the brain is not yet fully developed. The Overarching Principles reflect that young people between the ages of 18 and 25 are still developing neurologically and consequently may be less able to limit impulsivity and so may behave more impulsively than those of more mature years. The effect of prison will also likely be more severe upon younger people. I note from the papers your difficulties as a child, and I note your neurodivergence. I take these matters into account under the same broad head as providing elements of mitigation here. However, as I shall say, I do not regard you as particularly immature, even if you were young.

48. I do not doubt that you were shocked by events and there was some evidence that you communicated on the telephone with Paige suggesting to her your panic afterwards, however, at no time have you expressed remorse or regret. That potential mitigating factor is not present here.

49. I have considered whether it is a particular mitigating feature as is argued on your behalf that you may have been provoked by Hunter's crying: not to an extent that this could be thought of as any defence in law, of course, but as a point in your favour diminishing the severity of what you did. However, I am unable to regard this as separate mitigation - including that it is said that you were sleep deprived and under pressure. You were a young man who by your own admission, did not sleep much in any event, that you knew. I cannot regard Hunter's crying as a truly provocative factor that mitigates what you did. I recognise your youth as I have said, and that may bring with it immaturity but I am also sure you had experience of young children, you had cared for them before, you were aware as you had told your doctor that you had worrying bouts of temper – you knew you had to walk away - yet here you did not, as this offending shows, on more than one occasion. You took no steps to protect Hunter, although knowing these things about yourself.

50. There is no suggestion on your behalf that there are medical or other matters that ought to be taken into account in mitigation of this offence other than your relatively long-standing diagnosis of ADHD. You had been medicated but had stopped that medication. You were aware of the effects upon you in the same way that you were aware you had difficulty managing your temper. In my judgement given your history of sudden violent reaction when provoked of which you are well aware, these features do not serve to mitigate to a significant degree the culpability for the fatal harm you did to Hunter. These factors as set out apply equally to the infliction of the GBH on him in the weeks before he died.

51. It is the case that aside for the caution in respect of breaking down the door on 20 May 2022 ,you do not have any convictions. I take that into account.

52. There was no evidence of the use of drugs or of alcohol in the time before Hunter's death.

53. In summary, I have taken careful account of all the factors set out in the written and oral submissions advanced on your behalf. I have taken into account the aggravating and the mitigating features, weighing them all up in reaching my view of the appropriate the minimum term.

Sentence

54. I now come to sentence.

55. The minimum term you will serve will reflect your overall criminality, including for the offence of Grievous Bodily Harm with intent between 1 June 2022 and 7 July 2022. Had I sentenced you after trial for the offence of Grievous Bodily Harm with Intent alone I would have sentenced you to 7 years' imprisonment.

56. The qualifying days you have spent in custody are 267 which will count towards sentence.

- Please stand up Tyler Wharmby

  For the Murder of Hunter Hodges. I sentence you to life imprisonment.

  Taking account of all the relevant circumstances and the aggravating and mitigating factors, the minimum term will be 21 years less 267 days on remand.

  This results in a sentence of 20 years and 98 days.

  For the Grievous Bodily Harm with intent of Hunter Hodges, I impose a sentence of 4 ½ years to run concurrently.

Judicial Commendations

1. I commend the two medical teams who sought to save Hunters life. At first, the team at Queen Elizabeth Queen Mother Hospital and thereafter the team at Kings College Hospital where Hunter died. Their extraordinary efforts to try to save Hunter Hodges life were truly exceptional.
2. I wish to commend the investigation teams that brought this difficult case to trial after lengthy proceedings elsewhere in difficult circumstances.

There are two more things to say. Firstly, to mention the friends and family of all involved in the case, on both sides, for their composure, restraint and dignity. Secondly, to mention again the jury for whom this was a truly difficult case to hear. Thank you once more for your superlative service.