



JUDICIARY OF  
ENGLAND AND WALES

**Preston Crown Court**

**R v Dyson Allen**

**Sentencing remarks of Mr Justice Males**

**27 September 2013**

Dyson Allen, you have been convicted by the jury of the manslaughter of three young children, the twins Holly and Ella Smith aged four, and Jordan Smith aged two, and of their elder half brother Reece Smith aged 19, who died attempting to rescue them. They died on 7 January 2012, when you deliberately set fire to clothing hanging in a wardrobe in the bedroom where you knew that the three young children were asleep. You have been found not guilty of murder.

You were 18 years and three months old at the time of the fire, and for the previous few weeks had been staying at 122 Lytham Road in Freckleton where the fire took place. That was the home of Michelle Smith and five of her nine children. You were a friend of Andrew Smith, one of those children, and she had allowed you to stay there when you had nowhere else to go as a result of a falling out with your step grandmother with whom you usually lived, a falling out due to your heavy use of cannabis.

As often happened, on the night of 7 January there was a gathering of young people at the house. Many of the young people, as well as Michelle Smith herself, were very drunk. You were one of those who had been drinking vodka during the day and into the evening. In addition, you and your friends' idea of a good time was to huddle in the outside toilet at the house smoking cannabis through a bong. You were allowed to do this. A large quantity of cannabis had been smoked in this way on 7 January by several of the young people, including you. You were both drunk and stoned.

By just after 11 pm you were one of six people remaining in the house, not counting the young children. You were upstairs alone. You went into the bedroom where the young children were asleep and set fire to the clothing hanging in the wardrobe upstairs. You left the room and waited while the fire took hold. After several minutes the heat within the bedroom was so intense that it melted the aluminium light fitting and caused the electricity in the house to fail. It was only then that you came down the stairs raising the alarm. By that time the fire in the wardrobe was raging, the bedroom was filled with smoke and it was so hot that not only the light fitting but also the carpet in front of the wardrobe had melted.

In response to your shouts of "fire", Reece Smith rushed upstairs in a brave but doomed attempt to rescue the young children. He managed to enter their bedroom but, in the darkness, the heat and the smoke forced him to retreat into the other upstairs bedroom

where he collapsed. The fire had awoken the three young children. They were heard calling for their mother. One of the twins, Ella, stood on the molten carpet and suffered what must have been agonising burns to her feet. But in the dark and the heat and the smoke the frightened children were unable to find their own way out of the bedroom and all attempts to rescue them, in which you participated belatedly, were beaten back due to the smoke. By the time the fire brigade arrived, Reece was dead. Later that night the three young children were also pronounced dead. All four died as a result of smoke inhalation.

You had no motive to harm the children or anyone in the Smith family. Andrew was your friend and so was Reece. You got on well with Michelle Smith who had given you shelter when you needed it. You got on well too with the young children.

So why did you do it? In one sense, what prompted you to do this terrible thing, not only starting a fire in a room where defenceless young children were asleep but waiting for several minutes before raising the alarm, is a mystery. But in another sense, why you did it seems clear enough. It was because you were out of your head due to the lethal combination of alcohol and cannabis which you had taken that day at 122 Lytham Road, and because of your fascination with fire, particularly when you are affected by drink or drugs. If you had not been drinking alcohol and smoking cannabis, four young people would still be alive and several other lives would not have been blighted. But although you were intoxicated, you were not so intoxicated that you did not know what you were doing. While you did not intend to cause serious harm to the children, you knew what you were doing in starting the fire and you had ample experience of the danger of fire.

You have a history of playing with fire going back for several years -- lighting bonfires using petrol and aerosol cans to add to the excitement and danger; making molotov cocktails; and using your cigarette lighter with an aerosol can to make a kind of flame thrower. You might have been expected to grow out of such habits, as it seems that some of your former friends have done, but you have not done so. Three incidents in particular stand out. Two of them occurred at a party in March 2011, only some nine months before the fatal fire in Freckleton, when under the influence of drink and drugs you thought it was funny to terrorise teenage girls using your cigarette lighter and deodorant as a flame thrower. Despite your denials, and despite the unsatisfactory nature of some of their evidence, I am satisfied that these incidents occurred as the girls described. The third was only about a week before 7 January 2012, when you and Andrew Smith were spraying aerosol deodorant and lighting the spray at 122 Lytham Road. Your evidence about this, that it was not a serious thing, just a trick and something that a lot of people do, was a revealing indication that you have failed to mature or to appreciate the danger of your conduct.

You have continued to deny your responsibility for the deaths of Reece, Holly, Ella and Jordan and have lied repeatedly, not only to the police but in your evidence in this court. You knew perfectly well that it was you who started this fire and before you were charged you effectively admitted as much in Skype conversations which you never expected to see the light of day. But your lies have gone further than prolonging the agony for the Smith family, forcing them to relive the horrors of that night through seven weeks of this trial. In addition, faced with the overwhelming expert evidence that the fire at 122 Lytham Road was started deliberately, you not only maintained your denial of responsibility, but sought to shift the

blame onto another visitor to the house that night, a young girl with a troubled background who, despite the drunken state she was in and the unfortunate way she behaved, had nothing to do with the deaths of Reece and the three young children.

It is not surprising that many tears were shed in the course of this trial, by witnesses and by the family watching in the public gallery. The children's mother Michelle Smith and grandmother Christine Smith have spoken movingly of what all four children meant to them, and of how their loss has left a hole that can never be filled. Reece's father has spoken too of how Reece was not only his son but also his best friend, and of the impact which his death has had.

You yourself were tearful when you came to give evidence in the witness box and I accept that you regret the deaths of these young people and that you did so at the time. Indeed the evidence was that you were extremely upset. But remorse is to be judged by your conduct as a whole, including the many lies you told in an attempt to save your own skin with no apparent sense of shame. This is a factor to which I can give very limited weight.

These are the circumstances in which I must now pass sentence.

I am required to consider first whether you are a "dangerous offender" within the meaning of the provisions of the Criminal Justice Act 2003. That depends on whether there would be a significant risk to members of the public of serious harm caused by the commission by you of what are known as "further specified offences" if you were at large. "Serious harm" in this context means death or serious personal injury, and the risk must be significant as distinct from a mere possibility or even some risk. The question is not whether you would be dangerous in this sense in some years time, after serving whatever sentence I impose, but whether you would be dangerous if released now. In a way, therefore, the question is hypothetical, since you will not be released now. But that is the question which the law requires me to consider.

In my judgment, having listened to the evidence and observed you over the course of this trial, having read what is written about you in the pre-sentence and psychiatric reports prepared for this sentencing hearing, and applying the test which I have mentioned, you are someone who does pose a significant risk of such serious harm. The circumstances in which you started the fire at 122 Lytham Road and failed to raise the alarm until it was too late speak for themselves. Your propensity to play with fire, and on some occasions to spice up the excitement by using aerosols or petrol, is demonstrated by a long list of prior incidents. Although many of these were some years ago, the list includes some which were both recent and extremely dangerous. You act in this way when you are affected by drink and drugs. You often are so affected and have for some years been a heavy user of cannabis. But you have failed completely to recognise the dangerous nature of such conduct which, when you are drunk or drugged, you regard as funny or as a kind of party trick. I do not accept that there is now little or no risk because you have learned your lesson. If you were going to learn a lesson, it might have been expected that you would do so long ago when on one occasion you injured yourself as a result of your games with fire, but you did not learn then and your games continued.

I must next consider whether the seriousness of the four offences of which you have been convicted is such that a life sentence ought to be imposed. Such sentences are reserved for offences of the utmost gravity, where it is necessary to reflect public abhorrence of what has been done. They have been described as a last resort. While I accept that, there are nevertheless cases in which they will be necessary. I consider that this is such a case and that such a sentence is necessary having regard to the grave nature of your offences, which have devastated a family and a whole community, as well as the need to protect the public. Even an extended sentence of considerable length would not be sufficient to mark what you did or to ensure proper public protection. I have already mentioned the features of the case which lead to this conclusion -- the deliberate nature of what you did, not only lighting a fire in a bedroom where three very young and vulnerable children were asleep, but waiting to raise the alarm until the fire had taken hold; the fact that four young people have lost their lives; and (though less significantly) the abuse of the hospitality which had been extended to you and your attempt to pin the blame for these deaths on to a young and troubled girl.

Having reached this conclusion, I must set a minimum term which you must serve before you can be considered for release on licence. If you had been convicted of murder, I would have been required by law to take a starting point of 30 years, although that of course would be no more than a starting point and would be subject to substantial adjustment to take account of all the circumstances, and in particular your young age. As it is, the harm which you have caused is no different from what it would have been if you had been convicted of murder, but the absence of intention to kill or to cause really serious harm means that your culpability is much less. In addition, you are young, a few days away from your 20th birthday now, and just over 18 at the time of the fire, and you have not had the benefit of a stable family upbringing. Despite the previous incidents with fire to which I have referred, you have almost no previous convictions and none of any comparable gravity. I accept also that there was no element of pre-meditation in the commission of these offences. These are important mitigating factors and I take them into account.

Balancing the various considerations, if I were not passing a life sentence I would instead have passed an extended sentence with a custodial period of 15 years, of which you would have been required to serve at least ten years. That would suggest that the appropriate minimum term would be ten years. However, I must also take account of the fact that you have already been in custody for just over nine months. Accordingly, I determine that the minimum term which you must serve is nine years and three months. You must understand that this is a minimum term. It does not mean that you will be released after that time. Whether or when you will be released will be for the Parole Board to determine. You will only be released if the Board is satisfied that you can be released without risk to public safety and, in any event, once you are released you will remain on licence for the rest of your life and liable to recall if you offend again or breach the terms of your licence.

Dyson Allen, for the reasons I have given the sentence which I pass on you for each count is a life sentence with a minimum term of nine years and three months.

I direct that a copy of these sentencing remarks, together with the psychiatric and pre-sentence reports, should be kept with your prison file so that they are available to those who have to consider your case in future.

You may go down.

Finally, I wish to commend the meticulous and highly professional work of the Lancashire Fire & Rescue Service, the police, and the experts associated with them in their investigation of the cause of this fire. A case such as this, in which many of the witnesses present in the house on the night in question were either drunk or stoned, presented obvious challenges. However, the detailed and painstaking work done in excavating the fire debris and analysing the origin and development of the fire produced the remarkable outcome, not only that there was no room for any doubt as to where or how the fire had started, but also that there was no real room for doubt that it had been started deliberately. Without that work, which required great skill and expertise, it is doubtful whether it would have been possible to bring this defendant to justice.