



JUDICIARY OF
ENGLAND AND WALES

The Queen v Wendell Wilberforce Baker

Central Criminal Court

28 June 2013

Sentencing Remarks of His Honour Judge Rook QC

- 1) You have been found guilty by a jury of a particularly grave case of rape.
- 2) You anally raped a 66-year-old woman in her own bedroom having broken into her home at night. Up to that night she had always felt secure and safe in her home.
- 3) She lived on her own. She lived a quiet life. She was afraid of the dark. She slept in a downstairs room as she was nervous and it made her feel better if she slept near the front door especially if there was a fire.
- 4) This was a planned offence. You broke into her home to steal. There is a clear inference that you targeted her because you somehow had acquired inside knowledge and you expected to find money. She was awoken in the early hours to find you searching the downstairs room where she slept. You were desperate for money and even searched the loft. When you failed to find any, you decided to punish her by subjecting her to a brutal and vicious attack and by raping her.
- 5) You put a blanket over her head. Once you had done so, you tied her wrists together behind her back with flex. You punched her in the face with your fists, and then worked downwards punching her chest, and bare stomach. You asked if there was anyone else in the house and you said "If I find anyone else, I'll kill you."
- 6) You searched for money. When you returned you said "Give me the money or I'll murder you." Somehow you had learnt about her friend George. You said "Does he ever fuck you because I'm going to?"
- 7) You made her lean over the bed. You penetrated her anus with your penis. Clearly she suffered great pain. Somehow you manoeuvred her to the hallway. You wanted her out of the way so she would not raise the alarm or seek help. You took out the upright hoover so as to place her in a cupboard. You put the bolt across which secures the cupboard from the outside. There were no inside locks. There are shelves in the cupboard. They do not extend to the front leaving a small gap between the shelves and the door when it is closed. This meant that she was trapped locked inside that cupboard for many hours. Her legs were scrunched up to her chest. Her feet started to go numb. She could not stand in the space because of the shelves. She was aware of the flex around her neck

and under her chest. She had great difficulty breathing. Understandably she felt that she was going to die.

8) It is likely that she would have died but for the fact that she was visited early the following evening by her friend George Worpole. She went through hours of torment during her ordeal inside that cupboard thinking she had been left for dead.

9) Fortunately, it was a Thursday. George would visit once a week on Thursdays. When he came that evening, he could not let himself in through the front door as it was on the latch from the inside. He sensed there was a problem when Hazel did not respond. He called the police and eventually she was released from her grueling ordeal in that cupboard.

10) She was completely traumatised. She was black and blue. Her face was unrecognizable even to her own son who states that it was only her voice that told him it was her. The photographs taken at the time confirm this. The doctor who examined her found extensive bruising of her body. In particular, there were bruises to her back with spare areas which show that you struck her with an object. She stayed in hospital several weeks.

11) Quite apart from the physical injuries she suffered, Hazel Backwell was severely affected by this dreadful attack. In short it ruined the last years of her life. She became more depressed and reclusive. She lost her home and her cat. She lost all confidence and suffered from panic attacks. She was too frightened to go out on her own. She moved several times as she did not feel secure and moved to sheltered accommodation where animals are not allowed.

12) Sadly Hazel Backwell did not live to see her attacker finally brought to justice. In 2002 she was admitted to Newham General Hospital and died a short while later. When a verdict of Not Guilty was entered at your last trial in 1999 as a result of the law as it then appeared to be to the then-trial judge, she felt completely let down. She never got over what happened to her in the early hours of that morning.

13) Your actions have had impact well beyond the immediate impact upon the victim. I have had the benefit of reading two statements from her son David Backwell. Your actions have put massive pressure on both him and his wife, who have had to endure the pain of seeing Hazel Backwell go downhill so rapidly after your attack.

14) Short of a case where the victim is actually murdered or caused a life threatening injury, it is hard to think of a more serious example of the offence of rape of a person in their home. At the very least, you were reckless as to whether Hazel Backwell would be rescued in time to save her life.

15) It is submitted on your behalf by Mr Newton that after a lifetime of regular criminal offending, you have changed. There have been no offences for eight years. Your landlady and close friend Terry Day, who has known you since 2004, spoke of you in glowing terms during the trial. I have read a reference from Jak Miller to the same effect.

16) Mr Newton submits that a critical example is your drug use. He relies on evidence of what you said in interview in October 1998. This evidence was not adduced by the Crown at your trial. During the course of the interview you admitted that you were smoking a large amount of crack cocaine in January 1997 having started in 1996. The amount you took would vary according to the amount of money you had. You were claiming social benefits at the time. That was not enough to meet your requirements.

17) Mr Newton argues that there is clear evidence that you have changed since 1997 as there is no evidence of drug-taking during the last decade or so. I accept that you have no convictions for

sexual offences. You have a number of convictions for burglary. However there is no evidence that any of those convictions involved physical or sexual violence. You do have convictions for violence, but nothing in this league. You assaulted your then-girlfriend in 1993 causing her actual bodily harm.

18) Mr Newton contends that the crack cocaine may provide an explanation for your conduct in committing this offence (although you continue to deny your involvement.) It may explain why you acted as the jury have found you did in 1997. Accordingly he invites me to treat the matter as out of character. He submits that the combination of your improved record during the last 10 years and your abandonment of drugs means that you are no longer a significant risk of causing serious harm by committing serious offences.

19) I have noted that you have violent swings of mood and you still have every appearance of having a short temper if matters do not go your way. I also note that I am dealing with a man who committed an offence involving extreme violence and depravity when aged 40. It is difficult to accept that anyone capable of such a crime when 40 does not continue to represent a substantial risk of serious harm from the commission of further serious offences in his fifties.

20) I have to consider whether a discretionary life sentence is appropriate in this case to mark the public abhorrence at your conduct. I am asked by both counsel to apply the principles in R v Hodgson (1968) 52 Cr. App. R 113, as recently applied in R v D [2013] 1 Cr App R (S) 127, I have no doubt that a life sentence is more than justified.

21) This was a truly grave case. The stark profoundly disturbing facts speak for themselves. On any view such conduct must attract a long sentence.

22) From both the nature of the offence and your history it is clear that you are an unstable character who may commit serious offences in the future which will involve serious physical or psychological harm to members of the public. I have no doubt that, although you are now 56, you are a dangerous man and will remain so for many years.

23) It follows that I have concluded that this offence with all the aggravating features I have set out falls in the category of case which should and will attract the ultimate penal sanction – a life sentence. Quite apart from the principle in Hodgson, in any event, in my view this is a case which because of its exceptional gravity should attract a sentence of life imprisonment. See Red Saunders and others [2013] EWCA Crim 1027.

24) I come to the appropriate length of the minimum term. I must have regard to the Definitive Guideline in respect of sexual offences and the guideline case of Attorney-General's Reference (Nos 73, 75 of 2010, and 03 of 2011) (Michael Anigbugu and others.) [2011] 2 Cr App R. (S) 100. In my view on the basis of this case, the appropriate starting point must be over and above 15 years in the light of the aggravating features of this case. Realistically, Mr Newton accepts this but argues that on these facts I should not go significantly higher.

25) Locking your vulnerable victim in a cupboard where she might have died takes this case to a different level of seriousness beyond the cases envisaged in the Attorney- General's reference and the Definitive Guideline. In my view the appropriate starting point is 24 years.

26) Mr Newton asks me to make an allowance for (i) the delay in this case; (ii) an allied point in relation to double jeopardy; and (iii) the time spent in custody from October 1998 until the trial in 1999.

27) I accept that you are not to blame for the delays that have occurred as a result of the long history of this case. I also accept that as a result of double jeopardy you have no doubt suffered distress and anxiety. However, in the face of the seriousness of this offence, these amount to very limited mitigation, and I am only prepared to make a small allowance for these factors.

28) However I am satisfied that I should make appropriate allowance for the period you spent in custody before your first trial. I am told that was nine months.

29) Taking into account these factors, I have concluded that the appropriate term, had this been a determinate sentence is 21 years' imprisonment.

30) It follows that the sentence of the court is life imprisonment with a minimum term of 10 years 6 months, less the 652 days you have spent in custody before the re-trial.

31) You must understand that that is the term you must serve before the Parole Board will be entitled to release you if it is safe to so.

32) Notification requirements will apply in your case for the rest of your life.