



JUDICIARY OF  
ENGLAND AND WALES

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-v-

**Anwar Rosser**

**Bradford Crown Court**

**13 February 2014**

**Sentencing Remarks of Coulson J**

**1. INTRODUCTION**

1. Anwar Rosser, you are 33. In the early hours of 20 January 2013 you murdered Riley Turner, the 4 year old son of a couple who, out of compassion, had let you stay the night in their home. The mandatory sentence is therefore life imprisonment. Moreover, such was the appalling savagery with which you killed Riley, it is not seriously disputed that, pursuant to Schedule 21 of the Criminal Justice Act 2003 (“the 2003 Act”), the Court is entitled to sentence you on the basis that the murder involved sadistic motivation. Paragraph 4(2)(a)(iii) of Schedule 21 of the 2003 Act makes plain that, in those circumstances, the appropriate starting point for your sentence would normally be a whole life order. In consequence, the argument before me today has centred on whether or not the court should impose such an order, or instead reduce it to a life sentence with a lengthy minimum term.

**2. THE CIRCUMSTANCES OF RILEY’S MURDER**

2. Riley lived with his mother, Sharon Smith, and stepfather, Guy Earwaker in a house near Keighley. Riley slept in his own room and [redacted] slept next door. Sharon and Guy shared the principal bedroom together with Riley’s [sibling].

3. Sharon and Guy had met you through a mutual friend and had treated you with kindness during the time that they had known you, even helping you to furnish your own flat. Your unimaginably violent response to their trust is one of the many aggravating features of this case.
4. On the night of 19 January 2013, you went to a pub and got drunk. At the end of the evening, you and the two women with whom you were drinking, went to Sharon and Guy's house. It was plain that, although you were drunk, you were able to talk coherently and were in control of your actions. Later, the two women left, but you remained. Eventually, Sharon and Guy told you that they wanted to go to bed but you asked to stay the night, telling them that you thought there were people outside to whom you owed money. Out of compassion, they let you sleep on the sofa downstairs.
5. At some time around 4:00am, you went upstairs armed with four knives. Three of those were taken from the downstairs kitchen but one, a brown handled knife, was not subsequently recognised by either Sharon or Guy and instead belonged to you.
6. With that knife, you repeatedly stabbed Riley as he lay in his bed. You also strangled him. The appalling nature of the attack is dealt with in greater detail in the next section of these sentencing remarks.
7. It appears that, after you had killed Riley, you went into the main bedroom. At around 4.30 am, Sharon Smith woke to find you at the side of her bed, curled up into a ball with your head down. She woke Guy and he told you to get out. You told him that you had been there for some time and you said you were sorry. Eventually you left their bedroom but you did not leave the house. Instead you waited downstairs. The only conclusion that I can draw from that was that you waited so that you could hear the devastated reaction of Riley's parents when they found his body.
8. Shortly after you had gone downstairs, Sharon needed to use the lavatory but asked Guy to check that you were not in there. Guy got out of bed and left the bedroom. He noticed a blade on the floor of the bedroom from an electric knife which he had been using earlier that day. He went onto the landing and saw the light on in Riley's bedroom. He entered the bedroom and discovered the bloodstained body. Unable to speak he went back into the main bedroom and Sharon followed him out, to see Riley, dead on his bed, with his throat cut and multiple stab wounds. Sharon screamed and it was only after that that Guy heard the front door slam downstairs, as you left the house.

9. Guy left the house and chased you down the street, carrying the blade that he had picked up in the bedroom. He shouted threats and you shouted 'fuck off' in response. You got away and Guy returned to his family.
10. Neighbours provided assistance to Sharon and Guy and the emergency services were called, but to no avail. The following morning you were discovered in a caravan on a small holding nearby. There were blood-smears on the caravan and on the snow surrounding it. You said to the brother of the man who discovered you, "I have ruined my life". After the police had been called and you were arrested you began to cry, and at the police station you said "What have I gone and done, eh?" All of these reactions suggest that, at that time, you were aware of what you had done. You made a completely false claim that you suffered from PTSD.
11. Two victim impact statements were read to the court during the Crown's opening, made by Sharon Smith and her mother. They do their best to describe the indescribable: the effect on a close-knit family of the violent death of a bright, lively, happy, innocent four year old boy. I hope that Riley's family will forgive me if I read into these sentencing remarks just one extract from the statement of Riley's mother, Sharon Smith:

"I wish I had told that monster no that night when he asked if he could sleep. He said people were outside his house and were going to beat him up and I believed him. I didn't want him to get beaten up, but all along he had a knife in his pocket, plotting to hurt one of us, or all of us. I feel so much guilt that my poor son had to go through such horrific things because my kind heart didn't want to let that monster get beaten up. Now my kind heart cost me my son's life.

I don't feel like ever being nice to people at all except my family. The guilt eats me away every day. What he's done is unforgivable, he's ruined our lives. I don't look forward to life anymore. I wake up now and just want to be with my son, Riley, so he's not alone. I can't bear to think he's sad and alone. I try every day to keep my other sons happy and to help [redacted] and what he has to go through every day. He never spent a minute away from his twin brother. They did everything together. If Riley got a packet of crisps he would get the same, now [redacted] has to choose everything himself. He always cries and says he's got no one to play with. It's very upsetting to hear my boy cry for his brother all the time and wonder where he's gone and why he isn't coming back. Some questions I can't answer to my boy. I try my best but I don't understand myself and I never will."

### **3. IS THE SERIOUSNESS OF THE OFFENCE EXCEPTIONALLY HIGH?**

12. Paragraph 4(1) of Schedule 21 provides that the starting point is a whole life order where the court considers that the seriousness of the offence is exceptionally high. Paragraph

4(2)(a)(iii) provides that a case would normally fall within that description if it concerned “the murder of a child if involving the abduction of the child or sexual or sadistic motivation”.

13. I consider that your sadistic motivation and sadistic conduct can be identified from both the nature and number of the wounds inflicted on Riley and your own behaviour after the killing. I am therefore obliged to set these matters out in detail.
14. Riley’s face, chin and jaw bore marks which demonstrated that you had strangled him. There were marked asphyxial features present in the eyes and bruising on the skin on the chin and jaw.
15. There were 30 separate stab and incised wounds to multiple parts of Riley’s body. These included 14 stab and incised wounds to the neck including a large stab wound to the centre of the neck which penetrated deeply and severed the windpipe. 2 additional stab wounds penetrated deeply into that large wound and partially severed his spine. In addition there were 5 stab wounds to the back, 5 stab wounds to the chest (which penetrated the lungs, one of which completely transfixated the lung) 6 stab wounds to the abdomen and one stab wound to the left side of the scrotum which was deep and severe.
16. There was also evidence that repeated rectal insertions had been performed which were associated with multiple penetrating injuries to the bowel wall. They were associated with some significant haemorrhaging to the adjacent tissues which indicated that you inflicted them whilst Riley was alive or at or near the time of his death. A marker pen was found within his rectum and a coat hanger, which was later recovered, and which had traces of his faeces and blood, had been inserted into Riley’s anus to a substantial depth.
17. In addition, there was a deep bite mark on the outside of Riley’s upper left thigh. This has been identified as a bite mark which you caused: the teeth marks match your own distinctive dental pattern. During the attack, therefore, in addition to everything else, you bit Riley hard enough to leave this mark.
18. It should also be noted that, although he went to bed wearing pyjamas, Riley was found without his pyjama bottoms. They were recovered from the foot end of the bed. They were wet with urine and blood stained. The forensic evidence indicates that they were removed after they had become wet with urine and after Riley had sustained at least some of his injuries.

19. I conclude that, on the basis of this appalling catalogue of injuries, this was a murder with sadistic motivation. Moreover, if there had been any doubt about it, your conduct in first going into his parents' bedroom, and then waiting downstairs until you heard their screams when they discovered what you had done, can only be categorised as sadistic. I am in no doubt, therefore, that (by reference to Paragraphs 4(1) and (2) of Schedule 21 of the 2003 Act) the seriousness of this offence was so exceptionally high that the appropriate starting point is a whole life order.

#### **4. AGGRAVATING FACTORS**

20. There are, in my view, a number of aggravating factors. The first is the presence of a sexual motivation, in addition to a sadistic motivation. On any view, this murder involved a strong sexual component. That can be seen in the removal of Riley's pyjama bottoms, the slicing open of his scrotum, the biting, and, in particular, the repeated insertion of items into his rectum. I note that both Dr Kent and your own psychiatrist, Professor Eastman, expressly identify in their reports the sexual element of your motivation and conduct.
21. The second aggravating factor is that the murder was carried out in gross breach of the trust that Riley's parents had shown in you. They had taken pity on you and allowed you to stay, trusting you to share their home with their children. Your response was the savage murder of their son as he slept in his own bed.
22. Thirdly, I consider that the murder was premeditated. Whilst I am sure that it had not been long-planned, it was clearly premeditated because you went upstairs armed with 4 knives, including your own knife – a knife you had stolen from the restaurant where you worked – which you had brought to the house and subsequently took upstairs to Riley's bedroom. When you went upstairs, you clearly intended to kill or cause really serious harm using that knife: no other conclusion is tenable.
23. Fourthly and finally, there is your previous record and past history, which comprise a further aggravating factor, albeit of much less significance than the previous three I have identified. You have convictions for a number of minor offences, many of which were committed whilst you were drunk. More significantly, you have a caution, dating back to December 1996, for assault occasioning actual bodily harm. How such a serious offence could merit just a caution I do not understand.

24. Furthermore, I consider that the Crown are right to say that your antecedents do not properly reflect your past history, which involved a number of known incidents of violence, almost always as a result of drink. In particular, when you were 16, you attacked a boy at a party whilst he slept in a bedroom upstairs, smashing a trophy into his head and causing a laceration that required 4 stitches. It has some similarities with the attack on Riley: an unprovoked and violent assault on a sleeping and defenceless victim. You were also imprisoned during your brief time in the Army. Thereafter, your life was punctuated by drink-fuelled outbursts of anger and violence, something of which you were aware but seemed incapable of doing anything about.

## **5. MITIGATING FACTORS**

25. On your behalf, five mitigating factors are put forward. I deal with each in turn.
26. First, it is submitted that there was a lack of premeditation. For the reasons that I have already given, I reject that submission. You took your own knife into the house, and later you took that knife upstairs (along with three other knives) and used it to murder Riley Turner. That was not a spur of the moment decision: it plainly involved some premeditation.
27. Secondly, it is said that your convictions are 'not for anything serious'. I do not agree with that description of an assault occasioning actual bodily harm. I have also made the point that the relative absence of convictions does not fully reflect your lifestyle. For the reasons I have given, I consider that your previous record and conduct is a minor aggravating factor: it is certainly not a mitigating factor.
28. Thirdly, it is said that you have both a mental disorder, namely an antisocial personality disorder with elements of behavioural psychopathy, and alcohol dependence syndrome. These matters are relied on as mitigating factors.
29. I do not accept that self-induced intoxication (whether triggered by alcohol dependence syndrome or otherwise), is a mitigating factor. It might even be regarded as an aggravating factor in this case, because you were aware from your own past history that excessive drinking could lead to violence and you did nothing to control or curb your drinking. I certainly do not accept that your self-induced intoxication has any mitigating effect on your culpability, particularly as the evidence was that you could talk and walk and hold a rational conversation at a time shortly before the murder.

30. I do acknowledge that your antisocial personality disorder and psychopathy, as discussed in the experts' reports, comprises some mitigation. That is because, as your expert psychologist Dr Kriljes noted, "psychopaths not only commit more violence than other individuals with personality disturbance but their violence is much more likely to be serious and diverse in nature, high-density, stranger-directed, impulsive and sadistic".
31. However, the extent of that mitigation should not be over-stated. Not one of the many experts in this case suggests that your personal disorder significantly reduced your criminal culpability, or that your responsibility for this crime was in any way diminished. It appears that you knew full well what you were doing when you were doing it, even if you now say you have no memory of it. But I do accept that your disorder is a mitigating factor which I should – and do - take into account in this sentencing exercise.
32. Fourthly, it is said that you feel considerable remorse for what you did. I accept that, although I cannot help but note that your reactions on arrest – particularly the self-pitying whine inherent in "**I** have ruined **my** life" – were a very long way from remorse or compassion.
33. Finally, there is your guilty plea. At the conclusion of these sentencing remarks I shall have something to say about the delays in this case, but I accept at once that those delays were not your responsibility and are irrelevant for sentencing purposes. I bear in mind that the Sentencing Council's Guideline, *Reduction in Sentence for a Guilty Plea* makes clear that, where the court otherwise determines that there should be a whole life order, there should be no credit for a guilty plea.
34. In addition, I consider that, in the circumstances of this case, the evidence against you was overwhelming, making a guilty plea inevitable (subject to the psychiatric evidence, which was out of your control anyway). You were seen in the middle of the night in Riley's parents' bedroom, apologising for something. You left a knife there. Your fingerprints were found on the wall in Riley's bedroom, and your fingerprints and DNA were found on the murder weapon, which was your own knife. Riley's blood was found on your clothing. The case against you therefore was irrefutable.

## **6. MATTERS OF LAW**

35. There are two matters of law with which I must deal. First, on your behalf, it is said that this case is similar to the case of the defendant in ***R v Michael Patrick Mullen*** [2008] 2 Crim App

R (S) 88. In that case, the sentencing judge identified a minimum term of 35 years for a man, aged 22, who raped and murdered a child. The Court of Appeal did not interfere with that sentence.

36. In Mullen, the sentencing judge did not make a whole life order because of the early guilty plea and, critically, the youth of the applicant. That approach was effectively adopted by the Court of Appeal. It seems to me to be entirely understandable. It has no application in the present case: you are, as I have said, 33.
37. In addition, should it be relevant, I consider that Mullen is of no application in your case because the evidence was that the death of the victim came from compression of the neck by a thin ligature which had been pulled tight for about 30 seconds. The terror, pain and suffering inflicted on Riley in this case was of a completely different order.
38. Accordingly, to the extent that Mr Bajwa QC on your behalf sought to persuade me that Mullen was of direct applicability to your case, I reject that submission.
39. Mr Bajwa's second argument on the law was to point out that, although the domestic law of the United Kingdom has made plain that a whole life order is lawful (see the 2003 Act and a number of recent cases, including R v Oakes [2013] QB 979), there is said to be some doubt about this because of the decision of the Grand Chamber of the European Court of Human Rights in Vintner and Others v UK (No. 2).
40. In my view, for what it is worth, there is no incompatibility because Vintner was about reviews rather than the legality of whole life orders as such. But in any event, the Court of Appeal will shortly decide the extent, if at all, to which domestic law is affected by this decision.
41. In the meantime I am in no doubt that, in the Crown Court, the only permissible approach is to continue to apply the domestic law. It would cause chaos if judges did not apply long-standing statutory provisions merely because there was a risk that, at some stage in the future, those provisions might be the subject of review or amendment. In that regard, my attention has been drawn to the helpful sentencing remarks of Wilkie J in R v Reynolds [19 December 2013] when at page 8 he said:

“I am persuaded that the proper approach for this court is to apply the domestic authorities which are binding on me and to leave the issue of compliance with Article 3, in the light of Vintner, to be determined by the CACD and/or the Supreme Court. In so doing I am adopting the approach prescribed by the Court of Appeal in R (Purdey) v DPP [2009] EWCA Civ 92 at paragraphs 50-54.”

That is therefore the approach which I intend to adopt.

## **7. CONCLUSION**

42. Anwar Rosser, stand up. The statutory starting point in this case is a whole life order. I have identified a number of aggravating factors. I have also identified a number of mitigating factors, the principal one being your personality disorder. It cannot be said that the mitigating factors outweigh the aggravating factors: indeed, in my judgment, the opposite may well be the case. On any view, there is nothing in the material before me which could or should lead me to depart from the recommended statutory starting-point of a whole life order.
43. Although it is perhaps of peripheral relevance to the sentence that I pass, I should add that the evidence demonstrates beyond doubt that you are an exceptionally dangerous man, and there is nothing to say that such a condition could ever be modified or improved. Dr Kent, the consultant forensic psychiatrist instructed by the Crown, considers that you present a risk that is immediate and grave. What is more, that risk has no obvious precipitant and could involve any member of the public, although it would be more likely to have some association. He considers that you pose a real risk of further acts of sadistic homicide which could involve further child victims. A whole life order is relatively rare, but I am in no doubt that, in your case, it is warranted in the wider interests of justice and public safety.
44. For all these reasons, I have concluded that, for the murder of Riley Turner, you must go to prison for life. I therefore impose a whole life order. That means that you will remain in prison for the rest of your natural life. The statutory surcharge applies. Take him down.

## **8. THE DELAYS IN THIS CASE**

45. I cannot leave this case without commenting on the delays which have occurred in its resolution. I am in no doubt about two things. First, that those delays have caused unnecessary pain and suffering to Riley Turner's family as they waited for an effective trial. And secondly, that those delays were due to the failure of the defence experts to comply with the directions of the court. I make plain that these delays were in no way the

responsibility of the defendant's legal team; on the contrary, it appears that they find them as troubling as I do.

46. This trial was originally due to take place in July 2013. It was adjourned to October 2013, when I would have tried it, but in September it was adjourned again, this time to December 2013. It was later adjourned for a third time.
47. On each occasion, the Recorder of Bradford, who was case-managing these proceedings, felt that he had no option but to adjourn the trial. Each time, the defence had failed to comply with the timetable and then sought an adjournment at the last moment; each time, the reason for the delays was the failure by the defence to produce reports in accordance with the judge's directions. The delays were unconscionable; for example, Professor Eastman's report was not finally produced until 12 January 2014.
48. It is becoming much too common for major criminal trials to be adjourned because experts (usually, but not exclusively, those instructed by the defendants) require more time to complete their investigations and produce their reports. Experts need to understand that the court-ordered timetable must be complied with and, if they cannot comply with it, they should say so at the outset. I am left with the nagging suspicion that experts take on too much work and do not provide clear information as to what they can and cannot do within the relevant timescale. The result is that deadlines are missed and judges who are case-managing these sorts of trials are left with an impossible choice between either going ahead without that expert evidence (which could give rise to an appeal, thus bringing everything back to square one) or adjourning the trial.
49. If experts in civil cases regularly failed to deliver their reports on time, they would quickly find that they had no further expert witness work. The clients would not stand for it. It is high time that this approach was adopted by the criminal justice system. I consider that, in this case, the delays have caused real and unacceptable suffering to Riley Turner's family. If victims are to be brought even further into the centre of the criminal justice system, then it must be a fundamental requirement that experts comply with court timetables, thereby avoiding the delays and adjournments that have disfigured this case.