



JUDICIARY OF  
ENGLAND AND WALES

**THE HON MR JUSTICE HOLROYDE**  
A PRESIDING JUDGE OF THE NORTHERN CIRCUIT

**THE QUEEN**

**-V-**

**CHRISTOPHER JAMES MCGEE**

**T2012 7172**

**CROWN COURT AT LIVERPOOL**

**SENTENCING REMARKS OF MR JUSTICE HOLROYDE**

**15<sup>TH</sup> NOVEMBER 2012**

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You have been convicted by the jury of the manslaughter of Georgia Varley. Her life was ended in a dreadful way at the age of just 16 by your gross negligence. You did not intend to kill or even to injure her, but you displayed an appalling disregard for her safety, and she paid for your criminal negligence with her life.

When a crime of homicide is committed, one life is ended but many more lives are damaged or destroyed. In an eloquent written statement, Georgia Varley's mother has made very clear the excruciatingly painful sadness which she suffers. Of course, she is not alone in grieving: Georgia's father, her wider family and her friends have all suffered and will continue to suffer. No sentence of the court can bring back their loved one, or make up for their loss.

In assessing the seriousness of your offence, and deciding the appropriate sentence, I am required by s143 of the Criminal Justice Act 2003 to consider your culpability in committing the offence and the harm which you caused. Since that Act came into force, the courts have placed a greater emphasis than before on the fatal consequence of a crime. That greater emphasis was made clear in the case of Appleby [2010] 2 Cr App R (S) 46, and in the recent case of Holtom [2011] 1 Cr App R (S) 18 the Court of Appeal has confirmed that the same approach is to be adopted in cases such as this where manslaughter is committed by gross negligence. It is important that everyone

understands that this is not a case of murder, and that the level of sentence which is appropriate to murder is not appropriate to manslaughter. That is because murder involves an intention to kill or to cause really serious injury, whereas manslaughter does not. Nor is this a case in which you are likely to be a danger to others in the future, and so an extended or indeterminate sentence is not needed to protect the public. Nevertheless, as Mr Birkett has realistically acknowledged on your behalf, your crime is plainly so serious that nothing less than a sentence of immediate imprisonment would be appropriate.

As to the length of that sentence, there is no definitive sentencing guideline which directly applies to this offence.

You do not have the mitigation of a guilty plea. However, Mr Birkett has rightly identified a number of features of the case which do set limits to the seriousness of your offence, and do count in your favour. Your gross negligence occurred over a period which can be measured in seconds: it was not a prolonged course of risk-taking. You were not motivated by financial profit or self-advantage. As to your personal mitigation, you have never previously been convicted of any crime, and your one formal police caution was for a completely different type of offence and can be ignored for present purposes. Your negligence on this occasion must be viewed against the background of more than 20 years conscientious service on the railways. You will live with the knowledge of what you did, and I accept that will be a heavy burden to you. Your conduct has resulted in your suffering post-traumatic stress disorder: there is clear expert evidence that the symptoms of that disorder, together with severe anxiety and depression, still continue a year after the incident. Lastly, for a man of your age and position, any sentence of imprisonment will be difficult to bear, and I have no doubt you have dreaded this day.

All those points were well made by Mr Birkett. I accept that individually and collectively they do mitigate your crime. But I have to have regard also to the very grave harm that you caused, namely the death of a 16 year old girl. Moreover, there are in my judgment five other serious and aggravating features of this offence.

First, the evidence has plainly shown that throughout your career with Merseyrail you have been repeatedly trained and instructed in matters of safety. You knew as well as anyone the risk of accidents associated with what has been referred to as the platform/train interface. You must also have known that a passenger who falls between platform and moving train is likely to be killed. It follows that any risk you took in that area was a risk to the life of the passenger.

Secondly, as the guard of the train, you were in complete control of the movement of the train. That control carries with it the direct and personal responsibility for the safety of passengers. Much has been made on your behalf during this trial of how intoxicated Georgia Varley was, but that did not relieve you of the duty of care which you owed to her. You alone determined whether the train remained stationary or began to move. Your decision and your action determined whether Georgia Varley was safe from risk.

Thirdly, having heard all the evidence I am quite sure that you did in fact know that Georgia Varley was heavily intoxicated. You must surely have noticed at least some of her behaviour at Meols, when she left the train and was then brought back onto it by a friend. In any event the CCTV footage makes me sure that within moments of your seeing her on the platform at James St you must have known that she was unsteady on her feet. You yourself confirmed to the police in interview that the last train into town on a Saturday night was looked on as a problem train because many passengers had had too much to drink. After 20 years' experience of dealing with passengers, I am sure you sized up Georgia Varley's condition almost at a glance. It follows that I am sure you knew she was particularly vulnerable to losing her balance.

That being so, I regard it as a fourth serious feature of the case that you were watching this vulnerable girl leaning against the side of the train, in the most obvious position of danger, when you pressed the bell twice to signal the driver to move the train. You were not distracted at the vital moment, or required to turn away in order to operate the controls. You had a continuous and perfect view of her: you were only about 25 metres apart, in a slightly elevated position and with nothing at all between you and her. In my judgment, the CCTV footage is unequivocal: Georgia Varley was not moving away, and she was not showing any sign of moving away, when you gave

that signal. On the contrary, she was leaning against and supported by the train which you chose to set in motion. She only moved when the movement of the train deprived her of that support and caused her to lose balance and fall to her death. In the horror of realising what you had done you may later have persuaded yourself that you thought she was moving away, but I do not believe that you did think that at the time. Georgia Varley had done nothing to give you any reason to think that. I am satisfied that you merely hoped and assumed she would get out of the way when the train began to move, and on that wholly inadequate basis you took a terrible risk. You completely ignored your repeated training and instruction to the effect that you must ensure it was safe to start the train before you gave the signal.

Lastly, even after you had given that signal, you could easily have countermanded it. It would have been the work of a moment to give one more ring on the bell to signal the driver to stop before the train had really begun to move. It would have taken only seconds for you to step down from the cab, walk a few paces to where Georgia Varley was standing, and tell her to move away for her own safety. But you did nothing.

I take into account all those features of the case which I have mentioned, both aggravating and mitigating. As you have no doubt been advised, you will serve half of the sentence which I am about to pass. You will then be released on licence for the remainder of the sentence, but you may be returned to prison if you do not comply with the conditions of your licence.

In my judgment, the least sentence which I can pass for this serious crime is one of 5 years' imprisonment.

The Hon. Mr Justice Holroyde  
15<sup>th</sup> November, 2012