



Case No: T20137123

Sheffield Crown Court
50 West Bar, Sheffield

Date: 6/11/2013

Before :

MRS JUSTICE NICOLA DAVIES DBE

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- v -

Delroy Catwell

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SENTENCING REMARKS

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On the 8th February of this year, Lylah Aaron was left in your care. She was aged 3 years 4 months, an engaging, outgoing, chatty child. On the previous day she had attended nursery, CCTV footage showed her running into nursery, seemingly without a care in the world.

Lylah was in your care because her mother, Precious, was pursuing her chosen career as a nurse. Precious was studying at university and working at a placement in a hospital in order to build a life for herself and her daughter. It was her trust in you which permitted Precious to leave her much loved and only daughter in your care. It is difficult to conceive of a greater abuse of trust than that which you perpetrated in killing this vulnerable and defenceless young girl.

It was at 5.30 on the morning of the 8th February that Precious left home in order to go to work. She checked Lylah before she left, Lylah was asleep. Lylah was to go to nursery, it was "pyjama day" and Precious left out pyjamas for Lylah to wear. At 2.30 that afternoon you telephoned Precious to tell her that Lylah was unwell, she seemed tired and did not want to go to nursery, she wanted to sleep. As a result you had not taken her to nursery. Precious told you to let Lylah sleep. Unbeknown to Precious, at around midday you inflicted the injuries upon Lylah which were causative of her death.

When Precious returned home at about 4/4.30 she went to see Lylah who appeared to be asleep. Evidence has been given that an unconscious child would give the appearance of a sleeping child. Precious subsequently checked up on Lylah and shortly before 6pm attempted to wake Lylah only to find her to be unresponsive.

Within 30 minutes, Lylah was at hospital where the full nature and extent of her injuries was discovered. Some 6 hours later, she was pronounced dead, her presenting injuries being deemed unsurvivable. A subdural bleed was found, bleeding between the skull and the brain of such magnitude that it compressed and displaced the brain. A lack of blood and oxygen to the brain resulted in swelling. Bleeding was present in the retinas of both eyes and around the optic nerves. Bruising was present over Lylah's head, in her ears, on her forehead and chin. Bruising was present on the underside of the skull. Multiple areas of impact were seen on Lylah's scalp indicating multiple blows to the head, either from fists, feet, a blunt object or by the propelling of Lylah's head against such an object or a combination of both. It was these impacts to Lylah's head which caused the fatal haemorrhage and brain swelling. Bruising was also found on her body in particular, to the bowel, this being caused by a heavy impact to her tummy. Four recent fractures of three ribs were present, these were considered to have been caused by squeezing.

Investigation by the doctors also revealed evidence of an earlier subdural bleed, retinal bleeding and a fractured rib. The injuries, which it is accepted were inflicted on the same occasion, occurred some 3 to 5 weeks before Lylah's death. It is undisputed that you must have been the person responsible for these earlier injuries.

The injuries sustained by Lylah on the 8th February to her head, ribs and abdomen would have required considerable force. This slight child would have been wholly defenceless in the face of such a sustained assault. Compounding your actions, you

allowed Lylah, who would have drifted into an unconscious state, to remain at home. You made no attempt to call for medical aid. For a matter of hours you knew that within the house was a badly injured young girl for whom you were responsible. You took no steps to alert any person to the need for help. On the contrary, the story which you gave Precious at 2.30 was intended to, and did, provide her with a false account of what had occurred such as to allay any concerns on her part.

From the outset you have denied assaulting Lylah. You told the police and the court of the good relationship which you had with her. Not once but twice, brutally and callously, you abused that relationship.

Implicit in your denial is the inescapable fact that the only other person who could have caused these injuries is Precious, Lylah's mother. The cross-examination of this witness was skilful and sensitive. However, the point had to, and was made, to a woman visibly grappling with her own guilt in entrusting her daughter to your care.

On your behalf, it is said that the prosecution could not prove beyond reasonable doubt an intention to kill. There is merit in that point. Thus, I approach this sentence upon the basis that it was a loss of temper which led to this assault. That loss of temper has to be viewed in the context of a similar loss of temper some weeks earlier when you assaulted Lylah and caused injury which went undetected at the time. As a result of that earlier assault, you knew what you were capable of doing. Notwithstanding that knowledge, you allowed Precious to continue to leave Lylah in your sole care.

As to your previous history, you have a conviction in 2005 for sexual activity with a female child under 13. The Court has been informed that this involved inviting a girl aged near to 13 to your home when you sucked her toe. I accept the submission made on your behalf that the gravity of the offence is less serious than many which is reflected in the non-custodial sentence passed by the Court. Given the nature and facts of that offence, I do not regard it as an aggravating factor in sentencing you upon this offence.

The offence of which you have been found guilty by the unanimous verdict of a jury is that of murder. The sentence of the Court is one of life imprisonment. Pursuant to Paragraph 6, Schedule 21 of the Criminal Justice Act 2003, the appropriate starting point in determining the minimum term of imprisonment which you will serve is 15 years. Within the statutory aggravating factors are two; the victim was particularly vulnerable because of her age and your abuse of a position of trust. In addition are the following which I regard as aggravating the offence:

- i. The previous assault upon Lylah as evidenced by the injuries which occurred 2 to 5 weeks before her death together with the knowledge which thereafter you possessed of the risk that you could lose your temper, and as a result, assault Lylah;
In my view, there is insufficient evidence to safely link any other injury or damage found upon Lylah or in the home to you;
- ii. Your failure to obtain medical assistance for a number of hours on 8 February, together with your call to Lylah's mother during the

- afternoon in which you lied to her as to the true nature of her daughter's condition;
- iii. The nature of your defence which has, by implication, identified Precious Chibanda as the only other person who could have been responsible for Lylah's injuries.

As to mitigating factors; I have accepted that there is merit in the point that the Crown could not prove beyond reasonable doubt an intention to kill. However, so violent was the assault upon Lylah that any distinction between an intention to kill and an intention to cause really serious injury can be of only limited effect. I also accept that there is no evidence to demonstrate that this offence was premeditated.

I have taken account of the aggravating and mitigating factors. The minimum term of imprisonment which you must serve is one of 20 years. Credit will be given for 270 days in custody. If the number of days spent on remand is incorrect, it can be corrected administratively.

It is important to emphasise that 20 years imprisonment, less the days spent on remand, is not the actual term you will serve in custody; it is the minimum term you must serve before you can be considered for release by the Parole Board. The time you actually serve, may be longer. The Parole Board will only direct your release on licence if it is satisfied that you are no longer a danger to members of the public. When you are released you will remain on licence for the rest of your life and will be liable to be recalled by the Secretary of State.