



JUDICIARY OF
ENGLAND AND WALES

Sentencing remarks of Mr Justice Keith

Sheffield Crown Court

Friday 22 January 2010

The two defendants are referred to as A and B. Their three victims are referred to as C, D and E

The two of you know that you are going away for a very long time for boys of your age. I've got a lot to say to you, and I'll try to put it as simply as I can. It may be that you won't understand everything I say, but it will be explained to you later by your lawyers or social workers.

Neither of you need me to tell you how shocking your attack on C was and how appalling and terrible your treatment of D and E was. You, B, were responsible for most of the violence on C. You stamped on his face when he was on the ground, and you punched him in the face a number of times. But you, A, punched him in the stomach, and you were holding him so that B could punch him, though you were eventually to tell B that it had to stop. I haven't been told why C had his pants round his ankles, because C can't bring himself to talk about it, but it is obvious that you were intending to humiliate him in some way. Your attack on him has left him emotionally scarred.

But what you did to C doesn't begin to compare with what you did to D and E. As with C, you lured them to an isolated spot. You, A, took what was left of D's pocket money, and you, B, took E's mobile. I'm not going to spell out everything you did

then – that would take too long – but what it amounted to was torture. They were cut with broken glass. Their genitals – that’s their private parts – were kicked. Really heavy stones were thrown at their heads or dropped on them. They were whipped with sticks and branches. And they were gagged to stop them screaming. You, A, tried to strangle D with a metal hoop, putting your foot on his back for leverage, and E was then burned with a cigarette. They were forced to undress, and covered with a plastic sheet which was then set alight. At one stage, D had to “bum” E. Fortunately, E doesn’t think D succeeded, but they had to “snog”, and when E said he needed to pee, he was told to do it into D’s mouth. D managed to avoid doing that, though his wee went down the side of E’s face.

I don’t think you got a sexual thrill out of any of that, in the same way that robbing them of D’s pocket money and E’s mobile wasn’t about gain. It was all part of the torture and humiliation which you wanted to subject them to. Indeed, by recording parts of what you did on a mobile, you made at least some of this an example of “happy slapping”. Then having frogmarched them to another isolated spot, you tried to strangle E this time, you forced both of them into a stream, and although E got to the other side and pretended he had killed himself by shoving a twig into his mouth, D crawled back to your side of the stream, where you, A, threw part of a discarded sink at his head.

Although there is some evidence that you were intending to kill them, the prosecution has accepted your pleas of not guilty to attempted murder, and I therefore must assume that you didn’t intend to kill them. But you told the police that you thought that you had come close to killing D, and the fact is that this was prolonged, sadistic violence for no reason other than that you got a real kick out of hurting and humiliating them. Their physical and emotional scars will live with them for a very long time to come. Their relationship with each other has been seriously affected, and their parents have been left with a strong sense of guilt – which they don’t begin to deserve – about whether they could have done anything more to protect their boys.

The first thing I have to decide is whether there is a significant risk of you committing what we lawyers call specified offences in the future, and a significant risk of those offences causing serious harm to people. In one sense, what you did speaks for itself.

The fact that you couldn't care less what happened to D and E is itself a strong indicator that you harm people simply because you want to. Everything I know about the two of you suggests that there is at the very least a significant risk – and in my opinion a very high risk – of the two of you committing really violent offences causing your victims serious harm unless your problems are properly addressed with the help of professionals. You had already shown, despite your age, a worrying pattern of offending and bad behaviour. Your convictions, A – as well as the reprimand and warning you received – were for your violent behaviour towards children and grown ups alike. The reprimand you got, B, when you punched one of your teachers – a 50 year old woman – and head-butted another – was itself a serious incident.

But most important of all is what the reports prepared on the two of you tell me about why you say you behaved as you did, and what the reports tell me about you. I'm going to be using longer words now because I'll be quoting from those reports. You chose your victims because of their vulnerability, and you wanted to assert your dominance over them by what the author of the pre-sentence report on you, A, called "the use of aggression, extreme violence and sexual degradation targeted to inflict maximum pain ... in order to gain a sense of power and control" over their lives, and by what the author of the pre-sentence report on you, B, called a wish to control your victims "by domination, degradation and inflicting pain for the purpose of [your] own emotional pleasure". You, A, came across to the author of the pre-sentence report as someone who was "emotionally detached, de-sensitised and lacking in empathy towards your victims", and you, B, were said to justify your actions "with a degree of righteous indignation" which showed that you had no empathy for your victims at all. You have expressed views towards your victims which, in the opinion of the author of the pre-sentence report on you, prepared on you as recently as 11 December, reflected "an intense rage" on your part. It is this chilling detachment from what the two of you did, coupled with, in your case, B, your anger and your attempts to justify your behaviour, which enable me to understand perfectly why the two of you have been assessed in the pre-sentence reports as posing a risk of serious harm to members of the public – a very high risk in your case, A, and a serious risk in yours, B.

The conclusions in the very full pre-sentence reports are mirrored by the psychiatric assessments on you which I have also been provided with. They make grim reading. I know that positive things are said about you, A, by the manager of the secure unit in which you are being held, and that suggests that the time may eventually come when you are safe enough to be released. But Prof Bailey says that, when it comes to assessing the risks which you currently pose, you scored high when she looked at the things you'd done, and at the moment there is little which can be seen in your profile which might inhibit you. Dr Vizard, from whom I heard oral evidence as well, thinks that you, B, pose a very high risk of serious harm to others, and will continue to do so until specialist help has been shown to be effective in changing your attitudes and behaviour. I know that it is said on your behalf that Dr Vizard's views about you were unfairly coloured by your offending and your bad behaviour when she last interviewed you, and that many of the things she has said about you don't sit comfortably with how well you are said to be doing in the secure unit where you are currently being held. But that, I think, can be explained by the fact that you can behave when you want to, and when you think it may be in your interests to do so. The bottom line is that I am sure that both of you pose a very high risk of serious harm to others.

In the light of all that, I turn to whether it really is necessary to pass indeterminate sentences on the two of you, rather than sentences for a fixed period of time, whether with an extended period of supervision after you have been released or with the normal period of supervision. I have decided that it is necessary to pass indeterminate sentences on you. As Prof Bailey says in her report on you, A, risk can only be predicted in the short term. I realise, of course, that young offenders can change and develop in a much shorter time than adults, but the risks which the two of you pose are so high that I do not think that it is possible for me to say that in a particular number of years, the risks which the two of you pose will be such that you can safely be released. I have to leave that to the professionals who will be monitoring you over the years to see how much your behaviour and attitudes change.

Finally, I have to decide how long you should remain in detention before your release can be considered. Here the focus is on what would have been the sentence if the court was not having to pass an indeterminate one. I have been referred to a number

of previous cases in which boys of about your age, and in one case a girl, have had to be sentenced for offences which share some of the features of your crimes. But none of those cases share all the features which make your offences so serious: the deliberate targeting of your victims, the prolonged attacks on them amounting to torture, the fact that there were two of you and there was more than one victim, the fact that your attack on D and E took place so soon after your attack on C, the humiliating sexual acts you forced D and E to perform, the appalling injuries they sustained, the life-threatening condition in which you left D, and the emotional scarring with which they will have to live for so long. Your crimes are truly exceptional, and how other children of your age have been dealt with affords little guidance about what would be appropriate for you.

Against all that has to be put the fact that you are still very young. You can't be expected to have developed the sort of mechanisms which grown-ups have and which make it easier for them to stop behaving badly. In particular, you never had guidance at home about the way you should behave. You come from a dysfunctional family, where the environment has been described as "toxic" and the adults were hardly role models. There was an atmosphere of violence at home. You were never taught what the proper boundaries were, and your bad behaviour was never confronted within the family. It is not for me to apportion blame, though I do know that criticism has been levelled against social services and various child protection agencies for not intervening earlier. In addition, the law requires me to give you credit for the fact that you pleaded guilty, and when it was that your lawyers told the prosecution which of the offences you would admit. I have factored all of that into the period which I have decided you must be detained for before your release can even be considered.

You, B, are the younger, but I don't think that I should distinguish between the two of you. You appear to be brighter than A, and it looks as if in some respects you may have made some of the running. The total sentence which the court would have passed if it had been passing a fixed sentence on you would have been 10 years' detention. The law would have required you to have been released after you had served half that sentence. That means that the law requires the period for which you will now both be detained before your release can be considered is 5 years from when you were first remanded into the custody of the local authority. But you will not be

released then. You will only be released when the authorities are satisfied that the risks which you pose are such that you can safely be released. I acknowledge that the effect of a minimum term of 5 years is that it will not have been completed by the time you get to the age of 14 and have to be transferred to a young offender institution from the secure local authority accommodation where you are currently held, and that the effect of that is that the possibility of you remaining in secure local authority accommodation after that age as boys who are in the care of the local authority will no longer be an option.

I must now express the sentences which I pass on you more formally. On counts 10 and 11, which are the counts which charged you with causing D and E grievous bodily harm with intent, the concurrent sentences which I pass on each of you are ones of detention for public protection, and the minimum term which I set before your release can be considered is 5 years from when you were first remanded into the care of the local authority. I leave it to the lawyers to agree that date, but if they cannot, the case will be referred to the Resident Judge for him to determine that issue.

Since the offences of robbery and causing or inciting a child under the age of 13 to engage in sexual activity are an integral part of the incident which gave rise to the offences of causing grievous bodily harm with intent, and since the minimum term which I have set for the offences of causing grievous bodily harm with intent is based on the sentence which I would have passed for all your offences had I passed determinate sentences on counts 10 and 11, I propose to impose concurrent determinate sentences on all the other counts in the indictment. On count 3, for assaulting C occasioning him actual bodily harm, the sentence will be one of 30 months' detention. On counts 4 and 5, for robbing D of his pocket money and E of his mobile, the sentences will be 18 months' detention on each count. On counts 6 and 7, for causing or inciting D to attempt the anal penetration of E, and for causing or inciting E to attempt to be penetrated anally by D, the sentences will be 24 months' detention on each count. As I have said, all those sentences will be served concurrently with each other, and concurrently with the period of detention for public protection to be served on counts 10 and 11. All of that means that you will be detained for at least 5 years from last April before your release can even be considered. Since the sexual offences were all about degrading and humiliating D

and E, rather than for the two of you to get a sexual thrill, I have concluded that this is not an appropriate case to make sexual offences prevention orders in your cases. Finally, since you have pleaded guilty to sexual offences of the kind listed in Schedule 3 to the Sexual Offences Act 2003, you will remain on what is colloquially called the “sex offenders’ register” for the period prescribed by law, which, in view of the length of the sentence of detention passed for those offences and your age, will be for the period of 3½ years. If you were to have been released from detention in that time, the practical result would have been for those responsible for caring for you to notify the police of your address when you were released, and when you changed your address later on within those 3½ years. However, all this is academic, because you will not be released within the next 3½ years. That concludes what I have to say, and you should now leave the court.

I now want to say something to C’s family, but principally to the families of D and E. I want them to know that I have taken into account the devastating effect that all of this has had on their lives and on the lives of the three boys. I have no doubt that they would have preferred to see A and B locked up for very much longer, and I know that nothing can compare with the trauma which the boys went through. But I hope that they will appreciate that 5 years is the very least which A and B will serve. They may well be in detention for much longer than that, and it will ultimately depend on when the authorities conclude that they no longer represent a risk to the public. I should also like to thank the court staff for ensuring that the special arrangements which have been put in place for this trial in view of A and B’s age worked so smoothly. I will now rise, and I when I return to court, I will consider whether the orders preserving A and B’s anonymity should be discharged or varied.