



JUDICIARY OF
ENGLAND AND WALES

R v. Anthony MANN

SENTENCING REMARKS

by The Hon. Mr Justice Haddon-Cave

Crown Court at Warwickshire Justice Centre – 13th April 2015

Introduction

1. This is an exceptionally sad and tragic case.
2. On 20th June 2014, the Defendant, Mr Anthony Mann (aged 78) stabbed his wife, Janet Mann (also aged 78), in the heart and killed her. They had been happily married 57 years and were a devoted and loving couple. Mrs Mann, had been suffering for several years with complex medical problems and increasing *dementia*. Mr Mann had been her constant and devoted carer. Her condition had considerably worsened in the previous days and weeks. She did not want to return to hospital or to suffer any more. He was under intolerable strain at the time and acted under impulse. He called the emergency services and admitted what he had done.
3. As Counsel for the Prosecution, Mr Grieves-Smith, said in his characteristically fair and balanced opening, context is everything. Mr Mann, I will turn shortly to outline the context in which you committed this act. Please remain seated for the moment.

Procedural history

4. When the case was first listed before the Crown Court a guilty plea to murder was indicated under the Early Guilty Plea scheme. However, following a conference with his client, Mr Mann, and the family on 26th September 2014, leading counsel Mr Jonas Hankin QC, sensibly advised that a psychiatric opinion should be obtained as to the potential question of diminished responsibility. Mr Hankin QC was no doubt mindful of *R v. Inglis* [2011] 1 WLR 1110 (paragraphs [41]-[42]).
5. The matter came before me on 10th October 2014 and, after hearing helpful submissions from Mr Hankin QC and Mr Grieves-Smith, I granted time for both the Defence and Prosecution to instruct suitable consultant forensic psychiatrists to examine the effects upon Mr Mann's mental health of his wife's physical and mental deterioration during the period preceding her death.

Psychiatric reports

6. I have had the benefit of reading and studying the reports of two eminent and experienced Consultant Forensic Psychiatrists: Dr Dinesh Maganty MBBS FRCPsych (instructed by the Defence), and Dr J.P. Kenney-Herbert MBBS FRANZCP MRCPsych (instructed by the Prosecution). Dr Maganty and Dr

Kenney-Herbert are *ad idem*: at the time, Mr Mann, you killed his wife, you were suffering from an abnormality of mental functioning brought about by a combination of a moderate depressive episode (or adjustment disorder) combined with enforced insomnia, due to your round-the-clock caring responsibilities for your wife, which substantially impaired your ability to make rational judgments. I am grateful to both doctors for their lucid and powerful reports.

7. Dr Maganty referred, insightfully, to the “*perfect storm of events*” which led tragically to you doing what you did that night.
8. First and foremost was the deteriorating physical and mental health of your dear wife, Janet. She had suffered medical problems for a long time. In 2008, she was admitted to hospital to remove some piles but due to a urinary infection had to be fitted with a catheter. She found this traumatic and difficult to endure. She complained of pains all down her legs and not being able to sit down and of her skin being ‘on fire’ and not wanting to wear any clothes as a result. Attempts were made to pinpoint the problem and ameliorate the symptoms but without much success, although by 2012 the pain had stabilised somewhat. However, by this time Janet began to suffer from memory loss and the onset of *dementia*, which included her being unable to recall how to use light switches or to wash.
9. Second, was the death of your brother (and her brother-in-law), Roger, which caused her physical and mental health to deteriorate significantly. She was admitted to hospital on 7th May 2014 in a considerable state of distress rocking back and forth, crying and wailing. She remained in hospital until 20th May 2014 and whilst there she said word to the effect of “*I don’t want to live like this*” or “*I don’t want to live anymore*”. She was re-admitted to hospital on 1st June until 11th June 2014. Due to problems with her catheter which caused her great pain and distress, Janet was then returned to hospital on 12th to 13th June and again on 14th June 2014. She pulled out several catheters.
10. Third, from the very beginning of these medical problems in 2008, you had been a most devoted and assiduous carer for your wife, Janet. From 2012, this effectively became a full time job: washing her, preparing special purée foods for her, accompanying her to the toilet (at least ‘twenty times’ a day), and making sure she was comfortable at night. You slept on a sofa for six years because your movements on the bed made her pain worse. You rarely had more than 3 hours sleep at a stretch. You wanted to remain close at hand.
11. Fourth, you were described as very “*stoical*” and “*a proud man*” who felt that it was your duty to care for your wife Janet yourself. You were never head to complain, however difficult it was. Your daughters, Michelle Holmes and Elaine Hassall, visited regularly. You are blessed with a close and loving family. There was community nursing support. But you effectively became homebound to look after your wife as her main carer. And it is clear that you tried your best to cope on a daily basis in very difficult circumstances, including her regular manifestations of pain and distress and her confusions. You almost certainly did not appreciate the physical and mental strain and toll that all this was having on you. It was only latterly, on 18th and 19th June, when things began to deteriorate very seriously, did you begin to ask for extra help from social services. It is significant, as Dr Maganty has pointed out, that you had not slept for 24 hours before the night in question.

Events of 20th June 2014

12. You called 999 at 02.20 hours on 20th June 2014 and told the call handler *"I have just killed my wife"*. You said *"she's in dementia; she's not slept for two days and she's very very distressed telling me to help her to go"*. The police arrived at your house in Nuneaton in 4 minutes and you showed them to the downstairs bedroom and said *"I hope she's gone."* The police found your wife lying on her back in bed with an 11 cm kitchen knife sticking out of her upper abdomen, just below the rib cage. You said *"I gave her her medication tonight, she has been struggling to go to the toilet, she was asking me to help her and said that I had promised."* You explained what you had done and told the officer *"I was in the Army. I was taught to do it properly"*.
13. The *post mortem* evidence suggested that she would have died quickly. You were arrested and taken to the police station. You explained in interview how your wife's condition and ability to cope with her catheter had been rapidly deteriorating and that the previous two days had been particularly bad. You explained *"she's never been as bad as this; she's never never screamed, it was like a howl"*. She said did not want to go on or go to hospital and had spat out the sleeping pills you gave her and was trying to pull out the catheter again. You explained how at this point *"I went into the kitchen and she was screaming, howling. I thought God Janet and that's when I did it."* You said *"I walked straight in and stabbed her and that's it finished. I put some new underwear on [her]... and kissed her and said I love you."*
14. Mrs Mann's death was caused by a single directed thrust into heart. There were no defensive injuries or injuries to indicate forceful restraint or resistance. Death would have occurred rapidly.

Psychiatric reports conclusions – diminished responsibility

15. Dr Maganty stated in the conclusion to his report:

"3. Mr Mann, at the material time of the index offence, was suffering with a moderate depressive episode, which is a mental disorder within the meaning of the Mental Health Act 1983 (amended 2007). This combined with enforced insomnia due to his round the clock caring responsibility would individually and in combination constitute an abnormality of mental functioning. A moderate depressive disorder is a recognised medical condition. Mr Mann's moderate depressive episode together with the concurrent insomnia affected his rational judgment at the material time and his ability to exercise self-control. Mr Mann was a devoted husband and cared and supported his wife, Janet Mann, on a round the clock basis for years. His love and care for her has not been questioned by the numerous individuals that have provided witness statements and also have come into contact with the couple. Unfortunately this led to underestimation of her care needs and his ability to provide the care due to his unquestioning devotion to her. His psychological makeup, which led him to take a position that he did not want to "put on to others" what he saw as his duty to care for his wife, led to reduced professional care for his wife and him. In my opinion, I could no identify any other more probable explanation for the killing other than his moderate depressive episode affection his rational judgment and his exercise of self-control leading the index offence. In my opinion, his moderate depressive episode in the circumstances outlined above would provide an explanation for the killing. In my opinion his moderate depressive was a significant contributing factor to the killing."

16. Dr Kenney-Herbert stated in the conclusion to his report:

“87. Mr Mann in many ways underplays the burden of looking after his wife and the effects upon on physically and psychologically. To this end it is difficult to gain a clear history in details from him regarding his psychological and mental health leading up to the alleged index offence. However, based on all the available information, I think it is highly likely he was suffering from an abnormal mental state at the time of the alleged index offence. He had not slept for days and this was with a background of chronic poor sleep. He had lost weight and described to Dr Maganty feeling low in mood. He is unable to grasp the complexities of his wife’s situation and does in particular focus that all the problems were somehow related to a fractured coccyx from many years ago. It is clear from the information I have seen no-one told him that this was the cause of all her problems. It would appear at the time of the alleged index offence he saw no way forward other than to do what Janet Mann from his perspective wanted him to do and that was to end her suffering and to honour their agreement to do so in such circumstances. This may present a moderate depressive episode; it could also be described as an adjustment disorder.”

17. I accept both their reports and conclusions. I am also satisfied that, not only did you love your wife very much, but you were at the time under the most unbearable strain and suffering from the abnormality of mind described by Dr Maganty and Dr Kenney-Herbert in their reports. The use of a knife to kill your wife in this way exceptional, but perhaps symptomatic of your desperation in the heat of the moment. You had not forgotten your training in the Army and knew how to use a knife. As I have said, I am satisfied that you acted on impulse.

18. Mr Grieves-Smith had indicated that, in view of the context and the evidence in this case, the Prosecution will accept a plea to manslaughter in this case on the grounds of diminished responsibility. In my judgment, in the light of the facts and evidence which I have outlined, it is entirely right and appropriate that the Prosecution should do so and I sentence on that basis.

Principles

19. I have considered the authorities including, in particular, *R v. Leslie Susan Higgins* [1996] 1 Cr App R (S) 271, *R v Chambers* 5 Cr. App. R. (S) 190), Attorney General’s Reference No.83 of 2009 (Patrick John Andrew Moore) [2010] 2 Cr.App.R.(S.) 26 at 161, *R v Webb* [2011] 2 Cr. App. R. (S) 61, *R. v Beaver (Peter Richard)* [CACD 24 March 2015, unreported]. In the light of the authorities, it seems to me that the principles to be applied when sentencing in cases of manslaughter by diminished responsibility such as the present are as follows:

- (1) The fundamental principle of the sanctity of human life is always to be respected and reflected in the sentence passed.
- (2) The culpability of the defendant in diminished responsibility manslaughter cases may sometimes be reduced almost to extinction, whilst in others it may remain very high. Each case will depend on its own particular facts.
- (3) Subject to the specific element of reduced culpability inherent in the defence, the assessment of the seriousness of the instant offence of diminished

responsibility manslaughter should have regard to the guidance in Schedule 21 to the Criminal Justice Act 2003.

- (4) In assessing the seriousness of a killing consequent on manslaughter rather than murder, regard should be had to the criteria for determining the minimum term to be served in murder cases and then to reduce the sentence to allow for the extent to which the culpability of the offender was reduced by his or her mental condition.
- (5) In diminished responsibility cases, there are various courses open to a judge. In cases where the evidence indicates that the responsibility of the accused for his acts was so grossly impaired that his degree of responsibility for them was minimal, a lenient course will be open to the judge. Provided that there is no danger of repetition of violence, it will usually be possible to make such an order as will give the accused his freedom, possibly with some supervision.
- (6) It is of central importance that a court must not overlook the feelings of the family of the deceased. It is of the greatest importance that those feelings should be respected.
- (7) In an appropriate case, the principle of the sanctity of human life would not be undermined if an immediate custodial sentence was not imposed.

Analysis

20. As I said at the beginning, this is an exceptionally sad and tragic case. I am satisfied that the night you killed your wife and were under the most extreme pressure and suffering from an abnormality of mind as described.
21. This case has some features in common with *R v. Webb (supra)* and the following observations of Lord Judge LCJ are pertinent:

“24. On any view this was an exceptionally difficult sentencing exercise. The killing of Mrs Webb was, and will always be, the result of an unlawful act. On the basis of diminished responsibility it was not murder, but manslaughter committed as a mercy killing intended by the appellant to help his wife achieve her settled intention to end her own life, notwithstanding his pleas to her that she should not do so. In our judgment his actions in this case came very close to the offence of assisting in his wife's intended suicide, acting as he did to fulfil her clear, unequivocal wishes to end her life, so that when she failed to achieve what she wanted, he took over from her.

25. All this must be set in the context of a man whose responsibility, if not altogether extinguished, was substantially reduced. We accept the submission that if he had not been in the situation in which he was and suffering from the condition from which he did suffer, it is most unlikely that this killing would have occurred. We remind ourselves of the turmoil which he must have suffered as he committed the last fatal act.

26. The appellant has now served the equivalent of a sentence of six months' imprisonment. In the unusual and particular circumstances of this case we do not believe that the principle of the sanctity of human life would be undermined if the sentence imposed on the appellant were now reduced to one of twelve months' imprisonment, suspended, so that this lonely old man may receive the help that he will need to come to terms with the disaster that has overtaken him.”

22. In *R v. Webb (supra)*, the Court of Appeal quashed the order of immediate imprisonment and substituted an order of twelve months' imprisonment suspended for twelve months and attached a supervision order.
23. *R v. Webb* was recently considered and applied in *R. v Beaver (Peter Richard) (CACD 24 March 2015, unreported)*, on facts striking similar to the present (although *Beaver* could not be described as a case of mercy killing). The Court of Appeal in that case quashed a sentence of imprisonment of three years and substituted a sentence of two years suspended for two years, with conditions.

Defence submissions

24. I am grateful to Mr Hankin QC for his measured and helpful submissions. I accept his central submission that your responsibility, Mr Mann, for killing your wife is substantially reduced, if not altogether extinguished, by virtue of the depressive episode and adjustment disorder from which you were suffering at the material time. If you had not been in the situation in which you were and suffering from the condition from which he did suffer, it is most unlikely that this killing would have occurred.
25. I also accept, in the light of all the evidence, that your residual culpability was minimal. You are a selfless and decent man and devoted to your wife and were, to a large extent motivated, by a desire to alleviate your wife's suffering and to honour what you saw as your commitment that you should do so. You were appalled by what, cruelly, she was having to endure. You felt driven to act as he did. I repeat that the act of killing was an impulsive one, committed under extraordinary stress.
26. Mr Hankin QC rightly acknowledges this was not a case of assisted suicide. It was, rather, a case of 'mercy killing' by manslaughter. It is right to acknowledge, however, that this is compelling evidence that Mrs Mann had wanted her suffering to end:
- (1) Mrs Mann repeatedly told you that she didn't want "to go on". As presaged above, when asked during the 999 call why he had killed his wife the defendant said "*she's very, very distressed, telling me to help her go...she asked me for days*". In interview, when explaining why you waited some time before calling the police (to ensure your could not be revived) you said "*she didn't want to come back, I knew that, she didn't want to come back...when we were younger we always said we'd look after each other...she said 'I don't want to live like this'...you'll help me*".
 - (2) During Mrs Mann's time in hospital in May 2014, she was heard by her daughter, Michelle Holmes, to say "*I don't want to live like this anymore*". Michelle Holmes also reports that on the 17th June Mrs Mann, when she was crying in agony, said to her "*I don't want to live like this...I don't want to live anymore*".
 - (3) Mrs Mann's other daughter Elaine Hassall says that she told her "*I can't live like this*" and "*I don't want to live like this*" many times in May and June.

(4) Your sister Maxine Jardine also reports that during the same period Mrs. Mann said to her *“I don’t want to live like this, this isn’t living”* and on one occasion while in hospital said *“I want to die”*.

27. As Mr Hankin QC has rightly emphasised, an indication of how great was the burden was on you that neither daughter, Michelle Holmes or Elaine Hassall, bears any resentment towards him; indeed each expresses their relief that their mother’s suffering has ended. As Mr Grieves-Smith has highlighted, both have spoken of you, their father, in the most glowing terms and spoken movingly of the privations your wife suffered and your devoted care for her.

28. Michelle Holmes said in her statement to the Court:

“I was devastated by the news but in some ways felt great relief. Mum was no longer suffering or in pain and it felt like at last she was at peace as she had been suffering for so long. Immediately I had no hard feelings to my dad. I only felt love, support and gratitude to him...Dad provided mum with amazing care and utter devotion and we are glad of how he cared for her. All our family support him and want him home, none of us feels any ill will towards him.”

29. Elaine Hassall said in her statement to the Court:

“I hold no ill feelings towards dad and fully support him. I understand that he loved her and did it for her...I love my dad, I support my dad, I support what he has done. He adored mum and only did what he did out of love. We do not want him to be in prison, we want him home with us”.

Mitigation

30. You are now 78 years old. You were born in Nuneaton and have lived there all your life. You met your wife at a dance when you were seventeen and since then have never spent much time apart, save for you stint on National Service. You have led an exemplary life. After National Service you worked as a mechanic in the motor industry before joining the Coal Board. You and your late wife were very much part of the local community and had a strong network of friends. You and Janet enjoyed many activities together including ballroom dancing, gardening and cycling. You and your wife did voluntary work for a number of years at the George Elliot Hospital and for a local cancer charity. You have been described you as a *“very devoted father and husband”* and as a very generous person who would *“do anything for anyone”*. You have a close and loving family who do not blame you for what you have done.

31. You are a man in your late seventies. You are someone of positive good character with an impeccable employment record and a long history of voluntary work. You have led an industrious, hardworking and decent life. You have been devoted to your wife and family.

32. I have been provided with a file overflowing with testimonials from friends, neighbours, acquaintances from all walks of life, many of whom have know you and your wife, Janet, for 30 years or more, who speak eloquently about the strength of your marriage and what a kind, caring couple you were. They speak poignantly and movingly about the years of devoted care you gave to your wife. They speak of

your kindness and generosity to everyone you met. I quote from one letter, in particular, by way of example:

“The best way of describing Tony would be say that he is a prime example of a PERFECT ENGLISH GENTLEMAN. Over the years, he and his wife were inseparable. He adored her.”

33. In my judgment, in the exceptional circumstances of this case, an immediate custodial sentence for manslaughter is not required. This case is at the lowest end of culpability. Your daughters and other family members have clear and unequivocally expressed the wish that you (and they) do not suffer further by you being sent to prison. This seems to me to be a paradigm case for leniency and mercy. The principle of the sanctity of human life would not be undermined if the sentence imposed on you were to be suspended.
34. There is no public interest or need to send you to prison. I am satisfied that, given the exceptional circumstances of this case, and whilst mindful of the need to reflect the sanctity of human life, this case can nevertheless properly be dealt with by way of a Suspended Sentence Order.
35. You reported what you had done and fully assisted the police in their enquiries into the circumstances of his wife’s death. You pleaded guilty at the first opportunity. You do not pose a danger to the public in any way. I am satisfied that is not a case where any form of supervision is necessary. The recent amendments to the suspended sentence provisions by LASPOA 2012 now allow for a suspended sentence for up to two year’s duration and for a sentence to be suspended without any community requirements being attached to that sentence (*c.f. Archbold* 5-538).

Sentence

36. Mr Mann, please stand up. You have pleaded not guilty today to murder but guilty to manslaughter by reason of diminished responsibility. That is a plea with the Court accepts. For this offence, for the reasons I have given, the sentence which I impose is a sentence of two years imprisonment, suspended for two years. The usual victim surcharge order applies.
37. I am grateful to Mr Grieves-Smith and Mr Hankin QC for their able assistance today.