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*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:* **13/03/2025**

IN THE CROWN COURT OF NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE, BELFAST

THE KING

v

CRAIG ROWLAND
and
LAURA GRAHAM

Mr D Russell KC with Ms N Pinkerton (instructed by the Public Prosecution Service) for the Crown
Mr S McNeill KC with Mr C Lunny (instructed by Conor Downey & Co Solicitors) for the Defendant Rowland
Mr M O'Rourke KC with Mr A Moriarty (instructed by McCourt & McGlone Solicitors) for the Defendant Graham

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O'HARA J

Introduction

[1] Lewis Oliver Rowland was the son of the two defendants. He was born on 21 August 2015. On 20 November 2015, his parents brought him to Craigavon Area Hospital where it was quickly diagnosed that he had suffered multiple serious injuries. These included head trauma, spinal haemorrhage, retinal haemorrhages, extensive facial and neck bruising and a fractured rib. When he was brought into the hospital his eyes were not right, his pallor was not normal and his breathing was troubled. There was also bruising noted to his cheek and chin onto the neck and along the neck. These injuries were non-accidental.

[2] Lewis was transferred that evening to the Royal Belfast Hospital for Sick Children. The medical treatment he received between the hospitals and over the next while saved his life but he was left permanently and severely disabled. In the years that followed, he was looked after with astonishing devotion by foster carers, Alex and Cathy McCann. On 4 October 2018, Lewis underwent surgery to insert a permanent device to enable feeding and the provision of medication. There were

complications following this, as a result of which on 19 October his health deteriorated significantly. Lewis died on 20 October 2018 in the arms of Mrs McCann.

[3] The defendant, Rowland was prosecuted for the murder of Lewis, since the death in 2018 was the direct result of the injuries inflicted on him in November 2015. There was no dispute that the injuries were non-accidental and there was no dispute that his only carers at the relevant time were the defendants, so only one or both of them could have caused the injuries.

[4] Rowland pleaded not guilty to the charge of murder. He did not directly blame Graham for the injuries but insisted that it was not him who caused them and he did not know what had happened. A jury convicted Rowland of murder on 23 October 2024. On that date I imposed on Rowland the mandatory sentence for murder which is life imprisonment. In his case, I must now set the tariff which is the minimum period which he must serve in prison before his release will fall to be considered by the Parole Commissioners. When that minimum sentence has been served, the Commissioners will consider his case and decide in light of all the information which is then available to them whether the time has come for his release. Whenever that time does come, Rowland will remain subject to recall to prison in the event of any future offending or breach of licence – that is the consequence of the sentence of life imprisonment.

[5] In addition to the charge of murder against Rowland, both defendants were charged with child cruelty, contrary to section 20 of the Children and Young Person Act (Northern Ireland) 1968. They each pleaded guilty to that offence on 14 September 2023. The basis of the charge and the basis of their guilty pleas is as follows:

> "The defendants accept that they failed to provide medical aid for Lewis within a reasonable time when he was evidently unwell and in need of urgent medical attention. They accept that this constituted neglect in a manner likely to cause injury to the child's health.
>
> The defendants accept that from in or around 7am on 20 November 2015, it was apparent that Lewis needed medical assistance. They accept that their attendance at the hospital with Lewis later that day was inordinately delayed as to constitute neglect."

[6] During the trial the jury heard from multiple experts on behalf of the prosecution. That evidence was to the effect that the catastrophic brain injury was likely to have occurred relatively close in time to Lewis's presentation at Craigavon Hospital and his change of behaviour. It was also contended that the change in Lewis's behaviour would have been immediately apparent to the perpetrator of the

assault. There was also evidence that the timing of the retinal haemorrhages was likely to be close in time to when Lewis became acutely unwell.

[7] Stepping back a little in time, on Thursday 19 November 2015, the parents described Lewis as being in poor form so that at about 7pm they decided to take him out for a walk to try to calm him down. They walked around for about two hours and were filmed in an Asda supermarket. They said that when they got home he was crying and that at some point he stiffened up. It seems clear from accounts given by the parents at different times that a difficult night followed, something which all parents know about. That is something which is especially challenging for first time parents and even harder again for parents such as the defendants who have limitations.

[8] In all likelihood the injuries were inflicted in the early hours of Friday 20 November when, contrary to his initial version of events, Rowland was caring for Lewis on his own while Graham slept. Rowland claimed not to have noticed any change or deterioration in Lewis's manner during this period. In effect the jury rejected that assertion.

[9] On the morning of Friday 20 November, even when the defendants realised that Lewis needed medical treatment, and needed it urgently, they walked him to the hospital rather than ask a neighbour for help or ask somebody to help them phone an ambulance. They claimed not to have had a phone available to them to ring an ambulance themselves. It took approximately two hours for them to reach the hospital.

[10] There are various worrying indicators of the detachment from or indifference to Lewis's plight on the part of both defendants. I shall mention just two. On the night of Friday 20 November, after Lewis had been taken to hospital in Belfast, the parents declined an offer to stay in the hospital with him despite being made aware of how gravely ill he was. And almost three years later when the police arrived at their home on a Saturday morning and offered to rush them to Belfast to see Lewis, who was at that point very close to death, they declined to accept that offer.

Sentencing principles for murder

[11] Until recently the guideline case for setting the tariff for murders in this jurisdiction was *R v McCandless* [2004] NICA 269. It has now been updated by the Court of Appeal in *R v Ali* [2023] NICA 20, which specifically deals with the murders of children and *R v Whitla* [2024] NICA 65, which, in effect, provides for a higher starting point in most murder cases by altering the tariff upwards.

[12] Rather than set out the principles at length with extended extracts from each of these judgments, I summarise the current position, as it applies to this case, to be the following:

- Under the *McCandless* judgment there were three identifiable starting points for a tariff – a "normal starting point" of 12 years, a higher starting point of 15-16 years and a raised point beyond that again which was to be turned to in the most serious cases.

- As a result of the decision in *Whitla*, the normal starting point is now 15-16 years and few cases will attract a 12 year starting point.

- One of the factors which raised the starting point from 12 years to 15/16 years was if the victim was a child or otherwise vulnerable.

- A factor which can take a case into the highest category, higher than 15/16 years, is if the child is a young child such as an infant.

- A sentencing judge has to identify a starting point and then consider how that point is increased by additional aggravating factors or reduced by mitigating factors.

- None of this involves a rigid mathematical exercise – there is no set formula and it is up to each judge to apply his/her discretion appropriately.

- The sentencing judge should avoid double-counting so that a factor which takes a case into a higher category is not considered again as an aggravating factor to increase the sentence still further.

Craig Rowland

[13] The prosecution submission is that the starting point for this murder of an infant should be 20 years. It is submitted, following *Ali* in particular, that the culpability in this case is exceptionally high.

[14] It is then the prosecution case that the tariff should be raised beyond 20 years for the following reasons:

(i) The failure to seek medical assistance for Lewis for a number of hours after, on the evidence of the doctors, it would have been obvious that Lewis was seriously unwell. That is the subject of the separate child cruelty charge but it can also be regarded as an aggravation of the infliction of the injuries which ultimately caused Lewis's death.

(ii) Rowland's failure to explain or admit what he did in the early hours of the Friday morning. That is recognised in *Ali* as a potential aggravating factor.

(iii) Rowland's criminal record, which strikingly includes a conviction for a sexual assault which was inflicted on another young girl, with a learning disability, in May 2015 when Graham was heavily pregnant with Lewis.

(iv) The degree of violence inflicted on Lewis which was gratuitous and caused the multiple injuries already described.

(v) The impact of the murder on Mrs McCann, the foster carer, as evidenced by her victim impact statement.

Victim impact statements

[15] Not only did Mrs McCann present such a statement but so also did two of the nurses, Ms McGuinness and Ms Shields, who were on duty when Lewis was brought into hospital on 20 November 2015. The nurses describe how this was one of the worst days of their careers, seeing immediately how ill Lewis was and how uncaring both the parents appeared to be. As nurses they are trained to cope with emergencies, but what they witnessed that day clearly left them traumatised. Having to give evidence at the trial of Rowland only made matters worse.

[16] Mrs McCann's statement displays all the love which she and her husband gave to Lewis from January 2016 until his death. Their willingness to foster him despite all his problems was truly heroic and utterly selfless. All Lewis had was his hearing and a little mobility but very little indeed. He could not see, nor could he talk, but he could smile and make happy noises, almost imperceptibly, but enough for them to spot. Fittingly, Mrs McCann held Lewis as he died.

Pre-sentence report

[17] Ms Kelly of the Probation Board for Northern Ireland provided a helpful report which records that Rowland described a childhood without adverse experiences beyond his parents separating and his travelling between them in their separate homes in Wales and Northern Ireland. He is reported to be of borderline to low intelligence. His health was normal until he had a serious accident which led to kidney failure. In recent years he has had two transplants and has required dialysis.

[18] Of serious concern is Rowland's continuing failure to accept any responsibility. While he acknowledges that the injuries to Lewis were non-accidental, he reports having no knowledge of how these injuries were sustained and feels aggrieved that the blame has been pinned on him. To make matters even worse he has attributed blame to the medical professionals for his son's death, describing him as a "stable young man." That description is unrecognisably far from the truth. Rowland continued by claiming that there should have been "equal charges" between him and Graham in this case.

[19] PBNI assess an offender to be one who poses a significant risk of serious harm if there is a high likelihood of that offender committing a further offence resulting in serious harm, ie death or serious personal injury. Despite the seriousness and the gravity of the charges relating to Lewis, the view of the Probation Board is that

because there is an absence of a pattern of serious violent offending by Rowland since 2015, he does not meet the threshold of being considered as a significant risk of serious harm to others at this time. As against that, he is assessed as presenting a high likelihood of general reoffending because of such factors as limited victim empathy, denial of guilt, distorted reasoning and impulsivity and poor emotional regulation.

[20] On behalf of Rowland, Mr McNeill accepted the prosecution list of aggravating factors save for one about the defendants living in their own flat with Lewis for about four weeks before November 2015. That is a factor which I disregard.

[21] Mr McNeill also sought to distinguish the *Ali* case from the present one because in *Ali* there was evidence of the infliction of injuries on more than one occasion. There is some merit in that point because the 11-month-old child who was murdered in that case had healing fractures as well as injuries inflicted in the fatal assault. That suggests a pattern of violent conduct over a number of days which is absent here. In this case the evidence is that the injuries were most likely inflicted by a single violent episode of shaking Lewis, which while obviously extremely serious, was a one-off incident.

Conclusion on Rowland

[22] In a case where a jury has rejected the defendant's evidence and found him guilty but what exactly happened is not known or admitted in all of its detail, I have to form my own view on the evidence about what happened. In this case my interpretation of all of the evidence is this:

- Lewis was not neglected or abused by Rowland (or Graham) in any obvious way before Friday 20 November 2015.

- The flat that the family lived in was well-stocked with food and baby needs and a room was being painted so that it would become Lewis's nursery.

- As best as I can judge, the overwhelming likelihood is that at some point during the middle of the night Rowland lost his temper with Lewis, shook him violently and caused the terrible injuries which ultimately led to his death.

- This was probably a one-off incident – there is no evidence of other harm being caused to him.

- The delay in bringing Lewis to hospital probably made no difference to the outcome – while Lewis should have been taken to the hospital immediately, the medical evidence does not suggest that this would have had any effect on the outcome or Lewis's prospects.

- Rowland is in denial about all of this to the extent that he blames the doctors for causing his death by carrying out the operation in October 2018. Or, as the prosecution puts it, he displays complete avoidance of responsibility.

[23] On that analysis of the evidence, I am satisfied that Rowland's shaking of Lewis and the collection of the injuries which that caused is, in effect, the act of killing him which attracts the tariff of 20 years. I should not double count that by regarding the extent of the injuries as an aggravating factor, arising as they do from one single incident. However, the failure to seek medical attention, even if it would have been futile, is an aggravating factor as is, to a limited degree, his criminal record and his failure to give an honest account of what happened during those early morning hours.

[24] Generally personal mitigating factors count for little in murder cases but it would be unduly harsh not to allow for the fact that Rowland was only 20 years old in November 2015, that he is a man with very limited intellectual ability and that he was an inexperienced first time parent.

[25] Having considered all of these issues, I set the tariff in this case at 20 years. That is the period which Rowland must serve in prison before the Parole Commissioners can consider whether to release him. He is entitled to have time spent in custody counted against that sentence provided that such time in custody was because of the murder charge.

[26] On the child cruelty charge, I impose a sentence of 12 months' imprisonment. This issue has already been taken into account as an aggravating factor and I cannot in any event impose a sentence for it which is consecutive to life imprisonment. Accordingly, that sentence will run concurrently with the tariff which I have set.

Laura Graham

[27] The basis of Graham's plea has already been set out at para [5] above. It is accepted by the prosecution that while she should have recognised Lewis's need for urgent medical help from 7am, she could not have known what had happened to him in the previous few hours because she was asleep and Lewis was in Rowland's care. She had no reason to believe that Lewis's injuries were inflicted deliberately by her partner.

[28] The prosecution accept that Graham has no criminal record, either before or since 2015. She was 23 years old in November 2015 and is now 32 years old.

[29] I have received a number of expert reports on Graham which confirm that she is of low average intelligence with a full scale IQ of 72. This can be regarded as a mild learning disability.

[30] On her behalf, a case was made that she was subject to coercive and controlling behaviour by Rowland who dominated her and all aspects of their relationship. This is not accepted by Rowland and for the reasons which will appear below it is not something about which I feel I need to reach a conclusion.

[31] Of much greater relevance is the fact that as a child Graham herself was on the Child Protection Register due to neglect and physical abuse by her parents. She was also bullied at school. All of this has combined to make her a woman with poor judgment, low self-esteem and passive avoidant personality traits.

[32] It is also relevant to note that there has been very considerable delay in bringing this prosecution to a conclusion. Lewis's injuries were inflicted in 2015 and he then died in 2018. Since then the case has made its way rather too slowly to a conclusion. The result of that is that Graham has had this case hanging over her for more than nine years. It is almost 18 months since she pleaded guilty to the single charge she faces of child cruelty.

[33] I am obliged to assess Graham's case by reference to three factors, following the authority of *R v Millberry* [2002] 2 All ER 939. Those three factors are as follows:

(i) The degree of harm which she caused to the victim – as the Crown has conceded, in this case the degree of harm is minimal.

(ii) Her level of culpability as an offender – for Graham, Mr O'Rourke contended that in light of her intellectual impairment that assessment of culpability should be made on the basis that it is at the lower end. That approach is in keeping with guidelines issued by the Sentencing Council in England & Wales and cases such as *R v PS and others* [2019] EWCA Crim 2286 and *R v Doran* [1995] NIJB 75.

(iii) The level of risk which Graham poses – the pre-sentence report from Ms Fegan of the Probation Board is helpful in this regard. Her assessment is that Graham poses a medium likelihood of reoffending even though she has no previous convictions, because of her adverse childhood experience, her lack of consequential thinking, her distorted reasoning and her failure to prioritise Lewis's health. However, she is not currently in a relationship, nor does she have access to children. This reduces the risk of reoffending in the near future.

[34] Quite correctly child cruelty charges raise major public concerns about what exactly has been done wrong and how the offender should be punished. Each case is by its very nature very different. The present case is not one in which Graham inflicted any injury on Lewis. The most that can be said against her is that she would not have known that Lewis could not be helped by earlier treatment and that she was part of the time-consuming meander to the hospital. Even with all her limitations she should have known and done better.

[35] In the recent case of *R v Armstrong and Dempsey* [2024] NICC 29, McAlinden J imposed a suspended sentence on a mother who left her child with a partner who then killed the child. That was in my view a worse case because the mother there was acting in defiance of warnings from social workers not to leave her children with her partner because of the risk which he posed.

[36] The circumstances of this case are rather different, for the reasons which have already been explained. I do not think that sending Graham to prison would achieve any positive result. Rather I agree with the assessment of the Probation Board that Graham would benefit from a period of statutory supervision in the community. During this period she will be required to undertake offence focused work and she will be supported with her emotional well-being, she will be encouraged to engage in work about healthy relationships and her self-esteem which will assist her to develop some resilience and better decision making in the future. Graham has been spoken to about this possible option and has given her informed consent to it.

[37] In these circumstances, I impose on Graham a combination order to the effect that she will be put on probation for three years and that she will complete 100 hours community service. This is a sentence which is designed to increase her level of understanding and appreciation about what she did wrong and to steer her towards a better future. It will not involve her going to jail unless she fails to comply with the order, in which case she will be referred back to this court for further sentencing.

[38] Sometimes there is a public perception that an offender who does not go to jail walks away free. I emphasise that that is emphatically not the case for Graham. The sentence which I am imposing on her will mean that for the next three years she will have to engage with the Probation Board. She is likely to find that challenging and difficult. The intention is to help her for the future and thereby to protect the public by reducing the risk of any further offending on her part. In my judgment, that is a much better way forward, both for Graham and for the public.