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Delivered: **27/06/2012**

THE CROWN COURT IN NORTHERN IRELAND

SITTING AT DOWNPATRICK

REGINA

-v-

MA

HIS HONOUR JUDGE SMYTH

[1] Please remain seated, and I will ask you to stand up at the end of what I have to say, Miss A.

[2] You are aged twenty-one. When you had your daughter you were a young mother aged nineteen, and she was and is your only child. Your partner and co-accused, BC, is also nineteen. He was acquitted and, in my view, the jury extended to him the benefit of a reasonable doubt. Throughout you have blamed him for causing these injuries to your daughter. Neither you, nor he, are charged with causing injuries. The charge against both of you is one of neglect, not one of causation. The reason for that is clear - there is insufficient evidence against either of you to establish causation. It is, therefore, idle for the Court and unnecessary for the Court to speculate whether either, or both of you, or even a third party caused these fractures. It is not possible to say who caused them, it is only possible, within certain parameters, to date them and that gives a reasonably broad spectrum that, however, within that spectrum can be conclusively done.

[3] The persons with closest contact to your daughter were clearly you, as mother, and your partner, BC, as (in his own words, I think) a "hands-on" father. Your daughter was born in August 2009, these injuries were essentially discovered when X-rays were taken on 9th December 2009, which was a Wednesday. Your daughter

slept in the bedroom of both of you. You both must have cradled her, changed her, winded her and bathed her. It always has been your case that you were excluded by your partner from proper bonding with your child. You have accused him of inflicting these injuries, and you've also said he was possessive and you were intimidated by him. I am sceptical about the extent of your claim that the full responsibility for your daughter's welfare was shouldered by BC, and shouldered by him to your exclusion as a mother. Even if Mr C was a possessive parent, he was in your house while you were claiming a benefit to which you were not entitled. You had the benefit of your mother living just across from your house, and you could have confided your worst fears in her. I simply do not accept that you were as remote a parent as you've claimed to be to Miss Taylor. In my view you knew your daughter required attention, and you failed to obtain it, but also your silence actively misled the professionals who had occasional, albeit brief but fairly frequent, contact with you.

[4] Your plea has recognized that you must have known that your daughter was in distress, and that that distress required medical attention. As I've said, this was not simply resolved by her being seen by professionals, it required medical attention that had to be influenced by an honest history, no doubt provided by both you and Mr C, concerning your fears. Your explanation for the least serious manifestation of non-accidental injury, the least serious, but perhaps most obvious, manifestation of abuse of non-accidental injury, was both inconsistent and unacceptable. Your daughter had not bruised herself, either with her rattle or with her dummy. Her failure to thrive was not because of lactose intolerance or diarrhoea. She failed to thrive because of her physical condition, and that was most pronounced over a period of at least three weeks. It may seem unfair that you stand alone here, but as mother you had a close opportunity over the first sixteen weeks of your daughter's life to get to know her as a baby.

[5] No-one, apart from the person or persons who did it, will know who caused the injuries to your daughter. It's not even possible for anyone to say whether these were caused on more than two occasions, but we know there were at least two occasions. If there were only two occasions, fourteen fractures occurred in one incident, and that occasion is likely to have been in or about the early part of November 2009. However, if all these fractures were occasioned in one incident that means that fractures of both sides of the ribs occurred (probably caused by forceful squeezing), a separate fracture of the shin bone and another fracture of the right femur, probably caused by twisting. That means they all happened, if that is accepted, on one occasion and that occasion would have been most likely in early November. There was one further episode several days before the fractures were discovered on Wednesday 9th December 2009. It was what the Doctors describe as acute, that essentially means fresh, and most likely occurred after the Health Visitor (Miss Davis) came on Friday 4th December and before 11:30 am on Monday 7th December. I have little doubt that the medical professionals who were assisting you, no matter how suspicious they were, or should have been of

the existence of hard to explain bruising were, in fact, greatly surprised and, no doubt, very upset by the extent and by the severity of your daughter's injuries. Their concern is readily understood.

[6] On 1st December and on 4th December your daughter had been seen by Doctors, and also by the Health Visitor. Whilst there were concerns, those concerns did not appear to suggest to any of the professionals truly serious injury. They failed to pick up the fourteen fractures. However, fractures cannot be seen. A baby is best known to its closest carers. I'm absolutely convinced you knew your daughter needed urgent care and were, for some reason, keeping quiet. Babies of sixteen weeks of age cannot speak for themselves, they depend on their carers to notice their distress and their pain. Those carers were you and BC, who is, I am aware, present at the back of the Court.

[7] The unpleasant duty I have to do in respect of you is to make it clear that there is a time when action in seeking attention for a baby's condition is vital; that means seeking help when it is clearly needed. It involves also the giving of an accurate history of the reasons why that help is needed. Your daughter is now in the care of her paternal grandparents. You and BC only have strictly supervised access. BC cannot reside with his parents, as I understand. Your daughter is now thriving where she is, and it is to be hoped that this will not have any future impact upon her, and that her pain and suffering is something that's both in the past and of which she will not be aware in the future.

[8] I turn now to the Pre-Sentence Report. It refers to your background and age. I have already referred to the details that Miss Taylor has gone into in investigating your background and providing an offence analysis for the Court. It also discloses, for the first time to me, that you are now pregnant and due for confinement in January 2013. It appears from what Ms Smith has said that your partner has been a partner for at least eighteen months, and that he is fully aware of these proceedings, and that there is somebody from his family in Court listening to what is happening. A matter that has given concern is this paragraph: "*Social Services were not involved with this family until December 2009, when it was clear that the child had been the victim of non-accidental injuries. I am told that the defendant was generally uncooperative with Social Services, often giving inaccurate information regarding family background and her relationship with her child. I am told that at times she appeared to be more concerned about offences stemming from potential benefit fraud, rather than the offences before the Court today. Initially Social Workers were advised that the defendant's ex-partner did not live at this address, but they subsequently discovered that he was resident with her at the time when the injuries were inflicted. The Social Worker involved is not clear who inflicted the injuries...* (I don't read out the next line, because it's an assumption on the part of the Social Worker, and I don't feel that it's relevant to what I have to decide) *...the defendant continues to deny that she ever harmed the child.*"

[9] As I have said, I don't accept that you were a remote mother, but that both of you were parents who had close contact. Your daughter slept in your room. There is a need, in my mind, to balance the deterrence of others with a realization that punishment can sometimes encourage silence. There is, however, a primary need, and that need is to reassure the public that children will be protected. There is a secondary need, and that is to ensure that there is help for parents who are in the same situation as yourself. I believe this is best done by a custodial sentence, but where the supervisory period is greater than usual. This will also have the effect of ensuring that you give birth to your child when not in custody.

[10] I have considered whether there are any aggravating factors. There are two possible matters, one was the record, and I have already made comments about that, I disregard it as an aggravating factor. The second matter is the extent of culpability. Could that possibly be aggravated by the Court's view that at certain stages of her life, your daughter must have been exhibiting distress and pain that must have been picked up, that you must have chosen to ignore, and which prolonged her anguish unnecessarily? However that, to my mind, is part of the gravamen of the offence and is not a specific separate aggravating feature. It is what puts this into the second category.

[11] In mitigation, as I have said to Ms Smith, this is a case of neglect, not of causation. You were a young mother, and this was your first child. You shared responsibility with the hands-on father. You have pleaded guilty, and that must be reflected in the sentence. You are now pregnant and your confinement is in January of next year. You also have a need for support, supervision, advice and guidance.

[12] Would you please stand up? The overall sentence of this Court (if you had been convicted it would have been higher) is one of two years imprisonment, of which six months has to be served in actual time. That means that after six months you will be released on licence. By my calculation that means that your confinement will be when you have been released from custody; your release from custody being just after Christmas coming. There will be a number of conditions attached to what is called a determinative custodial sentence, and that is that you undergo, undertake and complete an anger management course; that you undertake and complete a parenting programme; and also that you're subject to psychological assessment and, if necessary, treatment. Thank you very much.

[13] Yes, in relation to disqualification from working with children, is it a triggering offence...?

MS SMYTH: Yes, it is, your Honour.

MR McDOWELL: I think it must be, your Honour.

JUDGE SMYTH: I therefore disqualify you from working with children. I would have to state reasons why the contrary should be...why no Order should be made and I can't, in the circumstances, find such reasons. So there will be a Barring Order and a Disqualification Order from working with children, not vulnerable adults.

[14] Reporting restrictions continue because it's a duty that doesn't require an Order of the Court, it means that nothing should be published by the press which would be likely to lead to the identification of your daughter, and I imagine that her parents names would lead to such identification, either directly or by the jigsaw approach, given the identity of the current carers.

MS SMYTH: Grateful, your Honour.

JUDGE SMYTH: Thank you very much.