



JUDICIARY OF
ENGLAND AND WALES

THE QUEEN

-V-

REBECCA SHUTTLEWORTH

LUKE SOUTHERTON

BIRMINGHAM CROWN COURT

25 JUNE 2013

SENTENCING REMARKS OF MR JUSTICE SPENCER

1. Rebecca Shuttleworth, you are still only 25 years old. After a trial lasting over 5 months the jury have convicted you of the brutal murder of your 2 year old son, Keanu. He was a defenceless child, and it was your duty to protect him. Instead you beat him so severely that he died a lingering death from his injuries a day or so later. The jury have also convicted you of offences of cruelty to Keanu by assaulting him on several occasions in the months leading up to his death, resulting in significant injuries, count 4, and by ill-treating and neglecting Keanu throughout his short life, count 5. The jury found each and every one of the multiple allegations in those counts proved. You have been convicted of cruelty in neglecting Keanu in the last hours of his life by failing to summon the medical aid he so badly needed. Finally and quite separately you have been convicted of cruelty towards [another child*] in 2005 by deliberately burning her hand and wrist.

2. Luke Southerton, you are 32 years old. You have been acquitted by the jury of any involvement in the death of Keanu, and acquitted of all allegations of child cruelty save for one occasion when you deliberately bit Keanu at Rebecca Shuttleworth's instigation, supposedly as a way of teaching him not to bite when this 2 year old child had bitten you.

3. Keanu was a delightful little boy, described as a real character, a little entertainer, who remained cheerful despite everything. Joyful was the word that more than one

witness used to describe him. He was a much loved brother, grandson, nephew and cousin. He was a favourite at nursery as well as in the family, His death has left a void in many lives which will never be filled. No sentence I pass can change that.

4. For murder, Rebecca Shuttleworth, there is only one sentence: life imprisonment. But I am required to determine what period you must serve in prison before you are even eligible to be considered for parole. In determining how long you must serve I shall take into account all the offences of which you have been convicted. First I must set out the factual basis upon which I pass sentence.

5. You, Rebecca Shuttleworth, had the misfortune and disadvantage of a very poor start in life with a disrupted childhood spent in and out of care. You have had more than your share of tragedy, losing your mother and your grandmother within a matter of weeks when you were only 18 years old. To your credit you always kept out of trouble with the police. You are an intelligent young woman. You learned to be resilient and streetwise but I am satisfied on the evidence I have heard, with the benefit of observing you in the witness box for many days, that you also learned to be manipulative and deceitful. You have always been well able to create a good impression when it was to your advantage.

6. You became involved in an abusive relationship with a violent man and at the age of only 16 gave birth to twins. Your father provided a home for you and for them. [redacted*] He took over full responsibility for them in 2007 when a residence order was made in his favour.

7. Leaving your father to look after the twins you moved to Torquay in 2007, attempting to make a new life for yourself. You met a much older man and you were soon pregnant with Keanu who was born on 11th December 2008. You had help and support from social services in looking after him in a structured setting for the first few months of his life. You impressed the social workers sufficiently to pass various assessments and to persuade them that your parenting was “good enough”. Even then, however, there were signs of neglect and ill-treatment of Keanu, particularly when you were away from the eyes of the professionals. I am satisfied that you consistently shouted and swore at Keanu in Torquay just as you did in Birmingham. You failed to attend appropriately to his needs, and failed to wash and clean him or his clothes appropriately. You persistently neglected to change his nappy through a callous indifference to his welfare rather than through lack of practical skill or

knowledge. It caused him evident discomfort and distress. The social workers spelt out for you the negative impact on any small child of being sworn and shouted at but you laughed it off as simply part of your character, on a take it or leave it basis.

8. In the summer of 2009 you returned to live in Birmingham with Keanu. You were fortunate to be provided with a home and a great deal of practical support by your friend Kay Filmer and her mother Karen Selvey. They were shocked on occasions by the way you treated Keanu, failing to attend to his basic needs like nappy changing. You were not prepared to give him the time and attention he needed and craved. You were more interested in pursuing your own selfish interests. Despite this, and perhaps to a degree because of it, Keanu relished the attention you gave him when you could be bothered to do so and there is no doubt that there was a strong bond between the two of you for the good. That was observed by the professionals at nursery, and on the face of it all was well.

9. This was the situation when you met and began a relationship with your co-defendant. You, Luke Southerton, were then living in a hostel in Birmingham in the wake of a painful separation from your long-term partner which necessarily limited the amount of contact you were able to have with your own two boys, one of whom was only a few months older than Keanu. Rebecca Shuttleworth became infatuated with you and you were, I am sure, flattered by her attention. She of the two of you was the dominant personality. But as you told your friend Wayne Collins, Rebecca and Keanu came as a package. You were prepared to put up with him as the price of seeing more of your girlfriend. For your own boys I have no doubt you have and have always had the deepest love and affection. There is no criticism of you whatsoever as a father to your own boys. But you had double standards when it came to Keanu. You would never have dreamed of biting one of your own sons in the way you bit Keanu, even to teach him a lesson.

10. That was the first deliberate assault inflicted on Keanu. You Rebecca Shuttleworth encouraged him to inflict it. You, Luke Southerton, bit Keanu very hard on his bare arm, causing a nasty injury involving bruising and breaking of the skin. You surprised yourself by the ferocity with which you bit him, and you expressed regret to your friend Wayne Collins for what you had done. You Rebecca Shuttleworth covered up what your boyfriend had done by lying at nursery and saying that Keanu had been bitten by another child, his cousin.

11. On 7th December you, Rebecca Shuttleworth, took Keanu to hospital with a head injury which, on the jury's verdict you had inflicted that day when you returned to Luke Southerton's flat after he had been babysitting for Keanu. There was a very prominent bruise to his forehead with indications of tramline markings which strongly suggest you hit him with a stick. At hospital you misled the consultant nurse you saw by pretending that it was the recurrence of an earlier injury the previous week and that the original injury had been caused by a fall at nursery.

12. On 9th December, 2 days later, Keanu was taken to hospital again with a series of injuries. There was a nasty burn to the sole of his foot with bruising on the upper part of the foot consistent with his foot being held by force against a hot radiator or other hot surface. On the jury's verdict, you, Rebecca Shuttleworth, deliberately inflicted that injury. It is horribly reminiscent of the injury you had inflicted nearly 5 years earlier to [another child*]. Instead of seeking professional medical attention for this burn you merely put some cream on it and left Keanu to limp in pain all day until he had to go to hospital that evening when even more serious injuries had been caused.

13. Sometime that day, 9th December, a further head injury was inflicted to Keanu, this time resulting in bruising and boggy swelling to the top of his head. On the jury's verdict it was you alone, Rebecca Shuttleworth, who caused that injury. There must have been a substantial blow to his head, quite possibly with a weapon. You were sufficiently concerned by the early evening to call NHS Direct and ask for advice, although it is telling that you were hoping they could give you advice over the phone without having to take Keanu into hospital where all these injuries would be examined critically by medical staff and quite possibly by social services. You also caused the bruising to Keanu's back which was seen at hospital on 9th December. It was a troubling injury, as all the doctors agreed, because of its unusual site. You lied in suggesting that it was caused accidentally when Keanu fell against a wall in the bedroom at your father's house. You deliberately inflicted that injury and there were subsequent bruises inflicted in the same general area of Keanu's back on two further occasions, seen at nursery on 5th January and over the fatal weekend.

14. Around Christmas or New Year you, Rebecca Shuttleworth, were confronted by your sister Angela with the livid hand prints bruises you had inflicted to Keanu's buttocks, which she discovered when she was bathing him. It is telling, once more, that you were unconcerned and merely shrugged your shoulders when she told you that if she saw anything like that again she would report you to social services.

15. It is clearly established on the medical evidence that sometime in the last week of his life, 3-5 days before he dies, Keanu received a serious blow to the right hand side of his head, hard enough to cause damage to the skull itself and extensive bruising to the scalp. I strongly suspect it was you who inflicted that injury as well, but no-one could be sure and for that reason you were never charged with causing it.

16. I turn finally to the events of the fatal weekend. By the jury's verdict it was you alone, Rebecca Shuttleworth, who was responsible for the violence which led to Keanu's death. You were with Keanu in Luke Southerton's flat from the Friday night through to the Sunday afternoon, by which time Keanu had undoubtedly suffered his fatal injuries. You claimed that it was Luke Southerton who inflicted those injuries but the jury decided otherwise. Keanu would have been bound to scream inconsolably for many minutes when such injuries were inflicted. Your claim to have seen and heard nothing of any such attack and its aftermath was as unconvincing as it was dishonest. It must have been on the Saturday morning, when Luke Southerton was away from the flat for 2 hours, that you inflicted the injuries.

17. No one could look at the photographs of Keanu taken after his death, or even the body mapping images of the multiple injuries he suffered, without being appalled at the brutality they represent. There must have been many separate blows. At least one must have been inflicted with a weapon, in all probability a pool cue or broom handle, hence the tramline bruising.

18. There were injuries inflicted to his abdomen, his chest, his face, his head, and his back. The abdominal injury which killed Keanu was a massive tear of the mesentery, the apron of fat which provides the blood supply for the whole of the intestine. The force required to cause such an injury was very great indeed, likened by the pathologist, Dr Kolar, to the forces in a road traffic collision. It must have been the result of heavy punches, a stamp or kick, or other blows. The depth and extent of bruising to Keanu's back strongly suggests he must have been thrown or slammed against the floor or a wall or another firm surface for at least part of the attack upon him.

19. One can scarcely imagine the pain and distress Keanu must have suffered from this outburst of violence. Although he had become used to assaults, he must have been terrified. You told the police how at one stage that weekend, you saw him lying

face down cold and helpless on the floor in the room where he had been sleeping. That was a vivid image which remained with you, as it will remain with everyone who heard that evidence.

20. It must have been clear to you as soon as the violence had taken place that Keanu was badly in need of medical attention. He got worse during Saturday. I am quite sure it was Keanu whom Andrew Scroggie heard crying and screaming in the early part of Saturday evening. The likelihood is that, Keanu was left to cry and scream in his pushchair, as was not uncommon, and on this occasion the pushchair was probably taken downstairs to the hallway, between the inner and outer door so that he would be out of sight if not out of mind. He got worse overnight and was very ill indeed all next day, Sunday. The reality is that he was dying.

21. There was only one reason why you, Keanu's mother, did not summon medical help or take him to hospital that weekend, as any normal parent would have done. It was your fear that this time the injuries inflicted upon him could never be explained away. Instead you took the chance that he might recover. You were buying yourself time, but it was time that Keanu could not afford to lose if there was any chance of saving his life. In reality, on the medical evidence as a whole, there was not. You left the flat for the first and only time on Sunday afternoon, initially to go to the shops and later to go to your father's house. You wanted to get away from the flat. You wanted time to think of the explanation you would give, [redacted*].

22. Against that background of my findings on the evidence I turn to the determination of the minimum period you must serve. Parliament has decreed that for a murder such as this the starting point is 15 years. I am required to consider and assess the aggravating factors and mitigating factors to decide what the minimum term should be.

23. First the aggravating factors. There are three such factors within paragraph 10 of schedule 21 to the Criminal Justice Act 2003. First, Keanu was particularly vulnerable because of his age. He was barely 2 years old, a defenceless child. Secondly there was mental and physical suffering inflicted on him before death. His was a lingering death over many hours following a brutal assault by his own mother. The physical suffering was very considerable, and so must have been his mental suffering. Thirdly, this was the grossest abuse of a position of trust. You were his mother and it was your most basic and natural duty to protect him.

24. It is also an aggravating factor that the fatal violence that weekend was not the first time you had inflicted injury deliberately on Keanu, as I have already set out in detail. It was the culmination of weeks of violence. Although I will pass concurrent determinate sentences for the offences of child cruelty on the indictment, there must be a significant increase in the minimum term you must serve to reflect this additional criminal conduct. That also includes the assault [in 2005*], although I bear in mind that you were only 16 when that offence was committed.

25. I turn to the mitigating factors. I accept that there was no intention to kill, but this was a brutal and sustained attack on a small child so the mitigation is substantially less. I accept as well that there was a lack of premeditation in the sense that you did not plan to assault Keanu so severely that weekend. It may even have been a response to the way in which he was crying and screaming. But again, the mitigation is substantially less because of the history of assaults. You were provoked by his behaviour in a way which could amount to a mitigating factor for the purpose of schedule 21. Your age at the time is a mitigating factor. You were then still only 22. As to more general mitigating factors beyond paragraph 11 of schedule 21, I bear in mind, that you have no previous convictions or cautions. Having said that, if you had you been prosecuted and convicted at the time for [the earlier offence*] you would have had a very significant previous conviction. I also bear in mind your troubled upbringing, the domestic violence you yourself suffered from a previous partner, and the assistance you have provided to the police recently in connection with another distressing criminal investigation.

26. I take 15 years as the starting point for your minimum term. The statutory aggravating factors I have identified would justify a significant increase. In addition, the child cruelty offences would, together, merit a determinate sentence of at least 4 years, of which you would serve half. On this basis all those aggravating factors would justify a total increase in the starting point to 21 years. Against that are the mitigating factors I have identified which in my judgment justify a significant, but substantially smaller, reduction. Finally I have to stand back and look at the totality of the sentence. Doing so, and taking everything into account I conclude that the minimum term you must serve is 18 years. That is the equivalent of a determinate sentence of 36 years. You have served 13 days in custody already. That figure will be deducted from the period of 18 years. There will be concurrent sentences of 4 years on count 4,

3 years on counts 5 and 6. On count 9, bearing in mind you were only 16 at the time and only for that reason, there will be a concurrent sentence of 3 years.

27. Luke Southerton, I have to sentence you for a single offence of child cruelty. You wilfully assaulted Keanu in a manner likely to cause him unnecessary suffering or injury to his health by deliberately biting him. I accept that you did so at the instigation of Rebecca Shuttleworth and that you did so only because Keanu had bitten you and she suggested this was a way of teaching him a lesson. But that cannot excuse you, a grown man, biting the arm of a 2 year old child hard enough to break the skin and leave a large bruise with obvious teeth marks, as the witnesses described. I am satisfied it was done in anger, although you regretted it straightaway when you realised what you had done. You admitted to the police in interview that you had bitten Keanu but you deliberately played down the seriousness of what was, frankly, a shocking injury.

28. I have read the material placed before me by your counsel which confirms everything in the evidence the jury heard during the trial about the quality of your relationship with your sons, and your generally placid nature. I have been assisted by a pre-sentence report. I have also read the psychologist's report from Dr Tim Hull, dated 9th March 2012, from which it is evident that you are of limited intellectual ability. There is nothing, however, to indicate that you were not fully in possession of your faculties at the time of the offence. You were weak and, to an extent, naïve. You have endured the strain of 5 months on trial for murder, on top of 2 years waiting for the trial to begin. You have spent a total of 13 days on remand during the course of the proceedings. All those factors enable me to take a course which does not involve your going to prison today.

29. This was, however, a serious offence. I have considered the Sentencing Council guideline for assaults on children and cruelty to the child. I am satisfied that your offence merits a short term of imprisonment, but for the reasons I have explained I am able to follow the recommendation in the pre-sentence report to suspend that sentence. There will be a sentence of 9 months imprisonment, suspended for a period of 2 years. The supervision requirement will also be for 2 years. In addition you will perform 200hrs of unpaid work for the community within the next 12 months. There will also be a specified activity requirement of 30 days to undertake the victim awareness workbook in order to increase your understanding of your actions and the harm caused. It is my duty to inform you that this conviction means that you will be

automatically barred from engaging in regulated activity with children or vulnerable adults pursuant to the relevant statutory provisions.

** Some redactions have been made to this published version due to a s39 CYPA order being in place*