



IN THE CROWN COURT AT COVENTRY

Date: 3rd December 2021

MR JUSTICE WALL

REGINA

- v -

EMMA TUSTIN

&

THOMAS HUGHES

SENTENCING REMARKS

1. This is one of the most distressing and disturbing case with which I have had to deal.
2. On 23rd March last year this country went into lockdown and Arthur Labinjo-Hughes moved into 39 Cranmore Road in Shirley to live with the two of you and your children, Tustin: X and Y. He was 6 years old. He was vulnerable – his mother, with whom he had been living, had recently been arrested for an offence of homicide and remanded in custody. He was showing signs of distress such as having nightmares and becoming anxious when people he loved left him. Other than that, he was a healthy, happy young boy. He enjoyed his food, liked school, loved playing cricket and football and adored spending his time with his extended family. He was described as cheeky but was not seen by anyone as naughty. You have both sought to portray Arthur's behaviour as

worsening considerably after he moved in with you. I cannot say how far that is true. If it is true, I am sure it was a reaction to the way in which you were treating him.

3. On 16th June, less than three months after moving in, he was rushed into hospital. He had sustained a devastating and fatal head injury. His body was covered in bruises. There were 130 in total at the time of his death: a number described by Dr Dixon, a consultant paediatrician specialising in child protection, as being “staggerinpoppg”. Many of them were on areas of his body where they could not have been caused accidentally. On the last occasion on which Arthur was seen by his grandmother in April he again had a number of deep bruises to his back. I have no doubt that he was regularly beaten by both of you. You must each have been aware what the other was doing. Tustin, you would have been in the house when Hughes behaved in this way. Hughes, you would have seen the marks on Arthur when he undressed in front of you. You Hughes, I am sure, researched pressure pointing Arthur and then did it. Not in the playful way you suggested but as an attempt to cause maximum pain with minimum injury. He was emaciated. His ribs were visible under his skin. There was evidence that he had sustained earlier, less serious injuries to his brain. He had been poisoned with so much salt that the levels of sodium in his blood could not be accurately and reliably measured by properly calibrated hospital equipment. You, Tustin had administered a very significant bolus of salt in the hours before his death. I am sure that you had also been poisoning him with smaller doses of salt for some time. It is the only explanation for Arthur being heard regularly to cry out for food while rejecting the food that you prepared for him and offered him. It explains why you had been restricting his access to free water for some time and your annoyance when, on the day of Arthur’s death, Tobias Jarman wanted to give Arthur water to slake his thirst. Arthur’s thymus was found to be atrophied indicating that he had suffered from acute or prolonged abuse in the period leading up to his death. The extent of that abuse became apparent during this investigation and trial. He had been completely isolated from his extended family. He was forced to live a solitary and lonely life within your home, including being made to stand to attention alone in the hallway of the house for most of the day. The CCTV recovered from your home revealed that he had been made to stand in this way for over 14 hours on 12th June, almost 12 hours on 13th June, almost 11 hours on 14th June and 6 ½ hours on 15th June. Although no CCTV material was available for the time before 12th June, your text messages reveal that this was the pattern of Arthur’s life for many weeks before his death. He was not allowed any friendly interaction with you or to play with your children, Tustin, and was not allowed to return to school once his school reopened on 8th June. He was made to sleep downstairs on the hard floor without a mattress. In the last three months of Arthur’s life he was subjected to the most unimaginable suffering at the hands of both of you. You both told lies to conceal what was happening in that house – you Tustin to social services who came to visit in April and you Hughes to the school when Arthur did not return after lockdown.
4. Your behaviour towards him was often spiteful and at times sadistic. The CCTV images of you, Tustin, rolling Arthur out of bed on the day before he died and the mental images of you, Hughes, walking past your son who had been standing alone in the hallway for hours in a thick onesie on one of the hottest days of the year to buy ice creams for you and Tustin without buying one for him or of you deliberately ripping up his beloved Birmingham City football shirt are some of those that will live with anyone who attended this trial for a very long time. They are but examples of how you relished in making him suffer. In your texts to one another you regularly referred to Arthur in terms

such as a c*** or a shit, or as being like Satan or Hitler. The prosecution suggested that your behaviour dehumanised Arthur in your eyes. In my judgment that is an accurate depiction of your behaviour. The less human he seemed to be, the more freedom you had to abuse him.

5. This is not a case in which you were inadequate people, incapable of caring properly for children. Hughes, you apparently cared properly for Arthur before you became infatuated with Tustin to the extent that it obliterated all love for your son. You, Tustin, gave copious amounts of love to your own two children right up until the day of your arrest. It is a shocking feature of this case that your children, Tustin, lived a perfectly happy normal life in that household while this appalling cruelty to Arthur was taking place. This cruel and inhuman treatment of Arthur was a deliberate decision by both of you to brush off his cries for help and treat them as naughtiness because it suited you not to spend time caring for him in the way he needed.
6. You both knew the effect of what you were doing and yet persisted in it. You Tustin took a number of audio and video files of Arthur standing by the door crying, calling out for his grandparents and uncles, hitting himself in a way which anyone would recognise as a cry for help from a deeply unhappy child, and saying that nobody loved him and that he was hungry and thirsty. You Hughes watched enough of those videos and were present in the house for enough time to know exactly how broken Arthur was. Your joint attempts at trial to say that you only realised after the event how bad your behaviour towards him had been were transparent and self-serving lies. You both knew the extent of his suffering at the time and were pitiless and indifferent to it. Nobody could have taken or watched the haunting videos we have seen and listened to the audio files we have listened to without rescuing that poor boy unless this was so.
7. The final act of killing was done by you, Tustin. You shook him so that his head was hyperextended and flexed on his neck while at the same time hitting it against a wall or the floor several times. The amount of violence you used on him produced forces on his body equivalent to those which might otherwise have been produced by a high-speed road traffic collision. The injuries sustained by him were extensive and devastating. I am sure from the expert evidence at trial that he collapsed at once and could not have been revived thereafter.
8. I am sure that at the moment you launched this attack on him you intended that he should die. I reach that conclusion not just from the amount of force you used (described by the experts to be at least severe force) but because I am sure that by the time you did it you no longer wanted Arthur in your home. You wanted Thomas Hughes so that he could provide for you and your own children, but you did not want to be troubled by Arthur any longer. In your evidence you said that you thought that Arthur hated you. You blamed him for your miscarriages and for causing rifts between Hughes and yourself. Effectively, you held Arthur responsible for any problems in your life. You had given him a potentially lethal dose of salt an hour or so before your final assault on him. The day before he died you sent a message to Thomas Hughes saying that Arthur had bitten you and ominously added that he had done it for the very last time. You took a photograph of him which I am sure was taken after you had assaulted him, and he was lying lifeless on the floor. It was a calculated act. You were to try to use this as evidence that he had been throwing himself around. It was an early attempt by you to deflect suspicion from yourself. Had this killing been anything other than intentional, you would have sought help for Arthur after his collapse when it must have been obvious

to you that he required immediate medical attention if he was to have any hope of survival. But you did not summon help. You moved Arthur's limp and lifeless body around the house. You can only have done that because you were looking for somewhere to place it to make it look as if this was an accident or that he was responsible for his own death. You showed no emotion or compassion for Arthur's condition. Rather, you lost no time in starting to tell anyone who would listen a false narrative in which Arthur was the villain of the piece – making your life unbearable and being responsible for his own injuries. You are a manipulative woman who would tell any lie and shift the blame onto anyone to save her own skin.

9. Hughes, you were out of the house when your partner did what she did to your son. But she did it in part because of the encouragement you gave her. In the weeks preceding his murder you made a series of graphic and chilling threats to Arthur or about him. Threats that you were happy enough to commit to writing in the texts you sent Tustin such as promises to “take his c*****g jaw off his shoulders”, to “fill him in”, to “dash his food off his head”, and to “end him”. Threats that could sometimes be heard by people you hardly knew such as Tustin's hairdresser and her partner who heard you threaten to take Arthur's head off his shoulders and use it as a football just hours before he died. The threats of what you would do to Arthur were themselves an encouragement to Tustin to use violence of her own on him. But they were also accompanied by more direct encouragements to violence. You sent her texts telling her things such as to “take his jaw off” and to “fucking launch the lying little fuck”. They culminated in sending her a message the night before she killed him that she should “just end him”. When I sentence you, I bear in mind that the jury have convicted you of manslaughter and not murder. Therefore, I sentence you on the basis that you deliberately encouraged Tustin to use violence on Arthur but not that you intended her to do so with intent to kill him or cause him a really serious injury. But the evidence leads me to conclude that your words and actions were designed to encourage her to violence only just short of that which might cause Arthur grievous bodily harm.
10. I have seen no remorse from either of you.
11. The victim impact statements read by Arthur's grandmothers, one written by Arthur's mother, were moving and revealed the deep loss felt by Arthur's extended family. I can only reflect the criminality of your behaviour and could do nothing to restore to Arthur's loved ones the life they have lost.
12. Emma Tustin, I must sentence you for murder. The only sentence I can pass on you is one of life imprisonment. It is any event the proper sentence for your crimes. I also have to set the minimum term that you must serve before the Parole Board can consider you for release. That minimum term will reflect your overall criminality. I shall then pass concurrent fixed term sentences for the offences of child cruelty. The minimum term does not represent the time you will actually spend in custody; it is simply the minimum period that you must spend in prison before your case can even be considered by the Parole Board. If they do not order your release, you will remain in custody for the rest of your life. If they do release you, you will be liable to recall to custody for the rest of your life.
13. I must set the minimum term by reference to Schedule 21 of the Sentencing Code as Parliament has enacted. I judge this to be a case of particularly high seriousness and thus one with a starting point of 30 years. Although, save for the element of sadism, it

does not fit into one of the examples of a murder of particularly high seriousness as set out in the code, it is a matter for the sentencing judge to decide whether any case is properly so described. The killing, coupled with the persistent and repeated cruelty which preceded it leads me to the conclusion I have reached. Many of the aggravating features have already been factored into my reaching my conclusion as to the starting point and I take care not to double count those features. However, there are further aggravating factors that I must take into account at this stage, namely the gross breach of trust, Arthur's age and vulnerability, and your lies to conceal your conduct. Against that I set the fact that you were effectively of good character and that, while you were constantly cruel to Arthur, I cannot find that his death was premeditated. I can only safely conclude that you formed your intent to kill him shortly before your final assault on him. I accept that your time in custody will be hard and that you pose a real suicide risk. Weighing up these factors the minimum term in your case will be one of 29 years. From that you must have deducted the number of days you have already spent in custody which I am told is 529.

14. Each count of child cruelty is of the most serious type. Individually these counts would attract sentences of six or more years. I see no reason not to pass the maximum term of 10 years on you concurrently on each of these counts to reflect the overall seriousness of your cruel actions.
15. Thomas Hughes. You have been convicted of manslaughter. With reference to the Sentencing Council's definitive guideline for offences of this sort, I judge your culpability for the manslaughter as being high. You encouraged violence intending that it should result in injury just short of really serious harm. I reach that conclusion based on the level of threats you made about him and the regularity of your own assaults on him. Again, in your case I will pass a sentence for manslaughter which reflects the whole of your offending including the two counts of child cruelty for which you stand convicted. I will then pass concurrent terms on the child cruelty counts. The persistence of your cruelty to Arthur leads me to conclude that I should pass a sentence for manslaughter within the bracket of the guideline reserved for cases in which there is very high culpability. This bracket has a starting point of 18 years. There are aggravating features to your offending. You were Arthur's father, in a position of trust over him and bore the prime responsibility for protecting him. Arthur was extremely vulnerable. You lied to the school in the last days of Arthur's life to protect both you and Ms Tustin. I give limited credit for your good character given the period of time over which you abused your son in these ways. The least sentence I can pass on you is one of 21 years. There will be concurrent terms of 9 years for the offences of child cruelty. You will serve 2/3 of that term less any time you have spent in custody and will then be released on licence until the expiry of that term.