



JUDICIARY OF
ENGLAND AND WALES

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-v-

Ian Stewart

Huntingdon Crown Court
Sentencing Remarks of Mr Justice Bryan
9 February 2022

1. Ian Stewart, on 23 February 2017, at St. Albans Crown Court, you were found guilty of the cruel, planned, and premeditated murder for financial gain of your beloved fiancée, the successful author Helen Bailey, whom you smothered whilst she was sedated with a sleeping drug, zopiclone (prescribed to you but administered to her by you over a period of months (as corroborated by hair analysis)), after which you dumped her body in a foul-smelling cess-pit to decompose accompanied by her dachshund dog, to whom she was devoted, who you had also killed to cover your tracks, dumped together with his dog toy, a pillow case and two plastic bags. You then carried out an elaborate and callous charade over a period of three months, pretending that Helen had disappeared, with you going on awareness raising dog walks, having flyers printed, and sending texts and emails to her mobile phone that you yourself had with you. You pleaded not guilty, despite the overwhelming evidence against you, and gave evidence at your trial concocting a fanciful tale that Helen Bailey had been kidnapped and that you played no role in her disappearance, her murder or the concealment of her body. The jury were not deceived. For that murder you were sentenced by HHJ Bright QC to life imprisonment with a 34 year minimum term. He noted that you will be 90 years of age before you become eligible for parole.
2. Following that conviction, the earlier, and at the time, non-suspicious death of your equally beloved wife Diane Stewart on 25 June 2010 was investigated by the police. At the time your account was that you found your wife lifeless on the ground on the patio in the garden of your house with froth emanating from her mouth and nose, and at a time when she was seemingly putting out the washing, after you had returned from doing some shopping. After what you were to say were attempts at CPR by you, at 11.24am you called 999, and almost your opening words to the operator were “I think she’s had a fit” “She does have epilepsy”. In the 18 mins and 35 second call that ensued you gave the appearance to the operator that you were performing both CPR and mouth to mouth resuscitation. The East Anglian Air Ambulance and paramedics attended, but Diane was from the start found to be asystolic (without electrical activity in the heart) and despite administration of adrenaline and atropine and CPR, remained asystolic throughout, being declared dead at 12.02. A routine coronial (non-forensic) post mortem was performed and no cause of death was ascertained. However, in circumstances where Diane had been diagnosed as (mildly) epileptic many years previously (although she had been fit free for 18 years) this was considered to allow the label of “Sudden Unexpected Death in Epilepsy” (SUDEP), such label being permitted

where a person dies from unascertained causes but has a history of epilepsy, and other causes have been excluded.

3. Her body was cremated, and there matters would have lain, but for your conviction for the murder of Helen Bailey which led to an investigation of Diane's death. Diane carried a donor card, and you had known her wishes in that regard since university. It was in such circumstances that you consented to her brain being donated for teaching and research. To have refused such request would no doubt have aroused considerable suspicion (and it is fair to say that Wendy Bellamy-Lee, Diane's sister, was already suspicious, and indeed in touch with the coroner).
4. It no doubt never crossed your mind that the donation of Diane's brain for teaching and research would lead to your ultimate downfall, as it was to do, and your conviction today for the murder of Diane Stewart, for which I must now sentence you.
5. The neurologist Dr Derry was consulted in relation to Diane's epilepsy. He considered that Diane had a very low risk of a seizure and an even lower risk of death due to a seizure. Dr Cary (the forensic pathologist who also performed the forensic autopsy on Helen Bailey) was also consulted. He concluded that the essentially negative findings at the original autopsy raised the possibility of "some form of subtle third party cause of death such as through interference with the normal mechanics of breathing".
6. However, most telling of all was the evidence of the leading specialist neuropathologist Professor Al-Saraj who found ischaemic changes in part of the brain (the hippocampus) using a technique known as β App staining as well as finding "red and dead" neurones. Ischaemia only arises when the blood flow and oxygen is restricted to the brain (but does not cease), and this can also cause such "red and dead neurones". The evidence of Professor Al-Saraj was that the combination of very recent changes in the neurones of the hippocampus and the pattern of β App staining suggested a time estimate for hypoxic-ischaemic changes in the brain of about an hour with a minimum time to see changes of 35 minutes, so that Diane had to have been alive (or at least with some oxygen reaching her brain) for at least such a time from the initial event causing her to become unconscious to her death.
7. The conclusion of the prosecution therefore was that Diane had not died suddenly from an epileptic seizure, which on the expert evidence was a very unlikely event, and of which no evidence (such of tongue biting or urinary incontinence) had been found at the original post mortem, but rather that someone had interfered with the normal process of her breathing and she had survived for such a period of time after the initial event, which then led to her death, be that (in the prosecution's submission) by the placing a bag over Diane's head (such as unexpectedly from behind), or applying a "sleeper hold" using an arm around her neck or indeed by any other method of interference with the normal process of her breathing.
8. You were arrested and charged with the murder of Diane Stuart. As in the case of the murder of Helen Bailey you denied your guilt, and as in the case of the murder of Helen Bailey you gave evidence before the jury maintaining such denial. The jury in this case was no more accepting of your lies, than the jury was in the Helen Bailey case, for lies I am sure you told

them about the events surrounding Diane's death. By their verdict the jury were sure that you killed Diane Stewart and that when you did the act which led to the death Diane Stewart you intended to kill her or cause her really serious injury, a verdict that comes as no surprise to anyone who had heard the factual and expert evidence that is before the jury.

9. I, like the jury, am sure that you killed your wife Diane. I am also sure that there are striking similarities between your murder of Helen Bailey and your murder of Diane Stewart. So far as Helen Bailey (and as HHJ Bright QC found) this was a murder with a significant degree of planning and pre-mediation in relation to a murder for financial gain, you told a series of calculated and callous lies over an extended period of time, and you acted out a charade in an attempt to deceive everyone that she had simply gone away, and that you were not involved in her death. HHJ Bright QC concluded that you presented a very real danger to women with whom you form a relationship, a conclusion further corroborated by this jury's verdict.
10. You murdered Helen Bailey a lady with whom witnesses in that trial, and in this trial, said you were very much in love with (and indeed about to marry) just as you murdered Diane whom you also said were you very much in love, as again attested by many witnesses. You murdered Helen in a home you shared with her at a time when both Jamie and Oliver were absent (which was not an everyday event). You murdered Diane at home, and at a time when both Oliver and Jamie were again absent (Oliver at school and Jamie on his driving test and so guaranteed to be absent in circumstances where he had otherwise been home all week revising). You murdered Helen by interfering with the normal mechanisms of her breathing (be that a choke hold, a plastic bag or as HHJ Bright QC found suffocation with a pillow), a striking similar modus operandi as you deployed in relation to Diane (as evidenced by the evidence of ischemia). You said that you were out at the time of Helen's alleged disappearance (at a doctor's appointment that you in fact cancelled) just as you said that you were out shopping at Tesco for some lunch when Diane allegedly died. You enacted a charade in relation to the circumstances of Helen's death and I am equally satisfied that you acted out a charade in relation to Diane's death as addressed below, in each case to deceive the police, and all those around you that you were not responsible for their death. You stood to gain financially from the death of Helen and Diane and did indeed gain financially from each of their death's which in each case provided a motive for your murder.
11. I turn then to the circumstances of Diane's death at your hands. Your lies commenced with the time of departure of Jamie for his driving test. He was quite clear that he left for a double lesson before that test at 9am not 10am as you were to suggest (to reduce the window for you to have killed Diane). He was equally clear that you did not wave him off or wish him luck (again contrary to your evidence). Sometime between then and 11.24 when you called 999 you killed Diane by interfering with the normal process of her breathing, the act which led to her death, in all probability by a method that incapacitated her before she had any chance to fight back most likely either a choke hold rendering her unconscious, or a plastic bag placed over the head from behind, horrifying, and no doubt terrifying, events for Diane, but ones that would (on the medical evidence) have rendered her unconscious in short order. Whether or not you had drugged Diane, as you had Helen, to assist you in your killing we will never know (as there was no full toxicology report at the original autopsy), and I put that possibility out of my mind. What is clear is that Diane did not die immediately, but

rather she survived for not less 35 minutes and probably for at least an hour, as evidenced by the hypoxic changes in the brain.

12. Your accounts as to your movements were inconsistent, and evolved as the prosecution medical evidence emerged which required you to account for an absence of at least that period of time to account for such hypoxic changes in the brain. At first witnesses formed the impression from what you were saying that either that you never left the house at all and were in the kitchen and then looked up to see her collapsed, or that you had just popped out for “10 minutes”. Neither scenario fitted the expert evidence or the actual circumstances of Diane’s death.
13. After it became clear that you needed to be absent for a much longer period of time, then your account evolved to a round trip to Tesco, with you driving there by car, with delays at roundabouts en-route (to account for a longer time than the police had found was a normal short driving time), parking as far away from the store as conceivably possible (despite having a blue badge allowing you to park near the entrance) again to extend the time further, entering the store and realising you had left your wallet at home, searching your car, reversing the journey, entering your home, looking for your wallet and then finding her collapsed. No one will ever know if you in fact ever left the house. Any relevant CCTV or ANPR evidence would have long since ceased to exist. I very much doubt, however, that you did. The very elaboration of this alleged event belies its truth. What I am sure of is that if you did at any point leave the house it was not for as long as you said, and that the acts that led to Diane’s death were inflicted by you, and whilst you were at the house, during the considerable period of time that was available to you.
14. You then provided an incredible account for subsequent events which I am sure is a lie and was an elaborate, and chilling, charade to give the impression that you were doing all you could to save Diane’s life, when you had in fact already killed her, and with the clear intention of killing her, after which you set about avoiding suspicion and concealing your heinous crime. Far from calling 999 on discovering her body (as any normal person would do on discovering their wife unconscious and seemingly not breathing) you were to recount what I am satisfied was an untrue charade of performing CPR for 10 minutes, before remembering a doctor and his wife lived opposite, going over there (to find they were not there) returning and then performing another 10 minutes or so of CPR and mouth to mouth, before you then spent more time hunting for the cordless house phone (despite the evidence of your father being that you had both a landline and a mobile phone) and only then, after some 20 or 25 minutes, finally calling 999. You then performed what I am sure was the most callous charade of all – pretending to perform both CPR and mouth to mouth resuscitation during the 999 call lasting 18 minutes until the paramedics arrived – a feat that the fittest of people would have struggled to perform as the evidence testified (still less a person with the muscle weakening condition myasthenia gravis from which you suffered).
15. Knowing, as we do, that you had killed your wife, it is harrowing to listen to that 999 call, which I am sure was a charade from start to finish. Diane was already dead, and you had murdered her. It was a call that itself revealed your lies. Repeatedly part way through that call you referred to a doctor being across the road, and should you go to get help from him

– which of course made no sense if only 2 or 3 minutes before you had been over there and knew he was not there.

16. Perhaps the most damning evidence, however, and evidence that truly unmasked your charade, was the evidence of Spencer North, the paramedic who saw no evidence of blood or froth on your own face (which he confirmed there would be if mouth to mouth had been performed by you), no evidence of any injuries caused by CPR (as is common) and no vomit on you, or on Diane or on the ground (something that he said would have concerned him had it been present) – despite your repeated description on the 999 call of vomit, sick and her being “blocked up” (itself contradicted by the lack of any evidence of her airway not being clear on the autopsy). That led you to invent that you had a cloth to wipe away the vomit, something you only ever mentioned from the witness box, and no such cloth, vomit stained or otherwise, was ever seen or recovered despite your being with the body up to the moment the paramedics arrived and witnessed what was at the scene.
17. The reality, I am sure, is that you had killed Diane long before 11.41 when the paramedics arrived, and indeed, in all probability, a substantial time before you called 999 at 11.24. The paramedics found Diane asystolic (flat-lined) with no electrical activity whatsoever in her heart – so there could be no possibility of them being able to shock her (which is only possible where some electrical activity persists, and a patient is shocked to re-establish a proper heart rhythm). Diane remained asystolic throughout the ensuing 20 minutes of the best possible resuscitation techniques of the attending paramedics accompanied by the air ambulance doctor. Diane was recorded, on what was to be recounted to be a warm June day, to be “pale” and her skin moisture “cool” (at 11.52 and 12.02) evidence both of a lack of circulation and, in all likelihood, her having been dead for some considerable period time. I have no doubt whatsoever that you did not call for medical assistance until you were yourself certain that it could not be of any use, and Diane could not be revived.
18. Your callous murder of your wife Diane deprived your sons of their mother, Wendy of a sister, and Diane’s mother of a daughter. We have all heard how full of life Diane was, a caring mother, a loving wife, a real people person full of vitality and life that made life better for those around her. You cut short that life. It is clear from the moving victim impact statement from Diane’s sister what a terrible impact your actions have had on the family. As Wendy says, no mother should lose a daughter, and she was cruelly deprived of her daughter by your actions and sadly did not live to see you brought to justice.
19. There are numerous aggravating features of your offending. Diane was murdered in her own home where she was entitled to feel safe, loved and protected by you. Instead, she died (almost literally) at your hands, just as you were to go on and smother and murder your equally loved fiancé Helen Bailey in chillingly similar circumstances. There was a sustained attempt to conceal your killing of Diane through the fake 999 call (as there was in relation to Helen’s death and an alleged note from her that you could never produce). I reject the submission that this was “consistent with a man now having to deal with the unplanned and now inevitable known death of Mrs Stewart”. The contrary is true – it was a concerted, and callous charade designed to protect you, and plant the idea that she had died of an epileptic fit – a seed that bore fruit.

20. A further aggravating factor (as acknowledged on your behalf) is that your murder of Diane exposed her young sons, Jamie and Oliver to the sight of their mother's dead body lying on the patio and the trauma of doing so – in the case of Oliver actually formally identifying the body to the police, and all on a day that should have been a happy celebratory day for your family. You knew very well that your sons would return, and would return to such a sight. How any father can act as you did defies comprehension.
21. I also reject the defence submission that the murder was not pre-mediated or planned. On the contrary, I am satisfied so that I am sure that there was a substantial degree of premeditation and planning. As with Helen Bailey you chose your time well, and I am satisfied with substantial premeditation and planning. Oliver was at school, not only was Jamie not at school but you knew he would be away for a guaranteed period of time. It was Diane's day off. You chose a time when you could kill and not be disturbed, and a time when there was sufficient time for you to kill Diane and ensure there was no possibility of her revival when you phoned 999 as you would inevitably have to. There was nothing spur of the moment about it, and it is absurd to suggest that you would kill your wife on a whim and for no apparent reason when you both anticipated the return of your son from a successful driving test at lunchtime, with a planned lunch together followed by a celebratory trip to the theatre that night. Nor could it be, as your counsel has since floated, an argument that blew up (which is, of course, totally contrary to all your own evidence, and indeed the evidence of numerous other witnesses as to your relationship) – the absence of any offensive or defence injuries on either of you belies any such scenario, and it is inherently improbable that such an argument would not have had at least some physical element leaving physical injuries, however minor. People do not argue, avoid all physical contact, and then spontaneously come up from behind the other and suffocate them with a bag over their head or take them down with a sleeper hold. These are the hallmarks of pre-meditation and planning.
22. I am also satisfied that the major motive for Diane murder was for financial gain (as it was in the case of Helen Bailey) – and financially gain you did to a very substantial extent receiving her half share of your house (a house you then sold for £530,000 most of which you put towards the purchase of a house with Helen Bailey), as well as numerous sums from bank accounts and an endowment life insurance policy paying £28,500 a total of sum £96,607.37, in total a very substantial amount of money. The fact that you never managed to get probate (in circumstances where you used the wrong form and paid the wrong fee, both events after Diane's death), and so did not receive a further £56,059.07, does not detract from the very substantial financial benefits that you anticipated and obtained.
23. I have no doubt that there were other subsidiary motives that it will never be possible to be sure about, though they suggest, contrary to the impression that you were so keen to create, that all was not well in your marriage and that you were tiring of Diane. Jamie gave evidence that in the week before your murder he heard you both arguing. The suggestion that this was typical give and take in a marriage about who did household chores or the shopping is risible – so loud was the argument that Jamie's evidence was that it stopped him revising. It is clear that this was a real argument, though what it was about is not clear. It would, however, be pure speculation to suggest (as your counsel did) that this led to a subsequent spontaneous murder. Apart from anything else, and as I have already noted, an argument

face to face would surely have resulted in offensive or defensive injuries and of that there were none on you or Diane.

24. Diane's sister Wendy also recounted to the jury a conversation that Diane started with her, many years before Diane's death, about Diane being uncomfortable about something, as if Ian was expecting more of her, and she felt that she was trying to tell her something she was not happy about in the relationship, something that was being expected of her by Ian, but she did not elaborate or finish as the children ran off and they did not get back to where the conversation was. I do not take that into account, as it is insufficiently clear what it is about, but it perhaps illustrates, as is indisputable, that no one can really know what goes on behind closed doors in any marriage.
25. Turning from aggravating factors to any mitigating factors, the reality is that there are none (and nothing was identified by way of personal mitigation). Nor have you shown any contrition or remorse or even recognition of your crimes or as to the untold harm you have caused. I recognise your age and that you suffer from myasthenia gravis, as did HHJ Bright QC before me, but the position remains that your symptoms continue to be successfully controlled by medication which has enabled you to lead a full and healthy lifestyle and I too see no reason to suppose that you will not continue to be able to do so in prison, and as a long term prisoner you have no doubt coped with conditions in the pandemic has have all long term prisoners, and the population as a whole.
26. It is said that there was no interference or hiding of the body, and that it was an unsophisticated killing. As to the former that was a mercy, but it is no mitigation, it is simply a feature of the modus operandi of your first murder which required discovery and a finding of a natural death. As to the latter I cannot agree. You successfully passed off a murder as an epileptic fit in the circumstance I have identified playing out an elaborate (and indeed sophisticated) charade over a period of time, a charade that succeeded at the time, and would have succeeded for all time but for your subsequent murder of Helen Bailey. It is also said that this was a weapon-less murder and a death without agony (it is said a soft method of asphyxiation), a point repeated orally by your counsel. I certainly hope that Diane was rendered swiftly unconscious, but the sheer terror that she would have experienced in the moments preceding that cannot be so easily brushed aside.
27. There is only one sentence that the law allows to be passed for the offence of murder, that is a mandatory sentence of imprisonment for life.
28. I am, however, required to specify the minimum term, pursuant to Schedule 21 to the Sentencing Act 2020, which must elapse before you can be released on licence.
29. Under paragraph 2(1)(a) if the court considers that the seriousness of the offence (or the combination of the offence and one or more offences associated with it) is exceptionally high then the appropriate starting point is a whole life order.
30. In this regard paragraph 2(2) provides that cases that would normally fall within paragraph 2(1)(a) include:

“(a) the murder of two or more persons, where each murder involves any of the following—

(i) a substantial degree of premeditation or planning,

...

(e) a murder by an offender previously convicted of murder.”

31. Your counsel rightly acknowledges that the conviction for murder of Diane Stewart is a second conviction for murder and that you fall within the exceptional level of a starting point of a whole life order. In this regard your counsel rightly accepts, that paragraph 2(2)(e) applies in this case and that you qualify as a paragraph 2(2)(e) previously convicted murder offender. The murder of Diane Stewart occurred before you were convicted of the murder of Helen Bailey, and you in these circumstances would have been found to have committed the murder of Diane Stewart and then gone on 6 years later commit a second murder. You are then convicted albeit for the second murder and therefore qualify as a paragraph 2(2)(e) previously convicted murder offender.
32. The gravamen of exceptional seriousness of such offending is the commission of two murders separated in time, and the sequence of conviction in no way reduces such seriousness. Even had paragraph 2(2)(e) not been applicable, the sub-paragraphs are merely examples of cases that will normally fall within paragraph 2(1)(a), namely where the seriousness of the offending is exceptionally high, and the murder of two woman that you were in an intimate relationship with, coupled with the circumstances of your offending and aggravating factors, render the seriousness of your offence exceptionally high.
33. I would only add that if the murders of Helen Bailey and Diane Stewart had been tried together I am satisfied that this would have been a paragraph 2(2)(a)(i) situation (in circumstances where I am satisfied that each involved a substantial degree of premeditation and planning for the reasons I have given). In the event that debate is academic given the application of paragraph 2(2)(e). It is, however, another example of a situation that will normally fall within paragraph 2(1)(a) as a situation where the seriousness of the offending will be exceptionally high.
34. I am in no doubt whatsoever that the seriousness of your offending is exceptionally high, and the appropriate starting point is a whole life order. I turn now to the question as to whether that is also the appropriate end point having regard to all the circumstances of your offending including the aggravating and mitigating factors relating to that offending.
35. I bear well in mind that whole life orders are to be reserved for cases of exceptionally high seriousness, the very few exceptionally serious cases (*R v Fellows* [2019] EWCA Crim 2140), what were described by the Lord Chief Justice in *R v Reynolds* [2015] 1 Cr App R(S) 24 as “rare and exceptional cases”, and any case on the borderline should lead to a minimum term set in years. This is, on any view, no borderline case, notwithstanding the valiant submissions of your counsel to the contrary, albeit that ultimately he had little or no material to work with in that regard. On two separate occasions separated by a period of 6 years you callously murdered a person with whom you were in a seemingly loving relationship, and did so in a striking similar, and chilling, way, and with the numerous aggravating features

that I have already identified, which result in the seriousness of your offending being exceptionally high.

36. Even before a whole life tariff was based on express statutory provision, as Lord Bingham CJ said in *R v Secretary of State for the Home Department ex parte Hindley* [1998] QB751 at 769, “I can see no reason, in principle, why a crime or crimes, if sufficiently heinous, should not be regarded as deserving a lifelong incarceration for the purposes of pure punishment” to which Lord Steyn, agreeing with Lord Bingham added in the House of Lords that, “There is nothing logically inconsistent with ... saying that there are cases where the crimes are so wicked that even if the prisoner is detained until he or she dies it will not exhaust the requirements of retribution and deterrence.”
37. I bear well in mind, as has been stated on many occasions, that the language of Schedule 21 is not prescriptive, and does not create a sentencing straight jacket, nor does it require or justify a mechanical or arithmetical approach to the assessment of the minimum term, (*R v Height and Anderson* [2009] 1 Cr Ap R(S) 117), but rather the proper judicial assessment of the appropriate sentence to reflect the facts of the case and its seriousness and such mitigating factors as there may be (*R v M, AM and Kiki* [2010] 2 Cr App R(S) 19).
38. Ultimately, and as Lord Phillips CJ said in *R v Jones* [2006] 2 Crim Ap. R(S) 19 at [10], a whole life order should be imposed where the seriousness of the offending is so exceptionally high that just punishment requires that the offender be kept in prison for the remainder of his or her life.
39. I am in no doubt whatsoever that the just punishment in your case, having regard to the exceptional seriousness of your offending, and the associated aggravating features of your offending that I have identified coupled with the total lack of any significant mitigating features, is that you be kept in prison for the remainder of your life.
40. Mr Amjad Malik QC on your behalf, points out that this might well transpire to be the case in any event were I to set a minimum term significantly in excess of 30 years (against which he does not mitigate), and indeed you might well die in prison even before completion of your sentence for the murder of Helen Bailey. However, your punishment must fit the crime not the vagaries of your life-span. I am satisfied that the seriousness of your offending is so exceptionally high that just punishment requires that you will be kept in prison for the remainder of your life. In the circumstances of your offending, a whole life order is not only justified, it is the just punishment for your callous and chilling murder of two separate woman who had the misfortune to be in an intimate relationship with you, and any other sentence would not exhaust the requirements of retribution and deterrence. I accordingly make a whole life order. The victim surcharge is imposed in the appropriate sum.
41. Take him down.