Sentencing remarks of Mr Justice Globe, Leeds Crown Court 7 April 2016

REGINA

--v-

F

and

D

1. F and D you may remain seated. I need to explain the sentences I must pass upon you following the jury's verdicts on Wednesday that you are guilty of the murder of Angela Wrightson on the night of 8 December 2014.

2. I will continue to address you by your 1st names only and, for reasons I will explain, your names must not be published.

Facts

3. Angela Wrightson, known to those close to her as Angie, was 39 years of age. She lived alone at 14 Stephen Street in Hartlepool. She was an alcoholic who didn't eat properly and was underweight. She weighed about 6½ stone, which is about 40 kilos. Neighbours said she was easy-going, kind, house-proud and lonely. She would often sit on her front doorstep and chat to people as they walked past because she wanted someone to talk to. She would invite anyone into her house for company. There lay her vulnerability and downfall. Children, such as you, were attracted by her generosity and took advantage of her. You would go to her home. She would agree to buy you alcohol and cigarettes. She would let you drink and smoke in her home. On occasions, when it was obvious that she was being pestered, neighbours did what they could to scatter those who were congregating at her home. Nobody, though, expected her to come to any harm, still less to be attacked in the manner you killed her on 8 December.

4. Angie's mother has written to the court in emotional terms. She describes the horror of seeing Angie's battered body in the mortuary. She does not think she will ever be able to blink those images away. Having seen photographs of what Angie looked like at that time, I readily understand why she is of that view. She cannot understand how you could have been as violent as you were. She is not alone in that view. She has been disgusted by the laughing and giggling and sharing of photographs during the time of and immediately after the attack. She eventually found

5. On the night of the attack you, F, were 14 years of age and you, D, were 13 years of age. Today, you are respectively 15 and 14.

6. You, F, were supposed to be spending the early evening with your sister before being picked up and taken back to the children's home where you were then living. You, D, were supposed to be spending the early evening at the home of your friend before you were to be picked up and taken back to the home of the foster carers who were looking after you. You ignored those arrangements in the same way as you had ignored similar arrangements many times in the past. Fortunately, on those other occasions no harm had come to you or to others when you went missing. This time, sadly, it was different.

7. A combination of the way the case was presented to the jury, the questions the jury had to answer and my observations of you throughout the trial and your evidence mean that I have a very clear understanding of what happened and the basis upon which you must now be sentenced.

8. Both of you were drinking cider. I don't know exactly how much you drunk. During the whole night, up to six litres of cider from two bottles may have been drunk by you and Angie together. I am sure she drank more than you did, but she was used to drinking very large amounts of alcohol. You weren't. You described yourselves as tipsy, but I am sure you were more than just tipsy.

9. In your case, F, you had also taken drugs. I don't know for certain whether your evidence is right that you had taken tramadol and codeine or what you said to Dr Chakrabati is right and you had taken whatever substance was known by you as "Blues". Whatever you took, I am satisfied you took it during the day and it didn't have a significant effect upon you later on.

10. I am in no doubt that it was the alcohol that mainly explains the behaviour of both of you that night. You, D, had a partly drunk 3 litre bottle of cider with you when you met up with F, but you both decided to go to Angie's to get her to buy more for you, as well as cigarettes. She agreed. You waited in her house until she returned from the shop.

11. Angie had already been drinking and was probably in an argumentative mood. Earlier that afternoon, she had argued with her landlord. When he left at about 4 o'clock, she already appeared to be drunk and was wanting more drink. I accept his evidence that, at that time, she was not injured. She does not look injured, at least to any significant extent, in the CCTV that recorded her buying cider and cigarettes for you at 7:30 that night.

12. I don't know for certain what caused the violence to start, except I am sure it was a response to something that was said and was not anything to do with defending yourselves from any sort of attack or threatened attack upon you by Angie. So, from the moment of the first blow, there was no excuse for being violent.

13. I don't know for certain exactly when the violence started, except that I am sure it started not long after Angie returned from the shop with the drink and cigarettes. The likelihood of all three of you sitting quietly in Angie's small living room, quietly drinking and chatting from 7:30 for a couple of hours or so is remote. I am satisfied the violence started well before the photograph was taken of the three of you in the room at 9 o'clock. What that means is that the violence continued for a very long period of time before you eventually left at 11 o'clock. By then, I am satisfied that Angie was badly injured. On your own story, D, you left her lying on the floor. You returned three hours later. I accept the forensic evidence that there was then more violence until, eventually, you left shortly after 4 o'clock in the morning. You left behind you Angie semi-conscious, unconscious or already dead slumped on her red couch, naked from the waist down with ornamental pebbles having been poured over her head dripping down her clothes and onto her private parts.

14. The pathology evidence establishes an absolute minimum of 70 separate slash injuries and 54 separate blunt force injuries. 71 were to the head and face. 31 were to the body. 22 were deflection injuries to the back of her hands, wrists and arms as she tried to ward off the blows. As she did so, you fractured 3 of her fingers. Those defensive injuries support what you, D, said to one of your friends the following day about Angie pleading with you to stop hitting her. You hurt her so badly that she lost control of her bowels.

15. The forensic evidence establishes that, in addition to punching, kicking and stamping, an absolute minimum of 27 blows were struck with 14 different items. They include heavy items, such as a table, a television, a printer and a shovel; ornamental items, such as a picture frame, pots and vases; and kitchenware, such as a kettle, a metal strainer, and a slotted spoon.

16. Far from being worried or showing any concern for what you had done, you were in high spirits as you called 999 to use the police as a taxi service to go home. Each of you remained unconcerned, despite knowing full well that your clothes were covered in blood.

17. In your case, F, you lied to the police saying you did noting at all. Then, you owned up to being involved in the attack and pleaded guilty to manslaughter on the ground of lack of intent; alternatively diminished responsibility. In your evidence, you said you attacked Angie solely because D told you to her attack her. I am sure that is not true. You attacked her because you lost your temper having been drinking. The amount of blood on your clothing suggests you delivered more blows than D. The jury rejected your defence that you never intended to do any serious harm to Angie. The jury also rejected your defence that your responsibility was diminished. I do not need to go into the technicalities of that defence. It is enough to say that what you did is not explained by your mental problems substantially affecting your ability to decide what to do and, to understand and keep control of what you were doing.

18. In your case, D, you told the police that F did it all, while you kept telling her to behave and sit down. It didn't make sense and it wasn't what you said when you came to give evidence. The jury didn't believe you. The jury were sure you took part in the attack. You probably did not deliver as many blows as F delivered. However, the blood patterns on your clothes, your encouragement to F to be violent when you were speaking to one of your friends on the phone and what you said to others afterwards, all point to you being fully involved in what was going on.

Sentence

19. It is against that factual background that I now have to pass sentence.

Type of sentence

20. There is only one sentence that can be passed for an offence of murder. Essentially, it is a mandatory life sentence. For someone who is 21 or over it is called a sentence of imprisonment for life. For someone who between 18 and 20, it is called custody for life. For someone of your ages, the sentence is one of the detention at Her Majesty's pleasure.

Minimum term – starting point

21. I must fix the minimum term that you will serve. This means what it says. It is the minimum period that you will serve in detention before you can be considered for released. This minimum term cannot be reduced or cut down in any way. After it has been served, there is no guarantee you will then be released. You will only be released if the parole board decides you are not a danger to the public. If you are released then or later, it will only be on licence with conditions attached to it. You may be recalled to continue serving your sentence if you breach any licence conditions that are set for you.

22. **Parliament has decided that the starting point for the minimum term for anyone under 18 convicted of murder is 12 years.** That is a far lower figure than if you were adults and is a reflection of your youth. I adopt 12 as the starting point as I am obliged to do.

23. I must then consider any **aggravating** and **mitigating** factors.

Aggravating Factors

24. Paragraph 10 of Schedule 21 of the Criminal Justice Act refers to a number of aggravating factors that may be relevant to any offence of murder.

25. The first possibility in paragraph 10(a) is that there was "a significant degree of planning or premeditation". I do not accept that you went to Angie's house in the first place having decided to be violent towards her. When you started to be violent and continued to be violent, there was obvious premeditation as to the selection of weapons to be used, but that was more in keeping with a deliberate choice to attack in a variety of ways when inside the premises rather than as part of specific planning or premeditation. I also do not accept that, when you returned in the early hours of the morning, you did so for the purpose of carrying on being violent. I am in no doubt that you were prepared to be violent and were violent when you returned, but I am not satisfied that this comes within the description of there being "a significant degree of planning or premeditation" envisaged in paragraph 10.

26. The second possibility in paragraph 10(b) is that "**the victim was particularly vulnerable because of age or disability**". You were well aware of Angie's size, state of health, alcoholism and limitations. If her particular circumstances are not fully described in paragraph 10(b), they are fully described by the expression that she was "**particularly vulnerable because of her personal circumstances**". That is a factor indicative of greater harm in the Sentencing Council's assault guideline. It is a highly significant relevant aggravating factor.

27. The third possibility in paragraph 10(c) is that there was "**mental or physical suffering inflicted on the victim before death**". This is not a case of instantaneous death following a shot, a stab or a blow. I have already described the numerous defensive type injuries suffered by Angie; her pleas for you to stop; and her losing control of her bowels. This was a sustained attack over a long period of time carried out with weapons in many different ways. She undoubtedly suffered considerably, both mentally and physically, before ultimately she lost consciousness and died. Her alcoholic state, considerable though it was, may have numbed the pain, but I stress the word may and it most certainly would not have taken it away. It is a second highly significant relevant aggravating factor.

28. None of the other possibilities set out in paragraph 10 apply. However, the listed factors are not exclusive. In addition to the two I have already mentioned, there are three other highly relevant aggravating factors although, I accept, I need to be extremely careful not to double-count the factors. In part, they cross-over into each other.

29. It was an attack that was carried out "**by the two of you as pair**". That made it a cowardly attack. It must also have caused Angie to despair of being able to escape the attention of both of you in the confined limited space of her tiny living room.

30. It was an attack carried out "**in Angie's own home**". It was not in a public place or as Angie roamed around the streets drunk. It was in her own living room. She kindly invited you in. She kindly went out to buy you what you wanted. She kindly let you stay. You then abused her hospitality and attacked her again and again in the very place where a person is supposed to feel safe.

31. It was an attack that included "**gratuitous degradation**". You took photographs in the room when she was injured. You published one of them by sending it as a snapchat photograph. You smashed up her home such that witnesses referred to it as being wrecked, trashed and looking like a bomb-site. You would have become aware of her losing control of her bowels. You caused or at least allowed her to remain inelegantly partly naked. You lit papers and put ash in her ear. You poured pebbles over her head. That was probably your last act before leaving. The forensic scientist gave evidence that the pebbles came out of a bottle that had a very narrow neck. That indignity, in her expert opinion, would in itself would have taken some time and effort to have poured so many over her head and body. You then left her alone not knowing or caring if she was alive or dead.

Mitigating Factors

32. Paragraph 11 of Schedule 21 refers to a number of mitigating factors that may be relevant to any offence of murder.

33. The first possibility in paragraph 11(a) is that there was "**an intention to cause serious bodily harm rather than to kill**". The jury's verdict does not distinguish between an intent to kill or an intent to cause really serious harm. I am not at all sure that either of you had an intention to kill. That said, the level of violence that you collectively used was such that death was in my judgment a virtual certainty. In that this is a mitigating factor, it is not one of great weight.

34. The second possibility in paragraph 11(b) is that there was "**a lack of premeditation**". I have already said I am not satisfied there was the aggravating factor of a significant degree of planning or premeditation. Equally, for the reasons I have already given, I am unconvinced about there being no premeditation at all. Even if one was to say this possibility does apply, on the facts it is again not one of great weight.

35. The third possibility in paragraph 11(c) is that either of you was "**suffering from a mental disorder which, although not sufficient for a defence of diminished responsibility, lowers your degree of culpability**".

36. You, D, were not suffering from any mental disorder. This possibility therefore does not apply to you.

37. In your case, F, the two psychiatrists that gave evidence were agreed that you were suffering from an abnormality of mental functioning. You were suffering from the recognised medical condition of what, in diagnostic terms in ICD-10, is called "**other mixed disorder of conduct and emotion**". If my sentencing remarks are at any time in the future subject to review elsewhere, it is my view that the part of my summing-up devoted to the issue of diminished responsibility should be transcribed and considered along with these remarks. It took me approximately an hour to deal with the issue on Tuesday morning 5 April commencing at 9.30am. Although the psychiatrists were agreed as to your disorder, there was a substantial difference between them as to the effect that had upon you at the time. The jury clearly preferred the approach of Dr Ross to that of Dr Chakrabati. I can understand why and agree with their conclusion. Dr Chakrabati's approach was arguably theoretical. Dr Ross carefully considered the effect of the disorder on your actions. His view was that your disorder had no effect on what you did except for one matter. He accepted that

38. The only other possibility that applies in relation to paragraph 11 is paragraph 11(g), your "**age**". Extreme youth may not be fully accounted for in the 12 year starting point. The starting point of 12 years applies to anyone under 18 years of age. Both of you were substantially younger than that. I note the fact that you F are one year older than D. However, I am satisfied from the fact that you were so friendly with each other that your level of maturity was very similar. Also, from observing you in court and giving evidence, I do not think it would have been possible to decide which one of you was older if we had not been told how old you actually are. I therefore do not intend to separate you because of your ages. I do, though, intend to take into account the fact that you are so young as an important and significant mitigating factor.

39. In addition to the factors listed in paragraph 11, Mr Hill QC invites me to take into consideration other mitigating circumstances in relation to you, F.

40. Mr Hill asks me to consider your plea to manslaughter as an acceptance by you before trial of your involvement in unlawful violence. I do, but only to a limited extent. That is partly because a plea of guilty to an offence as serious as this does not attract a large reduction. It is partly because I do not believe the jury accepted your version of events and neither have I. It is also partly because the evidence of you being involved in unlawful violence was overwhelming. The forensic evidence in your case was damning.

41. Mr Hill asks me to bear in mind your difficult, unstable, personal background; the fact that the violence may have been triggered by some comments about your personal background circumstances that you found upsetting and annoying; and that since you have been at Aycliffe Secure Unit, you have shown signs of improvement. Mr Hill is right to refer to all of these matters and I do take them into account to a limited extent. Personal features of mitigation such as this can only have a limited value in the context of offending as serious as this.

42. Finally, Mr Hill asks me to take into account the fact that you are remorseful. Members of the public may say that is unthinkable. It is certainly unthinkable in relation to the events of the night and the days that followed. You weren't remorseful at all then. That is not what Mr Hill is

43. Mr Elvidge QC likewise invites me to take into account additional mitigating circumstances in your case, D.

44. In your case, there was no psychiatric or psychological evidence adduced in evidence on your behalf. However, for the purpose of sentence, I have been asked to read and have read a psychological report by Dr Nadkami dated 11 May 2015. It establishes your IQ to be higher than that of F, but your intellectual functioning is still at a low level and you too were not able to withstand mainstream education. Perhaps the best evidence of your ability has been the recognised importance of your requirement, along with that of F's, for an intermediary to have been present with you at all times during the trial. Mr Elvidge invites me to say that the apparent confidence and arrogance suggested by the snapchat photographs and your laughter and giggling when ringing 999 and when in the police van are a far cry from your attitude now. He invites me to accept that you too are now remorseful for your actions. It has not been shown by any acceptance by you of any involvement and I have greater suspicion about you than I do in F's case. Nonetheless, I pay some regard to the points made by Mr Elvidge on your behalf. I also pay attention to your self- harming that has been apparent to those looking after you.

45. Finally, in both of your cases, I take into account the fact that neither of you have any previous convictions although, it should be noted that, given your ages, you had little time to acquire any.

<u>Minimum term - conclusion</u>

46. My conclusion in relation to the minimum term is as follows. This was a joint offence. You are each liable for everything that was done. I am satisfied that you struck more blows F, but I am equally satisfied that you are now more troubled about what you did and you are the one who has been suffering from the mental disorder. The arguments for and against distinguishing between you cancel themselves out. I intend to pass the same minimum term upon both of you. The starting point of 12 years has been substantially aggravated. Without any mitigation, a significant increase above the starting point of 12 would be appropriate in each case. However, there is mitigation, principally but not exclusively, due to your ages. The resultant aggravated figure therefore needs to be reduced. Before I pronounce what that term is, I need to deal with the issue of anonymity.

Anonymity

47. So far, your names have not been made public. An order under s.39 of the Children and Young Persons Act 1933 was made to that effect as long ago as 11 December 2014. I need to decide what should be done following your convictions. Times Newspapers Limited, News Group Newspapers and Associated Newspapers Limited apply for your identities to be made public. Hartlepool Borough Council, which is the local authority with parental responsibility for you, the police and those who represent you resist that application. The prosecution have essentially merely said it is a matter for the court to make a decision.

48. For cases that now come before the court, the matter is now governed by s.45 of the Youth Justice and Criminal Evidence Act 1999 which came into force in April 2015 by virtue of the Criminal Justice and Courts Act 2015. By s.45(3), a court may direct that, whilst a defendant remains under 18 years of age, no matter may be included in any publication if it is likely to lead members of the public to identify that person as a defendant in the case. By s.45(4) and s.45(5), the court may dispense with any or all of the restrictions so imposed if the court is satisfied it is in the interests of justice to do so and/or the effect would be to impose a substantial and unreasonable restriction on the reporting of the proceedings and it is in the public interest to remove or relax the restrictions. By s.45(6), when making these decisions, the court is obliged to have regard to a defendant's welfare.

49. S.79(12) of the 2015 Act preserves existing s.39 orders for criminal proceedings instituted before the coming into force of s.45 of the 1999 Act. I merely mention s.45 because there is close similarity between the two provisions. The law has therefore not changed. The issue is whether or not the s.39 order should remain in place.

50. I have considered numerous authorities, most particularly, but not exclusively, *Winchester Crown Court ex.p.B [1999] 4 All ER 53; R(Y) v Aylebury Crown Court [2012] EWHC 1140; R v Cornick [2015] 1 Cr App R 483* and *In re Guardian News and Media Ltd and others [2010] UKSC 1*.

51. In *ex.p.B*, Simon Brown LJ, as he then was, identified certain principles to be considered when determining whether to make a s.39 order. The first six are relevant to this case.

> "i) In deciding whether to impose or thereafter to lift reporting restrictions, the court will consider whether there are good reasons for naming the defendant;
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> ii) In reaching that decision, the court will give considerable weight to the age of the offender and to the potential damage to any young person of public identification as a criminal before the offender has the benefit or burden of adulthood;
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> iii) By virtue of section 44 of the 1933 Act, the court must "have regard to the welfare of the child or young person";
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> iv) The prospect of being named in court with the accompanying disgrace is a powerful deterrent and the naming of a defendant in the context of his punishment serves as a deterrent to others. These deterrents are proper objectives for the court to seek;
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> v) There is a strong public interest in open justice and in the public knowing as much as possible about what has happened in court, including the identity of those who have committed crime;
>
> vi) The weight to be attributed to the different factors may shift at different stages of the proceedings and, in particular, after the defendant has been found, or pleads, guilty and is sentenced. It may then be appropriate to place greater weight on the interest of the public in knowing the identity of those who have committed crimes, particularly serious and detestable crimes."

52. In the *Aylesbury Crown Court* case, Hooper LJ restated the same principles and went on to say [at 46] that "prior to conviction, the accused's welfare is likely to take precedence over the public interest, but after conviction, the age of the accused and the seriousness of the crime of which he has been convicted will be particularly relevant."

53. In *Cornick*, Coulson J noted [at 10] that "in the vast majority of cases, a defendant in a criminal case can be expect to be named, unless there is an absolute necessity for anonymity"; [at 12] "the onus is on the party seeking an order for anonymity to establish, either by way of Article 2 or Article 8 that the rights of the press and public under Article 10 should be trumped by the welfare of the child".

54. *In Re Guardian News and Media Ltd* is an authority specifically drawn to my attention this morning in the course of oral submissions. It was drawn to my attention for the purpose of stressing that the Supreme Court endorsed the proposition that anonymity orders restraining publication of the identity of an individual could be made to fulfil a person's article 8 rights to secure respect for that person's private and family life. Where there was a competing claim in relation to the freedom of the press under article 10, it is for the court to weigh the competing claims under each article.

55. The application by the press includes the following three factors that support no anonymity.

    (1) The exceptionally grave nature of the crimes committed and the legitimate public interest in discussion of the background to these crimes.

    (2) The deterrent effect of naming the defendants.

    (3) The ages of the defendants who are now 15 and 14. Neither is particularly young. The orders will expire upon their 18th birthdays in any event.

56. The first point is particularly strong. Its weakness lies in the fact that the full facts have been able to be reported and a debate about the background to the crimes remains possible without knowing the precise identities of the defendants.

57. The second point is a reasonable point, but it is less strong. This type of offence is extremely rare and it is arguable that no further deterrence is necessary or, if it is, the naming of the individuals will add little to the fact that those responsible have been brought to justice, been convicted and been sentenced.

58. The third point is also a reasonable point, but requires consideration of the value of the anonymity continuing for the next few years.

59. In a detailed letter to me by the Senior Investigating Officer, DCI Hunt, emphasis is placed on the wider issues of what is likely to happen if anonymity is lifted. I am reminded of events following the opening of the case at Teesside last summer when there was a blitz of extreme and disturbing comments posted on Facebook by members of the public. The effect of a similar blitz upon anonymity being lifted is likely to result in the identification of juvenile witnesses, the families of both defendants, their carers and their schools. In turn, that could detrimentally affect the lives of both defendants, who remain in fragile and vulnerable emotional states. DCI Hunt concludes his letter to me by stating that the verdict has already been widely reported both locally and nationally in a controlled and sensible manner and there are no obvious benefits that arise from disclosing the names of the defendants other than to further sensualise the case.

60. Mr Hill and Mr Elvidge reflect the concern of the police. They emphasise the fact that each defendant poses a risk of self-harm. In one case, it is a real and present danger. Removing anonymity is likely to exacerbate what is already a dangerous situation.

61. The Chief Solicitor for Hartlepool Borough Council makes reference in a letter dated 4 April to the possibility of collateral damage to the defendants' siblings if the defendant's identities are made known. However, the real thrust of his letter is focussed upon the effect that identifying the defendants would have on themselves. Mr Wise QC, counsel acting for the council, in a written and oral submission made to me this morning, reinforces the psychological vulnerability of both of you. Reference is made to recent suicide attempts by both of you, not just you F.

62. That is also my real concern. It is conceded by the press that they have not seen evidence relating to the welfare of either of you. I have not only seen that material and had the advantage of observing the you coming and going and giving evidence, but have also been receiving reports about how you have been conducting yourselves within the court precincts. I have received one first-hand report from a member of the court staff who I am satisfied saved your life, F, by prompt and immediate action when you suddenly decided violently to attack yourself with your own hair. In circumstances where I might be satisfied that both of you were stable, strong-minded defendants convicted of serious crime, the balance might arguably have been in favour of the lifting of anonymity. It would certainly have been a fine balance between the competing interests of the Article 10 rights of the press and the public and your Article 8 rights. However, I am satisfied that both Article 2 is engaged, specifically in your case F and possibly in your case, too, D as well as what Mr Wise refers to as "the upper reaches" of your Article 8 rights.

63. I have been informed by the Youth Offending Team in your case F that you are on what is called "two minute visual checks". I am sure that everything that can be done will be done to try and protect you from yourself. Nonetheless, despite the terrible thing that you have done and the sentence that must be imposed upon for it, I am concerned and disturbed by what I regard at a heightened real risk that identification followed by a press blitz will elevate the risk to your life to such an extent that I am satisfied that there is a real and immediate risk to your life if you were to be identified as one of the two girls who murdered Angela Wrightson.

64. Having watched over this case since the middle of last year and specifically during the last few weeks of the trial, I am satisfied about you and the case that it is not in the overall interests of justice for you F to be named. I do not find the arguments quite as strong in your case D. However, I can see no justification for naming you if F is not also named. You are more robust, but not sufficiently so that it justifies identification on your own. In my judgment, you, too, remain extremely vulnerable to outside pressures. Naming you in public is one such pressure. In your case, too, I refuse the application to lift the anonymity order.

65. For the avoidance of doubt, the s.39 Order remains in place in both cases.

66. Having dealt with anonymity, I return to the sentence that must be imposed.

Sentence

67. F and D, please stand up.

68. The relevant victim surcharge shall be payable.

69. The time you have spent in secure custody, which I am informed is 484 days, will count towards the minimum term I must impose upon you.

70. For the murder of Angela Wrightson, I sentence each of you to detention during Her Majesty's Pleasure. The minimum term I impose in each case is one of 15 years.