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*Case №*

T20190238

*Delivered on*

14th March 2023

*In the*

crown court

*sitting at*

Bristol

*Before*

Mrs Justice Hill dbe

Rex

*v*

John Smith

*Mr John Counselton kc* & *Mr Arthur Juniorton*

(instructed by the *Crown Prosecution Service*)

for the Crown

*Ms Jane Barristerton kc* & *Miss Anne Lawyersworth*

(instructed by *Defenders LLP)*

for the Defendant

sentencing remarks of

The Hon. Mrs Justice Hill dbe

1. Marcus Carter, you are now 43 years old. I have to sentence you for the manslaughter of your 10-week-old son, Remari, to which you have pleaded guilty. Remari died on 21st August 2020 as a direct result of your forceful shaking of him in the family home in Bristol on the evening of 10th August of that year.
2. Remari was a tiny baby. He was born on 8th June 2020. You had been in a relationship with his mother, for around two years. She has a daughter from a previous relationship, who was 9 years old at that time. I will refer to her as X as she has the benefit of a court order protecting her identity. In order further to protect the child’s identity I will refer to her mother, your then partner, as Y.
3. Y has described you as being helpful and supportive to her during the pregnancy with Remari. You told police you were “over the moon” and “blessed” at his arrival; that you had been “waiting 10 years” for him. You, Y, X and Remari lived together as a family in a maisonette in Easton, Bristol.
4. You were a “hands on” father. Remari was difficult to settle when crying. He was believed to have colic, but his crying did not seem to bother you. You would rock him or sit patiently on a bean bag next to his swing seat, while you watched television. However, there were ongoing tensions in your relationship with your step-daughter X. Your relationship with Y was also in difficulties in the last few weeks of Remari’s life. She had put your clothes in bags for you to leave but you had not done so. You were sleeping apart. She believed that you felt trapped in the relationship with a new-born baby. However, when the police asked you about this, you said that the problem was that you did not like living in Easton. You had lost your job shortly before 10th August 2020, though Y did not think you were particularly stressed about this, nor have you said you were.
5. You have three older children from a previous relationship. There is no evidence you were violent towards those children. Remari’s grandmother has said that there were two occasions when your handling of him was a little rough. You do not accept these allegations. I cannot be sure about this evidence and so disregard it for the purposes of sentencing. I therefore sentence you on the basis that you had not injured any of your children before the night of 10th August 2020.
6. On Friday 7th August 2020 Y took Remari to the GP about his crying. However, she told police that he had had “two really good days” over the weekend of 8th and 9th August 2020. She thought he was beginning to “grow out” of his colic. On the evening of Sunday 9th August 2020, you were seen by a neighbour walking Remari around, trying to pacify him. His crying continued into the night.
7. Monday 10th August 2020 was the final day in which Remari was able to enjoy his short life. It was a hot day. Y took Remari, X, and a neighbour’s daughter to an inflatable fair in Portishead and then to her sister’s house to celebrate her niece’s birthday. Remari’s auntie settled him to sleep. The overall impression is that Remari spent that day surrounded by love, being passed around family and friends who cared for him.
8. You spent the day at home alone. You told the police you had been watching television, “chilling”, and living your “best life”. You said you were happy; the sun was shining and you were in a good mood; you were happy because you had a girlfriend and children.
9. At around 9.15 pm, Y arrived back home. X carried Remari from the car into the house and handed him to you. He was already unsettled by this point. He was due a feed. You stood and rocked Remari while Y unpacked the car. Y went to her neighbour’s briefly to tell her what a good day her daughter had had. You put Remari in his swing seat. You thought that the heat of your respective bodies was stopping him from settling. This angered Y, though, as she knew he was hungry and did not think this would be addressed by putting him in the swing. Y realised that she did not have any formula milk for Remari. She told you she was going to the nearby supermarket to get some, with a neighbour. Remari was still crying by the time she left. She suggested you take him to the front door so he could see the trees, which she knew soothed him.

MRS JUSTICE HILL dbe

Southwark Crown Court

14th February 2023