

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

**CRI 2013-085-5107
[2016] NZHC 1663**

THE QUEEN

v

TAWERA WESLEY WICHMAN

Hearing: 21 July 2016
Counsel: P K Feltham for Crown
P V Paino and S Bolland for Defendant
Sentence: 21 July 2016

SENTENCE OF SIMON FRANCE J

[1] Mr Wichman is to be sentenced today for causing the death of his daughter, Teegan. Two months ago I indicated to Mr Wichman that if he acknowledged his responsibility for her death by pleading guilty, the sentence I would impose today would be one of three years, 10 months.

[2] There is today understandable dismay in the community about violence to children. On its face a sentence of three years and 10 months may seem to not meet a legitimate community expectation that the Court must play its part in protecting our most vulnerable. This is, however, an unusual case as I will now explain. For the record I note that the sentence represents a starting point of five and a half to six years' imprisonment, and then reductions for the matters I will now outline.¹

¹ The full structure is set out in the sentencing indication.

[3] Teegan died on 8 September 2009, so now almost seven years ago. She had been admitted to hospital on 4 March of that year with a brain injury and was under care thereafter. There was a brief period of two months when she was able to be released from hospital but complications from her brain injury required her to return in May 2009, and she remained there until her death just before her first birthday.

[4] It has taken seven years to get to this point today because it has taken that long for Mr Wichman to acknowledge he was the cause of the brain injury. But ultimately he has, and although that period of seven years does him no credit at all,² what matters today is that he does acknowledge responsibility, and there is no doubt he is genuinely remorseful not only for what happened but for the wider consequences.

[5] Mr Wichman is now 24 years old. He had just turned 17 at the time he shook Teegan thereby causing her brain injury. He and his girlfriend, who was just 16 years of age, were the parents of twins born 15 weeks premature.

[6] The twins spent quite some time in hospital because of their frailty, but also because there were concerns about the ability of the young parents to cope. The parents were given training and eventually they were able to take the twins home to a flat they had been provided with. Initially there was state assistance and a family roster to provide help, but that could not be maintained at the same level. After several weeks it was primarily just the young couple and their baby twins who by then were about five months old.

[7] The parents alternated their tasks. The mother looked after the twins during the day while Mr Wichman tried to sleep and then the roles were reversed at night. It seems that of the twins, Teegan was the more difficult baby. She did not sleep well and she cried a lot, and it must have been very difficult for the young parents.

² Mr Wichman eventually made admissions as a consequence of a police undercover technique known as the Mr Big scenario. There is no need to detail it here. It is described by the Supreme Court in *R v Wichman* [2015] NZSC 198.

[8] The mother's parents provided help and today we have heard a statement from Teegan's grandfather about what a terrible time it was for them when Teegan was hurt. It seems that on 4 March the situation with Teegan became very stressful and the mother decided to drive over to where her parents lived. They would then return with her and help. It was during this time that Mr Wichman shook Teegan, and caused her brain injury.

[9] The only account of what happened can come from him and it seems he tried to give Teegan her bottle to comfort her. Teegan continued to cry and a frustrated Mr Wichman shook her. Teegan's head did not come into contact with anything but she was still a baby, and a frail one at that. Teegan lost consciousness and Mr Wichman immediately called for help.

[10] The task on sentencing in these cases is first always to denounce the causing of harm to young children. The hospital had told the young couple about the dangers of shaking, and this is a tragic example of them. It is the need to always denounce the causing of harm that means that whatever Mr Wichman's changed circumstances, imprisonment must be the outcome.

[11] In terms of taking a starting point of five and a half years, I considered other cases, and it is plain that this was not at all one of the worst cases. It was a case of loving parents, probably out of their depth, doing their best, and a mistake being made borne not of anger but frustration. There is here none of the terrible sustained abuse one sees in some other cases. The violence has consisted of shaking.

[12] When one then turns to consider the other facts, it would be wrong not to recognise the very difficult situation these young parents were in. They were only teenagers, the mother 16, trying to bring up twin babies born 15 weeks premature, one of whom was not an easy baby. It must have been very hard. To recognise this and to reduce the sentence accordingly is not condone in any way what happened, but to recognise that an offender's blameworthiness can vary according to the circumstances. This is such a case.

[13] There have been many consequences since – the couple are not permitted to have custody of Teegan’s twin or her younger sister, and there has understandably been damage to family relationships. Mr Wichman acknowledged this in his pre-sentence report and acknowledges the cost to his partner, Teegan’s mother. Mr Wichman has been operating a successful business he took over from his father but has had to close it because of his impending jail sentence. The emotional cost on all those affected will have been great as has been evidenced by the statement that was read out.

[14] Tragic can be an over worked word but the circumstances of Teegan’s death truly merit that label. At the end of the day, however, it is necessary to hold people to account for harm caused to our most vulnerable, and that is why I am now imposing a sentence of imprisonment.

[15] Please stand.

[16] Mr Wichman on the charge of manslaughter I sentence you to a term of imprisonment of three years and 10 months.

Simon France J