



JUDICIARY OF
ENGLAND AND WALES

ST ALBANS CROWN COURT

THE KING

V

DAVID GOWER

Sentencing Remarks of Mr Justice Cavanagh

11 October 2024

I will pronounce sentence now. Within a few minutes of rising, copies of the SR will be made available for counsel, the press, Mr Gower and family members, and it will be uploaded.

Stay seated throughout Can I check that you can hear me.

1. David Gower, you have pleaded guilty today to the manslaughter of your wife, Jane Gower, by reason of diminished responsibility. Mrs Gower died on 7 January 2022, following an assault on her by you on 4 January 2022. The plea to diminished responsibility was acceptable to the Prosecution. It is now my duty to sentence you.
2. You have, throughout, accepted that you killed your wife. Your conviction for manslaughter by way of diminished responsibility means that I must sentence you on the basis that, at the time when you killed your wife, you were suffering from an abnormality of mental functioning which arose from a recognised medical condition, and that the recognised medical condition substantially impaired your ability to form a rational judgment and/or to exercise self-control, and caused or was a significant contributory factor in causing you to carry out the actions which led to the death of your wife. The recognised medical condition was a moderate depressive disorder.
3. There can be no doubt that this is an exceptionally tragic case. There is no significant disagreement between the Prosecution and the Defence as regards the

facts. You have no memory of killing your wife, but what happened is clear from the evidence. I will have to set out the facts, including the background, in some detail in these sentencing remarks.

4. By January 2022, you and Jane Gower had been married for 48 years. At the time of your wife's death, you were 81 years old and she was 78 years old. You had a daughter, Rachel, together, who is an adult, and you each had two adult children from previous marriages. You lived in Royston. For most of your time together, you had been happily married, and a devoted couple, but for some considerable time prior to January 2022 Mrs Gower had been suffering from symptoms of dementia, which had become progressively worse. She was diagnosed with mild cognitive impairment in October 2016 and, following a fall, was diagnosed with dementia in June 2020. By October 2020, she had to surrender her driving licence.
5. You also had your own health issues, having been diagnosed with bladder cancer in 2014, leading to the removal of your bladder in 2015. This resulted in the requirement to use a urostomy bag. You had a further diagnosis of prostate cancer in 2017 and a fracture of your lumbar spine in 2018. In July and August 2020, you had cataract surgery on each of your eyes.
6. You were your wife's sole carer. Through no fault of her own, Mrs Gower's dementia made her behaviour very challenging for you. She had been a strong and independent woman and the diagnosis of dementia hit her hard. She found it difficult to accept and adjust to it and this manifested itself in outbursts of anger towards you, and sometimes even violence. She could not discuss her diagnosis without becoming distressed. She was resentful towards you, despite the care that you gave to her.
7. Mrs Gower had serious mobility issues. She walked with a frame. She was advised to do exercises but refused to do so. On occasions she tried to walk without a frame, causing concerns about her safety. When you tried to help her, she became angry with you.
8. A particular problem was that Mrs Gower was incontinent. Every morning you would have to change the bedding and nightclothes. Often Mrs Gower would fail to reach the commode in time, and you would have to clean up the mess on the

floor. When this happened, Mrs Gower was sometimes aggressive and could even be violent towards you. She was certainly ungrateful. You had to remind your wife to go to the toilet, but this again would trigger angry outbursts. At one stage you set an alarm for 3 am each night so that you could wake up your wife and avoid bedwetting. This did not work, but meant that you were exhausted. You also put plastic sheeting on the floor and got up early to clean up so that, when your wife got up, she would not step in any mess.

9. In October 2021, Mrs Gower had another fall and broke her leg. You called an ambulance. This took 5 hours to arrive, during which time you did your best to look after your wife. On her return from hospital two weeks later, Mrs Gower could not go up the stairs and so she was returned to hospital whilst you arranged a bed for her in the dining room. This meant that, when she returned home on 2 November 2021, she had to use the downstairs toilet for washing. Understandably, Mrs Gower did not like doing this, and became upset and resentful that she could not go upstairs any more. In her confusion, she thought that you were to blame for a conspiracy to stop her from going upstairs. She became suspicious and paranoid.
10. Understandably, your wife's condition caused you great stress. In February 2020 you attended the GP with abdominal pains, which were stress related. In September 2020, you again attended the GP with symptoms of stress. You went again in January 2021 with weight loss and reduced appetite, which was once again considered to be stress-related.
11. You actively and persistently sought support in caring for your wife. You asked your GP for support in February 2020, when you were suffering from abdominal pains. Your GP recommended that a support agency be approached, which, after one brief email, completely failed to offer any help at all. In July 2020, you and your wife had a meeting with Cambridgeshire Mental Health Team to discuss methods for managing dementia. In January 2021, Mrs Gower was placed on the waiting list for psychological therapy. She was assessed by a clinical psychologist from the Old People's Mental Health Team in July 2021, who wrote to you with an assessment and proposed outcomes. The same psychologist conducted a home visit in August 2021. Surprisingly, and worryingly, the psychologist then discharged your wife from the Old People's Mental Health Team in September 2021 because your wife found discussing dementia too distressing. Another judge

has described this as “astonishing” and I agree. This meant that you had no support from that quarter.

12. For a while, carers came in daily, but due to confusion between different agencies, their attendance was erratic, and often they were more of a hindrance than a help. Sometimes male carers were used, and Mrs Gower became upset at having to undress in front of them. By the time of your wife’s death, however, you were not receiving support from carers.
13. Your GP visited your home frequently from November 2021 onwards, following your wife’s return from hospital. It was clear that you were struggling to cope. On 12 November 2021, your wife went into a care home for a three-week respite care period. Whilst she was there, she was visited and assessed by a Community Care Officer from the local authority. The Community Care Officer informed you that she had assessed that no carers were needed. You expressed concerns about your wife’s incontinence problem and said that there was a need for her to have an alarm button. The Community Care Officer agreed to refer the case to the Bowel & Bladder Team and to Careline for an alarm button.
14. When your wife returned home in early December 2021, she was assessed by an occupational therapist and a physiotherapist. A rail was installed so that your wife could climb the stairs. You asked the occupational therapist how you could make the bathroom facilities safe for your wife, and the response was, “we will cross that bridge when we come to it”. A few days later, you made an appointment with specialist contractors for an assessment with a view to an upstairs bathroom being converted for your wife’s use, but the contractors failed to turn up.
15. You had some support during this period. Your GP was very supportive and checked in with you regularly. You had a home visit to assess your wife’s mobility needs, and a physiotherapist visited twice to assess Mrs Gower’s mobility. But nothing came of the referrals to the Bladder & Bowel Team and to Careline. When you enquired, the Bladder & Bowel team said that they had no record of a referral from your GP.
16. Your daughter Rachel and her family came to stay over Christmas. Rachel was concerned to see a deterioration in your wife, and also to find you in a state of exhaustion and struggling to cope. In the days after your daughter and her family

had to leave, your wife had a fall. You called for an ambulance but were told to call back later. Eventually you managed to get your wife back in bed on your own. In the last few days of December, you told Rachel and your physiotherapist that you were struggling to cope. You had a lengthy phone consultation with your GP on 30 December. Your GP considered that you were at crisis point and he went to your home for a welfare visit. He agreed that your wife needed to go into a care home. You found a care home that could take your wife on a permanent basis, and arrangements were made for your wife to move to the care home, with effect from 31 December.

17. Rachel returned to stay with you, with a view to helping you with Mrs Gower's move to a care home on 31 December 2021. She saw a cut on your nose where your wife had hit you, knocking off your glasses. Very unfortunately, Mrs Gower tested positive for Covid on the day when she was due to move to the care home, and so she had to stay at home with you for a further two weeks. Rachel had to go home on New Year's Day, and you were then on your own again with your wife. Mrs Gower was not at all happy about moving into a care home.

18. I have set out these events in considerable detail, because they provide the context for what happened on 4 January 2022. I can summarise the situation as follows: your wife was suffering badly from dementia. One of the symptoms was that she was angry and aggressive, and sometimes even violent, towards you. You were left essentially to cope on your own. You were struggling to do so, though you did your best, devotedly and selflessly, to care for your wife. You had your own health problems. You had sought help repeatedly. You were let down on a number of occasions by some agencies that could and should have done more to help. By the end of December 2021, it was absolutely clear that it was not feasible for your wife to remain at home. Arrangements had been made for Mrs Gower to move to a care home, and it was only the fact that she tested positive for Covid on the day that she was due to move to the care home that meant that you were still looking after her at home on 4 January 2022.

19. This brings me on to the events on 4 January 2022 itself. As I have said, you have no recollection of the moment when you attacked your wife, and the medical experts agree that you are telling the truth about that.

20. You got up at the normal time that morning and went downstairs. You had breakfast and you started clearing up and washing up. Your wife was getting dressed in the dining room, and was shouting at you. This was not unusual. As I have said, as a result of her dementia, your wife would often be abusive towards you and blame you for her difficulties. You later reported that there had been an incident with mess on the floor and she would not let you clean it up. You suggested that she go to the bathroom and clean herself up, but she only cleaned her top half. Mrs Gower had come to appreciate that she was going to a care home in the near future. She did not want to go and was shouting to the effect that you was trying to get rid of her, that she owned half the house, and other things that in the context of the care you was trying to offer would have been upsetting. In later accounts you described seeing her face with an expression you had not seen before, one almost of hatred.
21. The next thing you remembered was finding yourself on top of your wife on the dining room floor. It was clear that she was unresponsive.
22. At about 9.50 am that morning, you called your GP. You had called the GP rather than the ambulance service because it had taken the ambulance so long to come to your home on previous occasions. You told your GP that you had hit your wife and hit her hard because she had said she had enough. You said that you thought that you might have killed her. You spoke to him again about 10 minutes later and said that “She went mad, I went mad, and I hit her with a saucepan.” The police arrived very soon afterwards. It was clear from what they found that you had hit your wife on the head with a saucepan and had then stuffed a dishcloth and part of her pyjamas into her mouth. Your wife was found in the dining room, which was serving as her bedroom. The only possible explanation for this is that you were washing up in the kitchen, using the dishcloth to clean the saucepan, when you went into the dining room and assaulted your wife.
23. When the police and ambulance arrived, your wife was unresponsive, and had no pulse, but in fact she was still alive. CPR was carried out. She was taken to hospital and placed on life support. Her condition was, however, hopeless and, with the agreement of the family, life support was withdrawn on 7 January 2022. Mrs Gower died that evening. The cause of death was suffocation, resulting from the material being stuffed in her mouth, rather than from the blow from the saucepan. The suffocation led to cardiac arrest.

24. For the purposes of these proceedings, you have been examined by a number of psychiatrists. It is clear from them that, at the time when you killed your wife, you were suffering from a recognised mental condition, namely a moderate depressive episode, which contributed to you suffering from an abnormality of mental functioning. One of the experts also took the view that you were suffering from a dissociative reaction or acute stress reaction at the time of the attack, which impacted substantially upon your ability to form rational judgments and, in particular, to exercise self-control. Another expert considered that you were suffering from an adjustment disorder. These conditions did not, however, completely eradicate your ability to exercise self-control.

25. It is important to emphasise two things. First, the fact that you were suffering from one or more recognised mental conditions at the time when you killed your wife does not mean that you do not retain any responsibility at all for her killing. The fact that you have pleaded guilty to manslaughter by reason of diminished responsibility means that you accept that you retain some responsibility for your actions. One of the matters that I have to decide when sentencing you is the extent of your retained responsibility. Second, I must make clear that this is not a case of what is sometimes referred to as “mercy killing”. There is no suggestion that you killed your wife in a misguided attempt to put her out of her misery.

26. You have since recovered from the recognised mental condition or conditions. You do not presently suffer from any mental disorder.

27. Before I go any further, I want to say something about Jane Gower. The Court has heard a victim impact statement, bravely read out by your daughter, Rachel, and victim impact statements were read from her daughter Diana Chaloner, and her grandchildren Edward and Natasha Chaloner. It is clear that, until her dementia took hold of her, Jane Gower was a lovely, charming, person. She was powerful and strong-willed, with a wicked sense of humour, which she retained to the end. She was devoted to her family, and they were devoted to her. She was a loving wife and a supportive mother. She loved animals. She was a talented artist, calligrapher, and flower arranger. It is very important that she is not defined by the illness which, through absolutely no fault of her own, dominated the last few years of her life, and that she is remembered as the intelligent, strong and vivacious person that she really was. Even during the depths of her illness, she

was able to provide sympathy and support to one of her daughters at a time of need. As her grandson Edward put it, she still had a spark.

28. It is also very important that all concerned appreciate that it is not the purpose of this sentencing exercise to place a value on the life that has been lost. Jane Gower's life continued to the end to be of incalculable value, despite the terrible illness from which she suffered, and she did not deserve to die in this violent and sudden fashion.

29. It is also clear from the victim impact statements that the tragic events of 4 January 2022 have had a terrible and traumatic impact upon the children and grandchildren of Jane Gower. They have suffered greatly. They have been through what one described as a horrible ordeal. Family relationships have been affected and emotional barriers have been erected between family members who previously got on well together. Memories have been tainted.

30. There is a definitive sentencing guideline for manslaughter, which I must follow unless it would be contrary to the interests of justice to do so.

31. A conviction for manslaughter by reason of diminished responsibility necessarily means that the offender's ability to understand the nature of the conduct, form a rational judgment, and/or exercise self-control was substantially impaired. The starting point for the sentencing judge is to determine the level of responsibility that was retained by the offender, against a scale of lower, medium or higher retained responsibility. I must take account of the extent to which your responsibility was diminished by the mental disorder at the time of the offence by reference to the medical evidence and all the other relevant information that is available to me.

32. I am satisfied that your degree of retained responsibility was in the lower category, and, indeed, at the bottom end of this category. It is clear from the medical evidence about your moderate depressive episode, from the history of events leading up to the attack, and from the circumstances of the attack itself that, in the moment, your ability to exercise self-control was very substantially diminished. This is not a case in which you hold any responsibility for your mental disorder as a result, for example, of the abuse of alcohol or drugs. Rather, it is clear that your mental disorder was the result of the intolerable situation in which you found

yourself, unable to cope with a wife who was exhibiting very challenging behaviour. You had sought help repeatedly and had not received the full amount of support that you needed and deserved. Moreover, as I have already said, it is a sad and tragic fact that this offence would never have happened if your wife had not fallen victim to Covid on the day that she was due to be admitted to a care home.

33. The starting point for the lower category of retained responsibility is 7 years' imprisonment, with a range of 3 to 12 years' custody.

34. I must also take account of the aggravating and mitigating factors, both those set out in the guideline and any other that I consider to be relevant.

35. There are some aggravating factors, but they are not substantial aggravating factors. You suffocated your wife. Your victim was particularly vulnerable due to age and disability, but you did not target her for that reason. You used weapons, namely the saucepan and pieces of material, but these are not weapons in the traditional sense, and they are not weapons that you deliberately armed yourself with in order to attack your wife. Rather, they were things that you happened to have in your hands when the attack took place.

36. In light of the evidence, I am sure that, at the time that you killed your wife, you intended to do so. Stuffing pieces of material in a person's mouth in these circumstances cannot realistically have been intended to produce any other outcome. This is not an aggravating factor, but it deprives you of one potential mitigating factor. However, this does not mean that the attack was premeditated. Indeed it was plainly not, and I will take this into account when I come on to deal with mitigation.

37. In my judgment, the aggravating factors are very substantially outweighed by the mitigating factors. These are as follows:

(1) There was no premeditation. The attack on your wife was the act of an instant. You had no previous intention of harming her that day. You had been selflessly caring for her that morning as you had done every day for several years. You were at the end of your tether and you lost self-control for a moment;

- (2) You showed immediate remorse. You called for medical help. You did not provide first-aid but I am satisfied that this is because you thought that Mrs Gower was already dead. You did not try to cover up what you did. You have been remorseful ever since and will live with what you did for the rest of your life. When you were interviewed about the attack you refrained from giving the full details of your wife's behaviour towards you in the months leading up to the incident because you did not want to sully her memory;
- (3) You were under intolerable pressure. I stress again that this was no fault of Jane Gower, but her illness and the way that her illness made her behave placed you under unbearable levels of stress. There is no doubt that you genuinely loved your wife, as she did you, but her illness meant that she constantly shouted at you and took her frustrations out on you. You did your best to be patient and kind towards her;
- (4) You had done all you could to alleviate the situation and to obtain professional help for her and for yourself. You had very nearly succeeded in obtaining a place for her in a care home. It was only the cruel blow of a Covid diagnosis at the last minute which prevented Mrs Gower from going somewhere where she could be cared for by experienced professionals;
- (5) You have positive good character. Not only have you never in your long life committed any other offences, but you have lived a positive and fruitful life. I have been provided with a number of character references relating to you, which show that you are a calm, kind, and sensitive person;
- (6) This offence was, therefore, completely out of character; and
- (7) Your age, 84, and your ill-health means that a custodial sentence of any significant length would be much harder for you to bear than for those younger or fitter than you.

38. The first matter that I have to consider is whether you fulfil the criteria for dangerousness such that it would be appropriate to impose a life sentence or an extended sentence upon you. The question for me is whether there is a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences. I have no doubt that you are not dangerous. There is no risk to the public of you committing any other offences of violence, or, indeed, any other offences of any sort.

39. The next issue is whether the court should consider a mental health disposal, such as a hospital order. The answer is plainly no, as the expert psychiatrists agree

that you are not presently suffering from any mental illness or disorder. No-one has suggested that a mental health disposal would be the right disposal in your case.

40. The next matter that I must consider in accordance with the sentencing guideline is to consider factors that may require an adjustment to the sentence. The guideline makes clear that this stage in the process may result in a sentence that is above or below the sentencing range laid down in the guideline. This is a recognition that cases of manslaughter by reason of diminished responsibility are intensely fact-specific, and that courts must have the flexibility to ensure that the sentence reflects the level of culpability and all the circumstances of the case. I must ensure that the sentence as a whole meets the objectives of punishment, rehabilitation and protection of the public in a fair and proportionate way.
41. In your case, I have decided that the exceptional circumstances of this case mean that I should impose a sentence, before credit for plea, which is below the bottom of the sentencing range for a lower degree of retained responsibility. I have already referred to the factors that have led me to this conclusion. In short, this offending was unpremeditated and wholly uncharacteristic; you had been trying to the best of your ability to cope with and care for a wife suffering from dementia whose condition meant that she was very aggressive towards you; you were suffering from serious ill-health yourself; you had made many efforts to obtain help but you had not received the support you should have done; you have shown great remorse; and you are no threat to the public.
42. You do, however, bear some responsibility for the death of your wife. Taking all of the circumstances into account, I have concluded that an appropriate sentence, before credit for plea, would be 2 and 1/2 years' imprisonment.
43. However, that is not the end of the sentencing exercise. There are two other matters I must take into account and which will result in an adjustment.
44. The first is credit for your guilty plea. I must apply the definitive guideline on reduction in sentence for a guilty plea. This gives rise to a particularly complicated issue in the context of this case. You were charged with murder. You did not offer a guilty plea to manslaughter at the first opportunity, but you did offer to plead guilty to manslaughter in your Defence Case Statement, dated 10

October 2023. This offer was then withdrawn in December 2023, in light of a medical report from Dr Penny Brown, a consultant psychiatrist, which stated that there were grounds for a defence of non-insane automatism. This would have provided a complete defence to murder and to manslaughter. You went to trial in January 2024 and a judge dismissed the charge against you at the end of the Prosecution case on the ground that an evidential basis for the defence of automatism had been made out so that no jury could properly convict you of murder (or manslaughter). The Prosecution appealed against this ruling and the appeal was successful. The next stage of the proceedings took place in late July 2024, when there was a Pre-Trial Hearing before me to determine whether, taken at its highest, the expert evidence of Dr Brown, set against the agreed factual background, could properly sustain a defence of non-insane automatism. I ruled, in a ruling dated 29 July 2024, that it could not. This closed off the automatism defence. Your counsel asked for time to consider the ruling with you and I indicated that credit would be preserved whilst she did so. On 29 August 2024, the court was notified that you intended to plead guilty to manslaughter.

45. In my judgment, in these circumstances, a fair summary of the position in relation to credit for plea is as follows: You have accepted responsibility for the killing of your wife from the outset. You would have offered to plead guilty to manslaughter by way of diminished responsibility at the first opportunity were it not for the need to obtain expert medical opinion and legal advice on the issue of automatism. As I have said, if the defence of automatism was available to you, you would have had a defence to murder and to manslaughter. The medical opinion and consequential legal advice meant that it was reasonable for you to proceed on the basis that the defence of automatism was potentially available to you. Though I have taken a different view on the matter, this was not entirely fanciful, as is demonstrated by the fact that another judge accepted a submission of no case to answer on the basis of automatism. As soon as the defence of automatism was definitively rejected, and you received advice, you pleaded guilty to manslaughter. I am satisfied that these circumstances bring your case within Exception F1 of the guideline. This provides that where it was necessary for a defendant to receive advice and/or to have sight of evidence (in this case, expert evidence) in order to understand whether he is in fact and law guilty of the offence charged, and this made it unreasonable to expect the defendant to indicate a guilty plea sooner than was done, a reduction of one-third should still be made. This is such a case. Your failure to plead guilty at an earlier stage was not the result of a tactical decision,

but was the result of a reasonable need for clarification of the medical and legal position in relation to automatism.

46. It follows that you should receive a reduction of one third to your sentence of 2 years and 6 month's imprisonment, as credit for your guilty plea. This reduces the sentence to 20 months, or 1 year and 8 months.

47. The final question which then arises is whether this sentence can be suspended. There is once again a definitive guideline to which I have had regard. I do not consider that a pre-sentence report is necessary before I take my decision.

48. I have decided that the sentence of imprisonment which I will impose on you should be suspended. You have very strong personal mitigation. There is no danger that you will commit any further offences. I bear in mind your age and your ill-health. In my judgment, no purpose would be served, and it would not be in the interests of justice, for you to be sentenced to an immediate term of imprisonment. No purpose would be served by attaching any requirements to the suspended sentence. I should make clear to you and to those who are listening to these sentence remarks, however, that a suspended sentence is still a punishment.

49. I now come to the sentence.

50. David Gower, for the manslaughter of Jane Gower, by reason of diminished responsibility, I sentence you to 1 year and 8 months' imprisonment, suspended for 2 years. If in the next 2 years you commit any offence, whether or not it is of the same type for which I am sentencing you today, you will be brought back to court and it is likely that this sentence will be brought into operation, either in full or in part.

51. The statutory surcharge will apply.