

Two boys convicted of Jamie Bulger killing apply for anonymity ruling

Julie Hyland**25 November 2000**

A judge is expected to rule within weeks on whether the two boys jailed for the killing of toddler James Bulger in 1993 should be granted a life-long injunction banning the media from disclosing any information about them upon their release. Major newsgroups in Britain are contesting the action, which has been brought by legal representatives acting on behalf of the two, Robert Thompson and Jon Venables, who were 10 years old when they killed two-year-old James. Despite their youth, the boys were committed to stand trial as adults. Convicted of murder, the two were sentenced to a tariff of eight years detention, first raised to 10 years by the then Lord Chief Justice Lord Taylor, and then to 15 years by the then Conservative Home Secretary, Michael Howard.

In 1997, the House of Lords overturned Howard's ruling, after Thompson and Venables' solicitors had successfully argued before the European Court of Human Rights that judges, not politicians, should take sentencing decisions. But it took until earlier this month for Britain's senior judge, Lord Chief Justice Woolf, to rule that Thompson and Venables' progress in the secure units where they are held meant they were "entitled to a reduction in the tariff to eight years, which happens to be the figure determined by the trial judge." Although the final decision is still to be taken by the parole board, psychiatric and staff reports indicate that both have shown great remorse for their actions and have worked hard to gain educational credits. This makes it likely that Thompson and Venables—who both turned 18 in August—will be eligible for release in February next year.

In the hearing before Family Division President Dame Elizabeth Butler-Sloss last week, Edward Fitzgerald QC argued that a permanent ban on publicity surrounding the teenagers was necessary to protect his clients "right to life and freedom from persecution and harassment."

The application speaks volumes about the atmosphere of violent retribution whipped-up by the media at the time of Jamie Bulger's death, which was cynically cultivated by both the Conservative and Labour parties to prove their respective "toughness" on crime. Their punitive stance, advanced

behind the smokescreen of "victims rights", was used to push through law-and-order measures and introduce significant changes in the treatment of juvenile offenders.

Although the age of criminal responsibility is set at 10-years-old in England—far lower than in most European countries—previous cases involving killings by young children had been dealt with in a more sensitive and protective manner. Thompson and Venables were tried as adults in an open Crown Court. This decision had nothing to do with due process. Seated in a specially raised dock before the sensationalist glare of the world's media, the two children sat through a trial they could barely comprehend, much less participate in. Both boys had already confessed to their involvement in the toddlers' death and the court proceedings did nothing to clarify their actions. Instead, they were routinely denounced in court and in newspaper headlines as "wicked", "evil monsters" and "freaks" and made to run a daily gauntlet in police vans through a baying mob demanding their blood.

In an unprecedented decision, the trial Judge Justice Morland agreed to the publication of the boys' identities and photographs. Normally, law protects the images and identities of juvenile offenders, but Morland overturned this on the grounds that it would help the "public debate". Following the guilty verdict, a petition drive organised by Rupert Murdoch's right-wing tabloid the *Sun*, provided a pretext for Home Secretary Howard to raise the minimum tariff set by Justice Morland, on the grounds of "public outrage".

Fears for the teenagers' continuing safety are wholly justified. Paul Cavadino of the National Association for the Care and Resettlement of Offenders said, "Because the identity and photographs of the pair were released at the time of the trial, their rehabilitation has been made much harder—putting them at risk of reprisals." Although the press had been banned from publishing new photographs of the boys or reporting on their progress or treatment since they were imprisoned, Thompson and Venables' families have spent the last eight years in hiding.

Ralph Bulger, Jamie's father, has publicly vowed to "hunt" down the "two little animals" when they are released. A pressure group, Mama (Mothers Against Murder and Aggression), has been established to raise funds for a legal challenge against Thompson and Venables' parole. Speaking at a rally last weekend attended by just 200, Mama spokeswoman Dee Warner said, "If the law worked for the victims rather than the criminals there wouldn't be [these] vigilante attacks". The poor turnout meant it was barely reported in the media, but that has not prevented the case, once again, assuming a high political profile. Writing in the right-wing *Spectator* magazine, Howard expressed his indignation that Thompson and Venables could be eligible for parole next year. "Many people are outraged by what they see as the excessive leniency of a sentence passed primarily in the interests of the offenders", the former Home Secretary opined.

Both teenagers will have to take on new identities and be provided with fake histories and National Insurance numbers on release. They may even have to emigrate. But even this will not be enough to protect them.

Mary Bell, who served 12 years in custody for killing two small children in 1968 when she was 11, won an injunction to prevent disclosure of her new identity on the grounds that it was necessary to protect her daughter, who had been made a ward of court. Nonetheless, after Bell collaborated with author Gitta Sereny in a book aimed at uncovering why young children kill, she was hunted down by the media and forced to flee her home with her 14-year old daughter who, until that point, had known nothing of her mother's past.

Fitzgerald said the injunction was justified to protect his client's right to life and freedom from inhuman and degrading treatment under the Human Rights Act, which came into force in England last month. "Where there is clear evidence that disclosure of identity will inevitably lead to fatal attacks then Article 2 of the Human Rights Act [the right to life] does apply," he said. This meant that the court had a continuing duty to the boys not only when they were detained, but also when they are released on licence, which would last for the rest of their lives.

The application, for which there is no legal precedent, was made necessary by the "unique features" of his clients' case, Fitzgerald continued. These were "their extreme youth at the time and the special nature of the detention and the very extreme nature of the risk", he continued citing the "highly emotive" reporting of their original trial, interventions by Howard in sentencing policy, and declared intent by the media to "out" the pair. The right to rehabilitation must be upheld, he said.

Press reports have defined the hearing as a contest between "a defendant's right to privacy and security, against the

media's right to represent the public interest". In court, Desmond Browne QC, representing four major national newspapers, argued that the application represented an attempt "to restrain freedom of expression" and the "public's right to know". If the injunction were granted to offenders over 18 years old, Browne continued, it would mean serious crime becoming a "passport to anonymity". Bracketing Thompson and Venables with predatory paedophiles, Browne told the court that should either boy be found near a school after their release, for example, this would justify the press publishing their details.

The newsgroups' arguments are bogus. Britain's notorious legal restrictions on freedom of speech will not be weakened one iota should they prove successful in contesting Thompson and Venables' application. Much current news comment is characterised by its emotive and salacious reportage, rather than genuine investigative journalism, and the media have done their utmost in the Bulger case, and other instances, to stifle public understanding.

The media do not have the right to perpetuate a legal travesty that they played no small role in creating. There is an important difference between children and adults. Having been robbed of the protection that they should have been accorded as of right when aged 10, Thompson and Venables are doubly entitled to it today—especially when that earlier breech continues to endanger their lives.

See Also:

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