

282.61 Mentally disordered defendants Grave cases

R v Edwards and Others 2018 EWCA Crim 595 D (presumably) pleaded to manslaughter on the basis of diminished responsibility.¹ She had a long history of mental illness and suffered from paranoid schizophrenia. D's mother, V, aged 78, suffered from dementia and was partly deaf. V was cared for mainly by D's sister and occasionally D would help out. On the day of the offence, D's sister went to V's house and found her dead. D admitted to the killing saying that V had looked like a witch and was cursed and that the killing had to be done. The cause of death was compression to the neck. At the sentencing hearing, it was agreed by experts that D suffered from a schizoaffective disorder, mixed type, and that she suffered from diminished responsibility. D's history showed that she posed a serious risk of harm to others. D had a conviction in 1995 for an offence of GBH which involved the stabbing and choking of her daughter, who had also been the subject of a choking attack by her in 1991. Prior to the offence, D had been under the care of a community mental health team. The taking of her medication was described as chaotic and there was the potential to relapse quickly if it was not taken. D's treating clinician said that D's mental disorder was very clearly a significant contributory factor. The Judge noted the clear evidence of a history of dangerous conduct which had been previously dealt with by an order. He said that the long term was difficult to predict but that there was a definite risk of serious harm in the future. Held. This was not a straightforward sentencing exercise. The main issue is whether there should have been a hospital order rather than an indeterminate sentence with a [Mental Health Act 1983 s 45A](#) order in circumstances where the expert reports all proposed a hospital order. There are a number of reasons why the Judge's approach cannot be criticised. D had a record of violence and had been made subject to a Hospital Order with a Restriction Order before. At the time of the offence, D had been in contact with a very experienced psychiatrist and her serious problems had not been detected. She is at risk of rapid relapse if she does not take her medication. The protection of the public assumes an even greater significance in D's case as she is highly dangerous and likely to remain so for the foreseeable future. D committed an extremely serious offence and one that has had the most devastating consequences for her family. A penal element to the sentence was therefore required. D would not have killed but for her mental illness and her chaotic compliance with her medication was due in some measure to her illness. Life sentence with a minimum term of **5 years** not 10, and a hospital and limitation direction under section 45A.

¹ The judgment does not refer to the offence or the plea, but they can be inferred.