JUDICIARY OF
ENGLAND AND WALES

THE HON MR JUSTICE KEITH

Ruling on application to lift reporting notification on the defendants' identities

Sheffield Crown Court

22 January 2010

Throughout their trial, the two defendants have been referred to by their first names because it was thought that they'd have difficulty following things if they were called A and B. Since they have now been sentenced and are no longer in court, I propose to refer to the older boy as A and the younger as B.

Prior to A and B's trial, orders were made under section 39 of the Children and Young Persons Act 1933 that nothing should be published which tended to lead to them being identified. The Sheffield Star, a local newspaper, and the parents of the children who A and B attacked so sadistically now ask for those orders to be discharged. The Times, the BBC and the Press Association originally made similar applications – no doubt supported by other representatives of the media – but they have since then withdrawn their applications. The current application is opposed by A and B, by the secure units in which they are being held, by the police, and by Doncaster Metropolitan Borough Council, which is the local authority with "parental responsibility" for A and B.

This application has to be seen in the context of the widespread publicity which the case of A and B has received. It has been reported on extensively in the national and local press, as well as receiving wide coverage on national and local television. The case has been regarded as raising important issues about the way children from dysfunctional families can go off the rails, and about the lack of intervention at critical stages by the local authority's social services department and other child protection agencies. The case has even been referred to at Prime Minister's question time. It is against that background that it is argued that the widespread interest on

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the part of the public in the case means that the public should not be deprived of information going to the heart of the case, namely the identification of the two boys at the centre of it. Moreover – and this echoes an important point in the authorities – if A and B were identified, it would send out an important message that youngsters who commit horrific crimes could well lose their anonymity if they were convicted, and the disgrace which would accompany that could deter other youngsters from committing crimes in the first place. This factor has been regarded in the authorities as of less weight than the welfare of the child, but it is an important consideration nevertheless. No-one has suggested that it is appropriate for A and B to be named simply so that they can be shamed, though as with any application of this kind, it is hard to suppose that thinking of that kind may not, in part at least, have been behind the making of the application.

I recognise, of course, that the public has a legitimate interest in knowing what takes place in court and the outcome of criminal proceedings, but an understanding of what A and B did, or why they did it, or what effect it had on their victims, or of the wider issues of how children who have begun to exhibit anti-social behavioural traits should be monitored, or when social services or child protection agencies should intervene, is not affected, one way or the other, by A and B's anonymity being maintained or their identities becoming known. Indeed, it is difficult to see how transparency in the criminal process is compromised by A and B's identity not being known. Who A and B are may be a matter of interest to the public, but it is questionable whether their identities are really a matter of public interest. I see the force of the argument about deterrence – theoretically at any rate – but I rather doubt whether in practice the thought that you might be named in public if you committed a sufficiently serious offence would actually occur to any potential young offender.

But in the final analysis, there are three factors which I have regarded as compelling. First, A and B's fellow inmates do not know why they are in their units, and if the removal of the boys' anonymity resulted in fellow inmates knowing who they are, the fact that they are there would inevitably get out to the friends and family of their fellow inmates, and from them to the wider public. That could result in the boys being ostracised or harmed by other inmates, in their whereabouts being disclosed to

the media for payment, in the parents of other inmates insisting that their sons be removed from the units (putting pressure on the limited availability of such places which are known to be extremely expensive to provide), in the units being subjected to anonymous threats, in the local communities in the vicinity of the units campaigning for the removal of the boys from their units, and in the units' relationship with their local communities being harmed. Indeed, one of the units is a relatively open one, and parts of it would be vulnerable to intrusion by outsiders, including photographers intent on selling photographs of the boy. All these considerations are particularly worrying in view of the emotive and highly charged way in which the two boys, and what they did, have been described in all sections of the media.

Secondly, the boys' families are likely to be subjected to intrusive media interest. It is a fact that who the boys are is well known locally, and when the story first broke, the family was pursued both by locals and by the media. The police were concerned for their safety. The measures taken to ensure their safety were costly, and when the alternative accommodation to which the family had moved was made known, the cost of moving them again was not inconsiderable. Significant additional expenditure is likely to be incurred since naming the boys now would result in their identity being known to the wider public.

Thirdly, and most important of all, both units believe that if A and B were identified, that would have an adverse impact on any incentive they might have to progress their rehabilitation. There is also the possibility expressed in some quarters that the rehabilitation of a member of A and B's family who is in care could be adversely affected by people knowing that he is related to A and B.

There is one additional consideration. It may well be that when A and B are eventually released, it will be thought appropriate for them to be given new identities if their anonymity has been removed in the meantime, as it was in the notorious case of Thompson and Venables following their release from custody, in order to ensure that they are not subject to reprisals. If A and B are to be given new identities then following the lifting of their anonymity now, one can legitimately ask whether it is appropriate for their anonymity to be removed now. That is way down on the list of

considerations, and it is questionable whether it is too speculative a consideration at all, but for all the other reasons I have given, I have concluded that this is not a case in which the reporting restrictions should be lifted. Accordingly, the application for the discharge or variation of the orders made must be refused.