

IN THE SUPREME COURT 1
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CRIMINAL JURISDICTION 3
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ADELAIDE 5
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ARRAIGNMENT 7
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WEDNESDAY, 29 MAY 2013 AT 9.35 A.M. 9
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BEFORE THE HONOURABLE JUSTICE SULAN 11
12
NO.310/2012 13
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R V ANGELA PHULE 15
16
MS S. MCDONALD, WITH HER MS K. INGLETON, FOR PROSECUTION 17
MR W. BOUCAUT SC FOR ACCUSED 18
19
HIS HONOUR: Ms McDonald, I understand there is a 20
fresh information? 21
MS MCDONALD: That's correct. 22
HIS HONOUR: I have it, and that's in substitution for 23
the existing information? 24
MS MCDONALD: That is correct. 25
HIS HONOUR: Mr Boucaut, you would like your client 26
arraigned? 27
MR BOUCAUT: Yes, she can be arraigned. She is 28
entering a plea of guilty. 29
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CHARGE: MANSLAUGHTER 31
PLEA: GUILTY 32
33
ALLOCUTUS 34
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MR BOUCAUT: My application is for a remand for six 36
weeks or so, because we're still in the process of 37
marshalling material and preparing submissions for your 38

Honour. 1
HIS HONOUR: How long do you think submissions might 2
take? 3
MR BOUCAUT: It's difficult to say. There will be 4
reports and I had in mind that we would put a bundle 5
together and get those to your Honour beforehand. 6
DISCUSSION RE DATES 7
HIS HONOUR: We will list it at 9.30 a.m. on 8
Wednesday, 31 July for submissions and bail will 9
continue. 10
ADJOURNED 9.40 A.M. TO WEDNESDAY, 31 JULY 2013 AT 9.30 A.M. 11
FOR SUBMISSIONS 12
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IN THE SUPREME COURT	1
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CRIMINAL JURISDICTION	3
	4
ADELAIDE	5
	6
SUBMISSIONS	7
	8
FRIDAY, 16 AUGUST 2013 AT 10.33 A.M.	9
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BEFORE THE HONOURABLE JUSTICE SULAN	11
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NO.310/2012	13
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R V ANGELA PUHLE	15
	16
MS S. MCDONALD SC, WITH HER MS K. INGLETON, FOR PROSECUTION	17
MR W. BOUCAUT SC, WITH HIM MS E. PORTER, FOR PRISONER	18
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MR BOUCAUT: There is no antecedent statement as I	20
understand it. I caused to have a bundle of papers	21
handed to the court. May I ask if your Honour has gone	22
through those?	23
HIS HONOUR: I have. No objection?	24
MS MCDONALD: No.	25
MR BOUCAUT: That will make the task somewhat quicker	26
and less laborious. If I can speak to some of the	27
documents in there before I get to my submissions.	28
HIS HONOUR: Certainly.	29
MR BOUCAUT: Your Honour will see under tab 1 a	30
document entitled 'Statement of Agreed Facts', it sets	31
out the basis upon which the parties agree that this	32
lady is to be sentenced.	33
HIS HONOUR: I see 2.2 is the failure to obtain	34
medical treatment. That's limited to one week, is it?	35
MR BOUCAUT: That's so but that relates to a specific	36
incident that I'll tell your Honour about now. In the	37
last week of Kyla's life Mr Puhle raised with Mrs Puhle	38

that she ought see a doctor. He directed Mrs Puhle to 1
make an appointment. Mrs Puhle said she would. She 2
went to work on the Thursday intending to make the 3
appointment but she didn't, having been distracted at 4
work. She told Mr Puhle that she had made the 5
appointment and that the appointment had to be cancelled 6
because the doctor was ill and, thereafter, it was her 7
intention to take her daughter to an alternative medical 8
practice, not the GP - that's what I mean when I say 9
alternative - where appointments weren't necessary and 10
that that was to occur on the Saturday morning. In the 11
meantime, the girl died. So, that is specific to that 12
incident. 13

HIS HONOUR: I see. 14

MR BOUCAUT: And it has to be said, had that 15
appointment been made and kept, there obviously would 16
have been a chance that, not just so the malnourishment 17
issue could have been addressed but the empyema and the 18
dehydration could have been treated and we know that 19
that didn't occur. 20

The issue in 2.4, that is the issue of the pressure 21
sores, is something that is not obviously causative of 22
death but it indicates a lack of appropriate - 23

HIS HONOUR: Neglect to get medical advice. 24

MR BOUCAUT: Yes, and once again Mrs Puhle was in the 25
habit of treating those herself and, indeed, your Honour 26
no doubt has seen from the post-mortem photos that there 27
were dressings on the pressure sores and she would make 28
efforts herself to deal with that with a treatment that 29
she had used over the years that she thought would 30
always do the trick. So it's merely another indication 31
to the lack of appropriate care that was afforded the 32
girl in her last months. 33

HIS HONOUR: 2.1 is a failure to recognise and address 34
the facts that the deceased was severely malnourished. 35

MR BOUCAUT: Correct. 36

HIS HONOUR: Is that limited to a failure to recognise 37
that her daughter was malnourished. 38

MR BOUCAUT: Yes. 1
HIS HONOUR: Or doesn't amount to a knowledge - 2
MR BOUCAUT: No, it doesn't. Indeed, her subjective 3
view in all of this is as your Honour would have seen in 4
the psychological material and the reports from 5
Dr Raeside, it's as if she is looking through a window 6
to the world beyond but not actually seeing past the 7
glass, that's how I would put it. So what was obvious 8
to, or what would have been obvious to health 9
professionals was just simply not obvious to her. I'll 10
make this clear in the course of my submissions. 11
HIS HONOUR: What might have been obvious to even a 12
non health professional was not obvious to her because 13
of a number of factors that existed in her life. 14
MR BOUCAUT: Yes, that's so. One must not lose sight 15
of the fact that throughout this girl's life - and I 16
call her a girl because it's easier to do it that way - 17
she was always severely underweight and there is much 18
reference in the materials to that fact, so that in the 19
last months of her life when she was in effect taken 20
from the care facility that she was going to during the 21
days in September/October, that period around 2010, she 22
at that stage was necessarily very light. The last 23
formal weighing was two years prior to death and that 24
was 24 kg but in the meantime there had been 18 months 25
of contact, if you like, with care facilities and 26
respite agencies and that sort of thing. So it's really 27
difficult to say just how long it took for the weight to 28
get to where it did get. 29
HIS HONOUR: It was 12 kg wasn't it? 30
MR BOUCAUT: Yes extraordinary, that needs no - and 31
that's recognised. 32
HIS HONOUR: The position you are putting is she had 33
lost a lot of her weight while she was still under care. 34
MR BOUCAUT: Correct, yes. 35
HIS HONOUR: She was losing weight from the 24 kg 36
before, when she was still attending, she was still 37
attending the - 38

MR BOUCAUT: It can't be said when the 12 kg was lost 1
other than to say that on 19 January 2009 she weighed 2
25 kg and she's described by statements throughout as 3
being extraordinarily light. One statement refers to 4
her being 'like really skinny and tiny, like a bag of 5
bones', that comes from the statement of Christine 6
Farunjia who was one of the day care workers. Another 7
one of the day care workers who saw her in 2011, that's 8
Ms Romanas, said 'she didn't look any different in terms 9
of her physical condition, she was always very thin'. 10
So, the point to be made there, I'll come back to it in 11
due course, is that whilst there is no subjective 12
recognition of what's going on here one can't lose sight 13
of the fact that Mrs Puhle would have been seeing her 14
daughter every day so that if there is a gradual loss of 15
weight it might not be so readily apparent. The point 16
here is that she did not see her daughter like that and 17
that jumps out when we come to the materials provided by 18
Dr Raeside and by Mr Broomhall, the psychologist. 19

HIS HONOUR: I presume we are going to deal with 2.5 20
as well at some stage, I don't ask you to deal with it 21
now? 22

MR BOUCAUT: Indeed I was but I can give your Honour a 23
quick insight into that. The decision was made in 24
September/October 2010 by Mr Puhle and Mrs Puhle to not 25
take Kyla to the day care centre and rather to leave her 26
home and to care for her needs during the day at home, 27
and that obviously, as your Honour realises, involved 28
prolonged periods of her being alone. That was not a 29
decision that was made in the click of a finger, it was 30
something that occurred over a short period of time and 31
it would appear to me to be something in the nature of a 32
week or two that they didn't take her and said, 'We will 33
just leave her at home because she is comfortable at 34
home' and the fear on Mrs Puhle's part was that when 35
Kyla was at the day care centre she would spend most of 36
her time in her wheelchair and because of the extreme 37
rigidity of her body and the fact that she was so slight 38

meant that the pressure sores would flare up. So when 1
she was at home the majority of her time in any event 2
would be in the bean bag. She came to the conclusion 3
that it was as well for Kyla to simply remain there in 4
the bean bag because that provided support, remembering 5
this girl couldn't sit up, she couldn't sort of roll out 6
because she was for all intents and purposes completely 7
immobile and that's how that progressed. 8

So the point in 2.5 is that because of the 9
withdrawal from day care to a place, the opportunity for 10
other people to see if there was any deterioration in 11
Kyla's condition was simply lost and it made it more 12
difficult - 13

HIS HONOUR: But what you are putting to me is that 14
the reason that they removed her from the day care 15
facility was because both Mr and Mrs Puhle thought it 16
was in her best interests - 17

MR BOUCAUT: Yes. 18

HIS HONOUR: - to stay at home because she was 19
immobile, at the day care facility she was immobile, 20
sitting in a wheelchair and they thought she was better 21
dealt with at home. 22

MR BOUCAUT: That was the mind-set. 23

HIS HONOUR: That was their motivation, rightly or 24
wrongly. 25

MR BOUCAUT: Yes, rightly or wrongly and your Honour 26
is, again it comes out in the medical and psychological 27
material, Mrs Puhle at no time has accepted that she 28
could ever do anything that would not be in her 29
daughter's best interests. 30

HIS HONOUR: That's evident from that material, it's 31
also evident from the material from the son and 32
daughter. 33

MR BOUCAUT: Quite so. That's the basis for the plea. 34
I think your Honour, as I go through a bit of history, 35
your Honour would, if you have queries, obviously I'll 36
come back to that. 37

HIS HONOUR: Thank you. 38

MR BOUCAUT: Just by way of brief background: 1
Mrs Puhle is now 57, born in Adelaide. Her father died 2
three or so years ago. Her mother is aged 86, still 3
lives but has undergone major heart surgery so not in 4
the best of health. Your Honour has a testimonial in 5
the bundle from Mrs Puhle's mother. 6

HIS HONOUR: Yes, I've read that. 7

MR BOUCAUT: She has two older sisters and one older 8
brother. Her family are very supportive of her. Her 9
siblings are in court. Her two children are in court. 10
She's a grandmother twice over as a result of her 11
daughter having two children. She attended Underdale 12
High School, matriculated and went straight to Teachers 13
College. She met her husband Harry while she was still 14
at school, aged 16. He was a year older than her. She 15
became pregnant to Harry Puhle at age 17. They then got 16
married and that was during their first year at Teachers 17
College. After they married they lived with her 18
parents. The daughter Eloise was born and at that stage 19
they obtained a flat. Both she and her husband Harry 20
continued their studies. They were helped by their 21
respective parents with the studying and having to be a 22
young mother at the same time as studying. Both she and 23
her husband finished their studies, both as primary 24
school teachers but he also as a PE teacher. Thereafter 25
both of them always worked in that capacity. 26

Mr Puhle was said to have been an excellent teacher. 27
He was well known in sporting circles and a league 28
footballer of some note. 29

Kyla was born on 14 February 1984. Mrs Puhle was 30
pregnant with her son Michael when Kyla was diagnosed 31
with the severe epileptic condition. Michael Puhle was 32
some 14 months younger than his sister Kyla. 33

So that's the background in a nutshell and your 34
Honour will see from the testimonials that have been 35
handed up that Mrs Puhle excelled as a teacher and as 36
time went by she progressed through the ranks of deputy, 37
principal, through to becoming a primary school 38

principal. Most recently a primary school principal at 1
the Blakeview Primary School at Happy Valley. 2

HIS HONOUR: Is she still working? 3

MR BOUCAUT: No. She was, when charged, stood down 4
and it's fair to say that she will not be working again, 5
certainly with the department. That said - 6

HIS HONOUR: Was that by her choice? 7

MR BOUCAUT: No, well - 8

HIS HONOUR: Because she's now pleaded guilty - 9

MR BOUCAUT: The department, as I understand it, would 10
not tolerate her continued work, given her forensic 11
situation. 12

HIS HONOUR: No matter what I do? 13

MR BOUCAUT: That's as I understand it. On that point 14
she is recognising the fact that she will have to work 15
because there is some superannuation that her husband 16
had, plus a bit of hers. She's been living on long 17
service leave payments, continues to do so but will have 18
to re-enter the workforce, and because of her 19
administrative and managerial skills she would hope to 20
go into that line of work. She won't obviously earn the 21
sort of money that she enjoyed as a principal but that's 22
what she wants to do. 23

HIS HONOUR: Is her current position that she's 24
actually resigned, been dismissed or suspended; what's 25
her current position? 26

MR BOUCAUT: I think it's suspended, without pay and 27
the position has been monitored but I think your Honour 28
can take it as a given that with a manslaughter 29
conviction the department would not re-employ her. I 30
haven't got that in writing but I can put that to your 31
Honour without any fear of being contradicted. 32

HIS HONOUR: Thank you. 33

MR BOUCAUT: Coming back to Kyla: Mrs Puhle says that 34
Kyla, to her, from the moment she was born did not 35
appear to be right and from the outset there were severe 36
reflux and vomiting episodes. She was diagnosed at age 37
13 months with the severe epileptic condition and 38

whereas there had been, so Mrs Puhle thinks, some albeit 1
slow progress up until the age of 13 months, she 2
apparently had a major seizure at that stage. 3

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And Mrs Puhle felt that, after that, she went back to
being like a six week-old baby. But in any event, it
was very apparent early in the piece that the child was
suffering from severe disabilities and, as she grew
older, it's fair to say that really Kyla never walked,
she could push herself around for awhile in a walking
frame-type apparatus but that was reasonably
short-lived. As she grew older, she'd be unable to sit
up without assistance. She developed a very severe, as
your Honour would have seen from the photographs,
scoliosis. The seizures continued. She never talked.
She never interacted with anybody. She was profoundly
intellectually retarded and her only movement ability
was to roll on the floor and even that, in later years,
became not possible.

She was put on a regime of hypos - I can't recall
the name of the drug but it was one of the antiepilepsy
drugs. Her seizures were such that on one occasion she
chipped a tooth; on another occasion, a leg was broken.
Mr and Mrs Puhle discussed with the medicos at one stage
having two rods inserted into her back to address the
developing scoliosis but a decision was made not to go
down that road because of the risk of the rod breaking
in the event that there was a major seizure.

Mrs Puhle, even though her daughter was always very
underweight, always felt that Kyla would be eating all
right. She would be fed by Mrs Puhle and it would
generally be the same food that the family were having
but modified, in the sense that it would be mashed up a
bit. But apparently Mrs Puhle regarded her as always
having a good appetite.

At age 11 years, she was taken off, with the
blessing of the doctors, the antiseizure medication and
she seemed to do all right in the sense that the
seizures abated somewhat. There was a health plan in
place whereby if a prolonged seizure occurred, the
ambulance service would be contacted. I am told that
was only necessitated on a couple of occasions and that

was whilst in day care and not something that ever 1
happened at home and they would simply let her sleep 2
once the seizure had passed. 3

I have mentioned the fact that Kyla's weight was the 4
subject of much mention throughout her history. Indeed, 5
at age 16, apparently she stopped menstruating because 6
of the lack of weight. As she grew older - it's a bit 7
difficult to put this into - it would seem that there 8
was less and less care, contact with doctors and care 9
people as she got older. And the perception that 10
Mrs Puhle and, indeed, her husband had, is that Kyla 11
rarely got sick, she did not see the need to go to the 12
doctor regularly. Now, that might be frowned upon, in 13
one sense, because of the nature of the girl's 14
disabilities but, in another sense, mothers, when their 15
kids get older and start to finish growing, tend not to 16
go to the doctor as often as they do when the children 17
are younger. 18

HIS HONOUR: I presume - please correct me if I am 19
wrong - from what I have read that there wasn't anything 20
that the medical profession could do for her underlying 21
conditions, they had exhausted all of those - 22

MR BOUCAUT: Nothing. 23

HIS HONOUR: - so is it the position that the only 24
necessity to go to a doctor would have been if she 25
became ill? 26

MR BOUCAUT: Correct. 27

HIS HONOUR: Or exhibited some symptoms different to 28
her - 29

MR BOUCAUT: Correct. 30

HIS HONOUR: - normal symptoms that she was exhibiting 31
as a disabled person. 32

MR BOUCAUT: Yes. Throughout all of this time, the 33
nature of the disability was, as we know, quite profound 34
but the bottom line is that the girl was totally 35
dependent upon a carer for everything. I have mentioned 36
she was unable to do any form of communication or 37
interaction with people and throughout her time, she 38

always lived with the family apart from the occasional
 respite. 1
 2

HIS HONOUR: Remind me, Mr Boucaut - I know I've read 3
 it somewhere and I will reread all of this material of 4
 course - there were discussions at times as to whether 5
 to put her into permanent care, were there? 6

MR BOUCAUT: Exactly. 7

HIS HONOUR: Will you be dealing with that? 8

MR BOUCAUT: I most certainly will. 9

HIS HONOUR: You go on. 10

MR BOUCAUT: I can come to that now if your Honour 11
 wants me to. 12

HIS HONOUR: Come to it when you are ready, 13
 Mr Boucaut. 14

MR BOUCAUT: Well, all of the care of this girl, apart 15
 from when she was in respite or in day care, 99.99% of 16
 the time was attended to by Mrs Puhle. Her husband did 17
 virtually nothing in terms of caring for Kyla. 18

HIS HONOUR: I've read that material. 19

MR BOUCAUT: The problems associated with dealing with 20
 a child and coping with the stressors are well mentioned 21
 in the reports. Throughout all of this time both she 22
 and her husband, that is Mrs Puhle and her husband, 23
 continued working. The regime that was in place up 24
 until about six months before Kyla died was such that 25
 Kyla would be picked up in effect from Mrs Puhle's 26
 school by a taxi service and dropped back there or 27
 Mrs Puhle would do the running around but the bottom 28
 line here is that she did it all. 29

During the school holidays Kyla would remain at 30
 home. All of her day-to-day care needs, dressing, nappy 31
 changes, bathing, feeding, putting to bed, the whole 32
 range of it was attended to by Mrs Puhle. 33

In addition to that, Mrs Puhle ran the business of 34
 the household. By that I mean she was in charge of the 35
 family finances and anything in that regard fell into 36
 her lap. That said, her husband shared in doing the 37
 gardening and the household chores but the general 38

running of the household fell into her court. 1

Mr Puhle, as your Honour would have seen from the 2
papers, was a very difficult man. He was, it would 3
seem, a demanding man. He was a perfectionist and a 4
very hard taskmaster to his wife and children. 5
Mrs Puhle thinks, with hindsight, that her husband had 6
an obsessive compulsive disorder and was probably 7
bipolar so she thinks. There was a family history, on 8
Mr Puhle's side, of suicide. His mother committed 9
suicide at a relatively young age. His make-up was such 10
that if any little routine was out of place, even 11
something simple like the way something should be 12
appearing in the fridge, he could have a temper tantrum, 13
and there is reference in the paperwork that's before 14
your Honour to Mr Puhle being physically abusive. I'm 15
not going to - 16

HIS HONOUR: You need not go into the details, I've 17
read it. 18

MR BOUCAUT: It's in the paperwork. Suffice it to 19
say, he was a very demanding partner and had very high 20
expectations of his children and demanded much of his 21
wife. That was the case throughout the marriage. So 22
notwithstanding those faults, Mrs Puhle loved the man, 23
regarded him as her best friend, abided his wishes as 24
best she could, usually because she found that was the 25
easiest way to cope to avoid conflict but had a very, 26
very difficult time of it, coping within the marriage, 27
but learn to cope she did. 28

The other aspect of Mr Puhle's make-up is relevant 29
here, flows into her work situation. And that is 30
Mr Puhle apparently did not like the thought of 31
Mrs Puhle working at home and she had a lot of 32
after-hours-type stuff to attend to. Mrs Puhle found 33
that she would have to do that at times either early in 34
the morning or late at night when her husband had either 35
gone to bed or was doing other things. But the fact is 36
his personality difficulties made it very difficult for 37
her in the work setting. 38

The pressures on Mrs Puhle were obviously - and I'm not talking from the point of view of having a profoundly disabled child, but within the marriage, she was under constant and great pressure. And that caused her to become socially isolated with few friends outside the work environment or the family. And even her family and, again, that becomes apparent in the course of the materials that we have provided to your Honour, that the family and her siblings make it quite plain that they found it very difficult to maintain great contact until more recent times.

Your Honour posed the question a little while ago as to whether or not there were questions of putting Kyla into permanent care. That, indeed, was the subject of discussions between Mrs Puhle and her husband, and that commenced when Kyla was in her late teens. Mr and Mrs Puhle put her name down for a permanent care placement with an agency called CARA - Community Accommodation Respite Agency. She had been a client of that organisation over the years. Her name - that is Kyla's name - was on the books with the IDSC - Intellectually Disabled Services Council Inc and, as I understand it, that's now Disability SA. And in 2004, Mrs Puhle filled out a notice entitled 'Future Accommodation Needs' wherein she sought shared accommodation for Kyla. The request was lodged with the IDSC when Kyla was 21, that's in 2005.

There was a request for permanent long-term care made in 2005. There was an indication within the paperwork - when I say 'paperwork', I mean the forms, the bits of paper that are kept on the file - that would suggest that Kyla was on a waiting list for two years. Mrs Puhle had expressed frustration over the lack of support. In 2007, when Kyla was 23, there was -

HIS HONOUR: When she was 23 years? 35

MR BOUCAUT: Yes. There was a response from Disability SA suggesting that Kyla's situation had been reassessed and she was placed on a so-called category 2 38

waiting list. Your Honour has, in the bundle of 1
paperwork, the paper that we have put together, a report 2
under tab 10, from a psychologist, a Mr Rankine. That 3
sets out the sort of problems. It gives your Honour - 4
and I'm not going to go through it chapter and verse 5
because your Honour can, if you haven't read it, you no 6
doubt will. 7

HIS HONOUR: I have read it but not in the detail that 8
I need to read it. 9

MR BOUCAUT: It gives good insight into the sort of 10
problems parents have. 11

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The difficulties, because this is an area that is not, 1
some would say, not resourced appropriately at all. It 2
is a very complex social problem. It's a complex 3
problem for those who pull the pursestrings within 4
governments, and it's obviously a complex problem for 5
the parents of profoundly disabled children. But it is 6
very difficult, short of abandoning your child, to get 7
help. 8

Now, Mrs Puhle instructs that IDSC would contact her 9
once a year, usually somebody different, and that she 10
got no joy from them. And indeed, it would appear, from 11
a matter raised with me yesterday, by my learned friend 12
Ms McDonald, that Kyla does not even appear, 13
notwithstanding the paperwork, to be within the system 14
of IDSC and the sense there is that any request was not 15
processed. Which seems strange when one has regard to 16
the fact that these little bits of paper do exist that 17
indicate that requests have been made and at least in 18
part actioned. 19

HIS HONOUR: Is there any file on Kyla with IDSC? 20

MR BOUCAUT: There is a file, but Ms McDonald says the 21
request for permanent care does not appear to be on the 22
file. So an inquiry was made by the DPP yesterday 23
trying to clarify this. 24

It would seem that the department position is that: 25
'Departmental contact with clients are recorded on the 26
DCSI management system, any identified unmet needs for 27
clients are recorded against the client on the 28
Centralised Client Management System. Unmet needs are 29
categorised as either category 1, 2 or 3 based on the 30
urgency of the need. Category 1 being the most urgent. 31
An unmet need for support and accommodation could be 32
recorded on CCMS. I have been advised today that 33
Disability SA has no record of unmet needs of any 34
category recorded against her on the CCMS.' 35
So that's within the system, and that was the advice 36
that the DPP got. And yet there is these bits of paper 37
that point to the requests having been made. 38

HIS HONOUR: Where are the bits of paper? 1

MR BOUCAUT: They are within the disclosure material 2
provided by prosecution; but the bottom line is nothing 3
was done. 4

HIS HONOUR: I think it's important for me to 5
understand, and I might ask Ms McDonald now because 6
you're at that point where you're dealing with it. Is 7
there an issue with this part of Mr Boucaut's 8
submission? 9

MS MCDONALD: No your Honour, the paper trail seems to 10
show that. As my learned friend said, 2004-2007 there 11
was some documents lodged. There is nothing between 12
2007 and the current date. Now, as to whether or not - 13

HIS HONOUR: Well, he hasn't come to that yet. 14

MS MCDONALD: In terms of the paper trail I'm talking 15
about. I don't know what occurred during that period of 16
time, I can't shed any light on why it was abandoned or 17
why there is no record, I don't know. 18

HIS HONOUR: What is accepted, as I understand what 19
are you saying, is that certainly in about 2004 there 20
was a request made for permanent care? 21

MS MCDONALD: Yes, I can perhaps take it one step 22
further; the records indicate that as late as 2009 23
Mrs Puhle was saying to others, namely a nurse, that she 24
believed that Kyla was on the waiting list at that time. 25

HIS HONOUR: All right. 26

MR BOUCAUT: That's what I was coming to. And in the 27
meantime Mrs Puhle arranged Kyla's name down at this 28
CARA, because she had been a client there. And she 29
would contact them to be told still waiting for a place 30
to become available. 31

HIS HONOUR: It was right up to the time that, well, 32
those requests were still current at the time that Kyla 33
died last year? 34

MR BOUCAUT: They were still on foot in her mind, she 35
thought 'something is going to happen one day'. 36

HIS HONOUR: So she had in fact been waiting, Mr and 37
Mrs Puhle had in fact been waiting on a wait since 2004? 38

MR BOUCAUT: Yes. Well, that was when it was 1
initiated, and never taken off. 2

HIS HONOUR: It was initiated. So for seven-odd years 3
the information was that there was nothing available. 4

MR BOUCAUT: That's right, it would be the case, seven 5
years. And in 2009 there is reference in the paperwork 6
to one of the nurses, one of the Royal District nurse 7
staff discussing the permanent care option for Kyla. In 8
2009 it was felt that she should be a priority 9
placement, but the problem your Honour is a lack of 10
resources. 11

As I say, it's very difficult to go on a witch hunt 12
and point the finger at anyone and say things that are 13
emotive - 14

HIS HONOUR: I'm not involved in an inquiry or a 15
commission as to why things were not available. All I 16
need to know for your purposes Mr Boucaut I think is 17
that your client had made a request, that the request 18
was continuous, and that for whatever reason the 19
government or other agencies were unable to meet the 20
request. 21

MR BOUCAUT: That's it. And in the meantime the 22
Puhles got by with the day care arrangement and I have 23
addressed your Honour as to their thought processes in 24
the last quarter of 2010. 25

I have mentioned that Mrs Puhle did not perceive 26
Kyla to have become severely malnourished. It is 27
accepted that she should have. I have taken your Honour 28
through the objective features of the neglect and I 29
won't repeat that. 30

I have addressed your Honour as to what happened in 31
the last days leading up to her dying, and Mrs Puhle in 32
effect misleading her husband on the issue as to whether 33
or not an appointment had been made with Dr Farand. 34

Does your Honour need detailed submissions on the 35
actual cause of death and the inter-relationship of the 36
empyema, the dehydration and the malnourishment? 37

HIS HONOUR: I don't, unless there is anything in 38

particular that you feel you need to address me about 1
Mr Boucaut. 2

MR BOUCAUT: Well, I think not. There are a couple 3
of - your Honour has a report in there from Dr Tideman? 4

HIS HONOUR: Yes. 5

MR BOUCAUT: There are a couple of aspects of that 6
that the prosecution would seek to point out, I 7
certainly don't have a problem with that. Dr Tideman 8
talks about what might happen if there is a lack of a 9
cough reflex. They point out Kyla did in fact have a 10
cough reflex. The problem here is, that empyema and 11
inhalation of food, and chest conditions with these 12
profoundly disabled people becomes commonplace and if 13
things aren't picked up often they are simply seen as 14
being the norm, because they resolve with time. 15

The material is in what Dr Pearson and Dr Tideman 16
have got to say, and the cause of death, as your Honour 17
knows, was the dehydration brought about by the empyema, 18
and the fact that there was such severe malnourishment 19
meant any ability to fight infection was severely 20
compromised. 21

That brings me to the reports of Mr Broomhall and 22
Dr Raeside. I would ask your Honour to read those in 23
detail. 24

HIS HONOUR: I've read them already Mr Boucaut, but I 25
will re-read them. 26

MR BOUCAUT: Thank you. The position is probably best 27
explained by Mr Broomhall, the psychologist. 28

HIS HONOUR: Yes. 29

MR BOUCAUT: Towards the end of his report. And he 30
talks about a degree of emotional detachment existing in 31
Mrs Puhle, brought about or at least conditioned in her, 32
because of the stressors in her life, and her perception 33
of the best way to deal with them. And that is to 34
simply, as Mr Broomhall says, just get on with it. And 35
that's what this lady has done throughout her life - 36

HIS HONOUR: Did she seek any kind of assistance 37
psychologically or otherwise prior to all of this 38

occurring?	1
MR BOUCAUT: No.	2
HIS HONOUR: She just soldiered on.	3
MR BOUCAUT: Another problem, because your Honour will	4
see a flavour in these reports of a certain, if I call	5
it cynicism with the health sector about their ability	6
to help and she seemed to think, 'Well I'll deal with	7
all these things myself.' And that's what she tried to	8
do.	9
Mr Broomhall makes the point that she became	10
disillusioned with the perceived lack of support. And	11
he makes the point on that very topic that your Honour	12
addressed, at p.13, line 26 or thereabouts he says:	13
'It seemed likely ... when she had to have a pap smear'.	14
So that was the problem.	15
He goes on to say:	16
'It seemed likely that Mrs Puhle ... competing demands	17
without assistance.'	18
HIS HONOUR: As I understand what you are putting to	19
me, she was very isolated.	20
MR BOUCAUT: Yes.	21
HIS HONOUR: She was getting no support really from	22
Mr Puhle.	23
MR BOUCAUT: Correct.	24
HIS HONOUR: And limited support from friends and	25
family.	26
MR BOUCAUT: Correct. He talks at p.14 of there being	27
very significant levels of detachment from her emotional	28
experience.	29
HIS HONOUR: Yes.	30
MR BOUCAUT: And that that was linked to her ability	31
to detach emotionally from her relationship with Harry	32
and the needs of her daughter, and underpinned her lack	33
of insight for Kyla's needs, and also formed the basis	34
for her believing that she was acting in Kyla's best	35
interests, notwithstanding what we know from the medical	36
material.	37
Then he concludes down the bottom of 14 by saying:	38

'This, in addition to normal life stressors ... her best interests'.
That perhaps sums it up. Dr Raeside is of a like mind.
Now, your Honour said there was no support or limited support from family.
HIS HONOUR: I meant in the sense that the family difficulty, because of Mr Puhle spending time with them and so forth. I'm not suggesting they weren't supportive, it just seems to me, from what you're putting, that the amount of time she spent with others was limited.
MR BOUCAUT: Correct.
HIS HONOUR: I'm not suggesting they weren't sympathetic or helpful.
MR BOUCAUT: Thank you. The children, Eloise and Michael, both live interstate.
HIS HONOUR: Yes, I understand.
MR BOUCAUT: And both, and your Honour knows about their careers from the paperwork. There is no need for me to go on about that. But -
HIS HONOUR: I suppose there is another aspect of that, whilst they were at home there was kind of a family unit that -
MR BOUCAUT: There is a family unit, which was seemed to be centred around the father, who had these expectations, and that was he demanded results.
So that's the background.
HIS HONOUR: When the children left obviously she was left in a position where it was only her husband and Kyla.
MR BOUCAUT: Yes.
Your Honour knows that she and her husband were arrested on 19 December 2011. She was kept overnight in custody, in a protective environment. Mr Puhle when he was arrested was placed in the infirmary because he seemed to be a suicide risk. And indeed he committed suicide. He was released on bail a day or so after the arrest, he committed suicide on 23 December 2011.

So that brings me to my submissions in respect 1
to what I respectfully put as being an appropriate 2
disposition here. 3

Mrs Puhle has suffered enormously. She has lost her 4
husband, and she loved her husband notwithstanding him 5
being a difficult person. She has lost her daughter, 6
whom she loved and devoted a great part of her life to 7
the daughter's needs. She has lost her job. Your 8
Honour has seen from the testimonials that she was a 9
devoted and good teacher. 10

She is to be seen, in my submission, as somebody who 11
is not going to offend - 12

HIS HONOUR: You don't have to address me on that, 13
Mr Boucaut. 14

MR BOUCAUT: We then come to the mandatory non-parole 15
period. In my submission - and the DPP, as I understand 16
it, don't seek to argue to the contrary. 17

HIS HONOUR: The trigger is there for me to impose a 18
sentence lesser than the mandatory non-parole period. 19

MR BOUCAUT: You are not bound by the regime. 20

HIS HONOUR: No, there has been a plea of guilty. 21

MR BOUCAUT: The issue is, if there is to be a 22
sentence of imprisonment, which is the norm in 23
manslaughter cases, whether it is to be suspended. 24
That, of course, is the road that I urge your Honour to 25
go down in this instance. 26

Suspended sentences in manslaughter cases, whilst 27
his Honour the former Chief Justice referred to it as 28
being infrequent, they are not something completely 29
unheard of. Your Honour would be familiar with the case 30
of Narayan, where the Court of Criminal Appeal dealt 31
with the issue, albeit in a different context, but it 32
spoke in terms of general principles applying in 33
manslaughter cases. 34

Your Honour can see this lady as somebody with a 35
supportive family network. For all her life, but for 36
when this reared its head, she has been a very good 37
person who has contributed to the community. She has 38

worked. She devoted herself to her daughter for many 1
years, and she now has to suffer the label of being 2
somebody who has in effect brought about her daughter's 3
death, which is an incredibly difficult thing for her to 4
cope with. 5

The offence, I put to your Honour, seems to have 6
been at least mostly, if not all, brought about as a 7
product of a complex psychological problem; and that 8
having been brought about by years of coping with the 9
sort of pressures that most people will simply not 10
comprehend. 11

So it is an incredibly tragic case. She has lost 12
pretty well everything. Of course she has her family 13
but she has lost an enormous part of her life. The 14
issue of general deterrence, in my submission, can be 15
addressed by a suspended sentence. Personal deterrence 16
is simply not an issue here, in my submission. And I 17
simply put to your Honour that the materials that are in 18
the bundle that have been tendered, in their 19
combination, amount to sufficient reason for your Honour 20
to adopt a merciful approach here. 21

Unless there is anything else that I can help your 22
Honour with, those are my submissions. 23

HIS HONOUR: Thank you, Mr Boucaut. You have been 24
very helpful. Yes, Ms McDonald? 25

MS MCDONALD: I want to start off where my learned 26
friend finished and that is to acknowledge that this is 27
a very, very tragic case. One cannot help but feel 28
sympathy for Mrs Puhle, both in terms of what she 29
encountered during Kyla's life and now. 30

However, it is my submission that that can't 31
completely overshadow the fact that manslaughter by 32
criminal negligence is underpinned by the value that we 33
place on a human life. It creates a standard of care 34
that is expected of every person. 35

Mrs Puhle's treatment of her daughter didn't fall a 36
little short of that, it fell grossly short of that, and 37
that's the reason the director's submission is it would 38

be inappropriate to suspend a term of imprisonment. 1

HIS HONOUR: It would be not appropriate? 2

MS MCDONALD: Inappropriate. That is not an easy 3
submission to make in the face of what has been put by 4
my learned friend. There is much to be said for 5
Mrs Puhle but it is my duty to put some of the counter 6
points to your Honour. 7

It wasn't a momentary lapse: it was neglect that 8
continued over an extended period of time. She was 9
literally starved to death. She was obviously a person 10
with a particular vulnerability. She had no ability to 11
protect her own life. And that was made all the worse 12
because for those last months of her life her parents 13
took her out of the care of those who, for many years, 14
had helped keep her alive. 15

There's little more to it than she just stopped 16
going to day care. By way of background, Kyla hadn't 17
been to a doctor for about nine years. There were 18
various services available to the Puhles. Your Honour 19
will see from a statement of a lady by the name of 20
Dalgarno, who is a manager with organisation called Cara 21
which provides various services for the disabled, that 22
this family was allocated what is called an outcomes 23
package. 24

An outcomes package is 250 hours of help a year and 25
that's helping in the home, or help if they go on a 26
family outing. The Puhles never took up that package of 27
hours. 28

As well as that, there was respite care available 29
overnight, weekends and the like. It's dealt with in 30
the statement of Anne Whardall. In fact, she talks 31
about families being allocated up to 52 nights of 32
respite care. She basically annexed all of the records 33
relating to Kyla and makes a general observation that 34
the Puhles used relatively little of that respite care 35
compared to other families; and since October 2010 they 36
hadn't used any respite care at all. So that's to be 37
distinguished from the Xlent service, which is the 38

daytime service that's for the weekends, the school 1
holidays and the overnights. So they didn't avail 2
themselves of the home care, used a relatively small 3
portion of the respite care, and since October 2010 used 4
none of those services. 5

Then there's the Xlent Disability Support Services 6
that your Honour has heard about. That is a day care 7
service and Kyla would go there on a regular basis. 8
It's dealt with in the statement of Helen Hage. She 9
says that from about September 2010 Kyla was barely 10
there, to use her words, and her last attendance there 11
was on 10 December 2010. 12

My learned friend made the submission to you that 13
Mrs Puhle stopped sending Kyla there because of concerns 14
about bedsores. Your Honour will see from the 15
statements of the people involved in that organisation, 16
that they were the ones who were in fact giving the 17
treatment for the bedsores. They had involved the Royal 18
District nurses. They arranged them to be dressed. 19
They arranged for them to be cared for. They were 20
conscious of them. As well as that, the organisation 21
didn't just leave her in a wheelchair every day. She 22
was taken on outings to coffee shops and entertainment. 23

What Mrs Puhle did from really about December 2010 24
was stop Kyla having access with anyone in the world 25
other than herself and Mr Puhle. They effectively left 26
her in a beanbag all day, every day. 27

As your Honour knows, as a consequence she became so 28
grossly malnourished that her death was pretty much 29
inevitable. 30

My learned friend says we don't know when, in the 31
two-year window, there was a dramatic loss of weight. 32
What we do know from the various statements is that 33
everyone who had contact with Kyla, while she had 34
contact with organisations, estimate her somewhere about 35
the 20-30 kg mark. These were people who were lifting 36
her each day. No-one has her anywhere near the 12 kg 37
your Honour knows about. 38

So it is my submission, for all of those reasons and 1
in particular one has to have regard to the way that 2
Kyla would have met her death and your Honour has seen 3
the photographs and has the post-mortem report, that 4
your Honour should not suspend the term of imprisonment. 5

If your Honour pleases. 6

HIS HONOUR: Ms McDonald, you may not wish to address 7
me on this and I don't necessarily require you to: when 8
one comes to consider the questions of suspension, all 9
the factors that are relevant of course to sentence are 10
also relevant to suspension. But suspension does focus 11
to some degree or to a great degree upon a person's 12
personal circumstances. That is really what 13
distinguishes one case from another very often, for one 14
to suspend a sentence. 15

Have you anything you want to put to me about the 16
psychological and psychiatric reports? Because they 17
provide a reason why what occurred did occur, and so she 18
is not necessarily in the same category as someone who 19
doesn't have the kind of psychological make-up that she 20
had and the problems that well exacerbated themselves as 21
the years went by and her approach to how to cope. 22

MS MCDONALD: I agree. They are, in large part, one of 23
the reasons that this is such a difficult and tragic 24
case. That's one of the reasons why the director went 25
down the path of accepting the plea of criminal neglect 26
that we have because we are now dealing with an offence 27
that really creates objective standards - 28

HIS HONOUR: Correct. 29

MS MCDONALD: - as opposed to the criminal mind that is 30
normally required for other offences in which a death is 31
involved. Yes, the personal circumstances of course are 32
relevant which make this case much closer to the 33
borderline than many others. Having said that, one does 34
have to come back to the nature of the offence of 35
manslaughter by criminal negligence. 36

HIS HONOUR: Quite. I would accept in principle and I 37
would accept as a matter of practicality that in most 38

cases of manslaughter by criminal negligence, a court 1
would not suspend the sentence. The sentences vary, as 2
has been pointed out to me by looking at the case that 3
you referred me to, Johnson; and there will be others as 4
well. 5

But it is exceptional to suspend a sentence - 6
exceptional is perhaps not the right word but it would 7
not be a common result because of the seriousness of the 8
consequence of the conduct. 9

But I am not aware of any case, and again 10
comparisons are difficult, but I am not aware of any 11
case where there has been such a prolonged period when 12
someone has really acted responsibly and looked after a 13
chronically disabled person and really then they face 14
the responsibility for that person's death because of 15
neglect over a period of months, having looked after and 16
cared for the person for many, many, many years. 17

MS MCDONALD: It is difficult. To be frank, one can't 18
imagine what it would be like to walk in Mrs Puhle's 19
shoes over those years when Kyla as alive, and 20
comparisons with cases like Johnson don't really exist. 21

HIS HONOUR: No. 22

MS MCDONALD: Because in Johnson you had starvation of 23
a baby which was a much shorter period of neglect, which 24
was a case in which there was no intent to harm. That 25
woman had some psychological issues. She was 26
ill-educated, she was from an underprivileged 27
background. You could say on one hand Mrs Puhle has 28
many advantages. She works with the government. She is 29
able to be heard and have a voice, and she has some 30
skills that maybe Mrs Johnson didn't. 31

But, having said that, I come back to the point your 32
Honour made. What you have here is exemplary treatment 33
for a long period of Kyla's life and it makes a 34
comparison useless in some ways. 35

HIS HONOUR: I think we still have the quality of 36
mercy in our courts, don't we, Ms McDonald? 37

MS MCDONALD: We do, your Honour. We do. And that's 38

completely a matter for your Honour. If your Honour
pleases.
HIS HONOUR: Alright. I will remand Mrs Puhle for
sentence. Bail will continue, and I will endeavour to
resolve the matter as soon as I possibly can.
ADJOURNED 11.52 A.M.

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Settled by the Honourable Justice Sulan on 26.8.2013

INTERNET VERSION AND ALSO FOR FULL DISTRIBUTION

**IN THE SUPREME COURT
CRIMINAL JURISDICTION
ADELAIDE
THURSDAY, 22 AUGUST 2013 AT 2 P.M.
BEFORE THE HONOURABLE JUSTICE SULAN
NO.SCCRM-12-310**

R v ANGELA PUHLE

HIS HONOUR IN SENTENCING SAID:

Angela Puhle, you have pleaded guilty to manslaughter. Your plea of guilty involves a course of conduct involving the care of your daughter, Kyla Monique Puhle, which conduct fell so short of the standard of care that a reasonable person would have exercised in the circumstances and which involved such a high risk of death or serious body harm, that it amounted to the offence of manslaughter. By your plea you accept between 1 October 2010 and 19 March 2011, the date of Kyla's death, you omitted to care appropriately for Kyla and that omission amounted to criminal neglect.

The circumstances leading to your plea of guilty can only be described as tragic. Kyla was 27 years of age at the time of her death. She was the second of your three children. Her older sister, Eloise, was 10 years of age when Kyla was born. Very early in her life it was evident that Kyla was not developing in a normal way. She suffered from severe reflux and vomiting episodes.

At the age of 13 months she was diagnosed with chronic epilepsy. After a severe epileptic seizure her development seemed to have regressed. It became

apparent she was suffering from a severe disability. She was unable to communicate in any normal way. She never laughed or smiled. She developed scoliosis. She was unable to walk or to sit without assistance and she was profoundly and intellectually retarded. She was totally dependent upon others in every respect. Her epilepsy resulted in repeated seizures, some which required urgent medical attention.

You and your husband, Harry, consulted a number of medical specialists and general practitioners about your daughter's condition. However, there was little that the doctors were able to do to assist Kyla.

Kyla was brought up as a member of the family. You would feed her at meal times. You and your husband took her to sporting events. You took her to the school at which you taught. You cared for your daughter and you were primarily responsible for looking after her over her lifetime.

I am satisfied that you were a loving and devoted mother to your daughter and that you did all you could over the years to ensure that she lived as happy a life as was possible for a person with the severe disabilities from which she suffered.

She was always underweight, even though she was regularly fed and ate reasonable meals. You and your husband sought assistance from various agencies. In 2004 you applied to have Kyla taken into permanent care. That never occurred because there was never a place available for her to go into

permanent care. I make no judgment about the reason why no place was offered to Kyla but it seems her unique disabilities and the categorisation of her disabilities was such that she was not classified as a priority case for permanent care and, therefore, a place did not become available to her.

There were accommodation and respite facilities available to Kyla on a less permanent basis. The community accommodation and respite agency made available 52 nights respite per year, of which you availed yourself about 30 to 45 nights per year. You were also entitled to having a worker in your home to assist you but you did not avail yourself of all of the care that was available in that regard.

Up to about six months prior to Kyla's death you would bring Kyla to day care where she was looked after whilst you were at work as a teacher and, later, a school principal. Kyla was wheelchair bound. She was usually taken out of the wheel chair and placed in a more comfortable chair, except on the occasions when she was taken out.

The carers who looked after Kyla described her as always being very thin and almost emaciated. Her limbs were very stick-like and did not have muscle tone.

In a statement from the carer who had regular contact with Kyla she stated:

Aside from her weight she was always very well looked after. Her clothes were always clean, her hair and skin was always clean and tidy. Kyla always appeared that she had been looked after as far as her clothing and her body. The clothing that came with her was always nicely pressed and folded. Some people send the rag bag type of clothes to respite

but Kyla always had nice stuff. She always had enough nappies. Kyla was incontinent and had to wear Softies which are disposable nappies for adults.

Kyla ate the same food as everyone else in the family. She had difficulties with chewing and swallowing and digesting her food.

You and your husband eventually did not seek medical assistance for Kyla other than on occasions when she was ill, because you had reached a position where the doctors had indicated that there was very little that they could do for Kyla, other than to manage her when she had a seizure or when she became ill. You were advised that if she had a severe seizure you should immediately have her taken to hospital by ambulance. That occurred rarely, as usually her seizures could be managed at home.

Another problem from which Kyla suffered was pressure sores. These required attention. You regularly attended to dressing and treating her pressure sores.

About six months before Kyla died, you and Mr Puhle decided not to take her to the respite facility. One of your reasons for making that decision was that you felt she was better off at home where she could lie in a bean bag. You believed that contributed less to her pressure sores than leaving her seated in her wheelchair. She could manage to move in a restricted way in a bean bag whereas if she was tied in a chair, this seemed to aggravate the pressure sores.

Throughout her life, you continued to work as a school teacher and school principal. You and your husband were both school teachers. You were regarded

highly amongst your colleagues as a caring, efficient and effective school teacher and school principal.

In the last six months of her life, you would leave Kyla at home when you left for work at 8.30 a.m., and you would return at 4.30 p.m. On a number of those days during the week, you would return at lunchtime to feed her and check on her. On other days, she would be left alone until you returned from work, when you would then feed her. I accept that you believed that this was a satisfactory way of caring for Kyla. However objectively, it was not appropriate to have her unattended in a bean bag for hours at a time.

The carers who looked after Kyla prior to her stopping attendances at respite care estimated her weight to be around 20 to 25 kg. At the time she died, she weighed 12 kg and was severely malnourished. It is unclear exactly why she lost a considerable amount of weight leading up to her death. You continued to feed her. You were not conscious of the fact that she was losing and had lost so much weight.

By your plea, you accept that you failed to recognise and address the fact that Kyla was severely malnourished, and you failed to take her to medical treatment in the final week of her life. It is an agreed fact that your husband had recognised in the last week of her life that Kyla was unwell. He asked you to arrange for her to see a doctor. Because of the pressure of work, you failed to make the appointment in a timely way. You intended to take her to the doctor

later than you had agreed. You also misled your husband. Sadly, Kyla died before you could attend at the doctor, as you had intended.

Your conduct was also negligent in that you left Kyla alone for prolonged periods during the time you attended work. Further, you failed to properly manage her pressure sores, although you believed that you were best able to manage them. You also accept that you failed to ensure that Kyla was seen by health professionals in the last six months of her life.

Kyla died on 19 March 2011 from an infection in the right side of her chest, resulting from an infection of the lung. The post-mortem examination revealed death resulted from a right-sided empyema, which the pathologist considered was consistent with her being unwell for a few days before her death. She also suffered a severe state of dehydration, which he regarded as probably secondary to the presence of the empyema, which would have made it difficult for her to consume liquid. He also observed a number of pressure sores which had not been recently treated, although he concluded from an observation of her body that a reasonable degree of care had been taken to care and treat them in the past.

You failed to observe a number of signs of your daughter's deteriorating health and loss of weight and you failed to recognise that she required medical attention and care.

That brings me to the reasons as to why that may have occurred.

It is not disputed that you were a loving and caring mother who provided the primary care for your daughter for 27 years. I accept that you did not recognise that Kyla was ill and that she had lost a considerable amount of weight. It was only after you saw the photographs of your daughter after she had died that you realised that she had become chronically thin. As far as you were concerned, you had continued to feed her normally, and there was nothing abnormal that you noticed.

According to Dr Tidemann, a specialist paediatrician specialising in rehabilitation medicine, empyema, which is a complication of pneumonia, is liable to occur in people with multiple and severe intellectual and physical disabilities which predispose them to chest disease. He is of the opinion that in a person such as Kyla there may have been few recognisable symptoms of pneumonia and empyema and he would not be surprised if a carer or parent failed to detect any symptoms of these.

Dr Tidemann considered that Kyla was severely malnourished. He concluded that it is inappropriate to leave someone in Kyla's state in a bean bag for hours at a time. He considered that it is understandable that the chest infection could go undetected, but he considered a person in your position should have become aware of the fact that Kyla was severely malnourished and that she had lost a considerable amount of weight.

However, an explanation for your failure to observe the signs and your failure to seek appropriate treatment at an early stage can be due to your

approach and attitude to life over a number of years. Your way of coping with your difficult life was to minimise the seriousness of the situation. You did that over the years as a strategy to enable you to cope with day-to-day tasks. Throughout your marriage and throughout the time you looked after your severely disabled daughter, you continued to work and you continued to get on with your life.

Not only did you have to cope with your daughter's disability but you also had to deal with a difficult marital situation. Your husband was a perfectionist. It seems that he suffered from an obsessive-compulsive personality. As a consequence, living with him was difficult. At times, his moods fluctuated and there were occasions upon which he was violent. There were a number of occasions when he physically attacked you. You often had bruises as a result of his conduct. The conduct consisted of punching or slapping you. At times, it was more serious. On occasions, he hit you with a baseball bat and there was an occasion upon which he choked you to the point where you passed out.

Although you suffered both physically and emotionally throughout your marriage, you maintained your love for your husband. You tried to keep the marriage as normal as possible. Your husband took his own life five days after you and he were charged with murder. You heard the shot and you knew your husband had committed suicide. You have suffered severe grief from the loss of your daughter and the subsequent death of your husband.

You have two adult children, both of whom live in Sydney. You have grandchildren with whom you have a good relationship.

I have had regard to letters from your daughter and your son, both of whom attest to the difficult life that you have had. Your son commented that he cannot fathom any mother doing more for their child than you did for Kyla over 27 years. He says that you taught him patience, empathy and compassion.

Your daughter speaks of how Kyla was always involved with the family and in their lives. She attended sporting events with her parents. Your daughter observes that Kyla was well fed and cared for by you.

Your daughter was holidaying with you at the time police attended and arrested you and Mr Puhle. Your daughter suffered anxiety and depression as a result of the investigation, the media coverage and the court proceedings. She is fearful of what may happen to you.

You have strong family support from your siblings who have written on your behalf and who all speak of you in glowing terms. Your brother states that he last observed Kyla in January 2011. She appeared to be no different than normal. Your mother observes that you always cared for Kyla. You loved and nurtured her.

I have received a number of references from work colleagues all who speak extremely highly of you. There is no doubt that you were a devoted teacher and an excellent administrator who was concerned for your staff and the children at

your school. A leading educationalist who worked with you regards you as a loving mother and an excellent educator.

Your counsel informs me that you are currently suspended from teaching and that, as a result of your conviction, having pleaded guilty, you are likely to lose your profession. It is unfortunate that someone of your talent and ability may not be able to continue to provide your talents to students and staff who would benefit from working with you.

I have had regard to a comprehensive report from Mr Broomhall, a psychologist. He observed that over the years you became isolated. As a consequence of your husband's difficult personality, you had few friends. You were under great emotional stress for many years of your marriage. Despite these difficulties, you maintained your love for your husband. Mr Broomhall is of the opinion that your lack of insight into and awareness of Kyla's needs was linked to you detaching emotionally from your relationship with your husband and the needs of your daughter. He is of the opinion that that underpinned and formed the basis for you believing that you were always acting in Kyla's best interests. He is of the opinion that you did not deliberately intend to mistreat your daughter and that you always loved her and cared for her. However, you had a misguided belief that you were acting in her best interest in the last six months of her life.

Mr Broomhall states:

It was my opinion that Ms Puhle's tendency to 'just get on with it', 'see the light at the end of the tunnel' and tendency to minimise the negative impacts of events in her marriage of domestic violence over the years were key to understanding Ms Puhle's

psychological and personality profile. It seems likely in my opinion that Ms Puhle's tendency to minimise the seriousness of a situation became an emotional survival strategy necessary for her to progress with day-to-day tasks. It seemed likely that such a strategy formed from being overwhelmed by the complexity of competing demands without assistance.

Dr Raeside, who is a forensic psychiatrist, is of the opinion that you may well not have comprehended your daughter's loss of weight because of your approach to life and what he describes as your 'psychological denial' in which you tended to put difficult things out of your mind as a method of coping with your extraordinarily difficult situation.

Dr Raeside referred to the abuse you have endured. In commenting upon that he states:

She had a tendency to understate and minimise these difficulties and at times seemed to provide rather contradictory accounts about a very abusive husband with whom she was 'best Mates' and spoken in positive terms about him. There appeared to be an obvious disconnect, suggesting the utilisation of significant *psychological denial as a major defence mechanism* against what might otherwise be unbearable depression. As such, it appears that Ms Puhle utilised her personal strengths, as well as large amounts of psychological denial, in order to cope with what appears to have been quite a difficult life in which she juggled raising a severely disabled daughter (predominantly on her own without her husband's practical support), raised two other children as well who appeared to have been very successful in their professional roles, tried to placate as best she could an abusive husband, and pursue a teaching career and eventually being placed in positions of significant responsibility. As such, not only her stoicism, but particularly her psychological denial in which she would simply put things out of her mind or to the side that were too unpleasant, enabled her to continue functioning to some degree without becoming overwhelmed with psychological distress or frank psychiatric illness.

In my view, this utilisation of psychological denial is a significant factor that can help explain Ms Puhle's involvement with her daughter's care, particularly leading to her death.

In sentencing you, I have had regard to all the references and reports that have been provided to me. You have no previous convictions. In my view, you will not offend against the law in the future.

I am satisfied that you did not have insight into your daughter's physical condition leading up to her death. The last thing that ever occurred to you was that she was in danger and that you were failing to provide appropriate care for her.

In sentencing you, I have had regard to the fact that you have pleaded guilty. I accept that you are generally remorseful for what has occurred. In sentencing you, I have had regard to the principles that I must reflect adequate punishment for your conduct and the sentence I impose must be proportionate to your conduct.

Manslaughter is a serious crime because it involves the loss of an innocent life. Nevertheless, it is a crime which covers an enormously wide range of human conduct. It can range from conduct which almost satisfies the elements of murder, to a failure to act in circumstances in which there is no intention to take away a person's life. Nevertheless, because of the seriousness of the crime and because it results in a loss of human life a sentence of imprisonment is almost inevitable.

In the circumstances of this case, I consider that a starting point of six years imprisonment is appropriate. I reduce that to five years imprisonment, having regard to your plea of guilty.

In setting a non-parole period, I have had regard to the *Criminal Law (Sentencing) Act*, which provides that a minimum non-parole period for this

offence is four-fifths of the head sentence, unless the court is satisfied that special reasons exist for fixing a shorter period.

Having regard to your plea of guilty and your genuine contrition and having regard to the circumstances of this offending and in particular the psychological and psychiatric reports, I conclude that special reasons do exist and that a lower non-parole period than the mandatory non-parole period is justified. I would therefore set a non-parole period of two years and six months imprisonment.

As to whether the sentence should be suspended, I have had regard to the submissions of counsel for the Director of Public Prosecutions. I accept that it is a rare case that a sentence of imprisonment for manslaughter would be suspended. There are however cases in which good reason does exist to suspend a sentence. This is one of those cases.

As I said, I have had regard to all the material that has been put to me. Throughout your life you have been of good character. For all but a few months of Kyla's 27 years, you devoted your time, your love and your energies to her welfare. Even in the period when, objectively, you did not do so, you believed that you were acting in her best interests and there are good reasons to accept that that was your genuine belief.

In addition, you have been a devoted mother to your other two children. You were a devoted and long-suffering wife to your husband, who you continued

to love until the end. You have been a devoted, hardworking teacher and head mistress.

You have suffered enormously over the years. You have confronted adversity in a way that many others could not. Sadly it appears you did not seek assistance for yourself, which may have given you better insight.

You believed you could cope when it is evident that part of your coping mechanism was to become emotionally detached from your surroundings.

I consider this is a case where good reason exists to suspend the sentence.

The sentence of the court is that you be imprisoned for five years. I set a non-parole period of two years and six months imprisonment. I suspend the sentence upon you entering into a bond in the sum of \$1000 to be of good behaviour for three years. I do not consider that a condition requiring supervision is required. Are you prepared to enter into the bond?

PRISONER: Yes.

BOND ACKNOWLEDGED

ADJOURNED 2.25 P.M.