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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No: 22/105953

Delivered: 25/01/2024

IN THE CROWN COURT FOR NORTHERN IRELAND

SITTING AT LAGANSIDE COURTHOUSE

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THE KING

v

WILLIAM FINLAY
—————

**Mr D McDowell KC with Ms K McKay (instructed by the Public Prosecution Service) for
the Crown**

**Mr G McHugh KC with Mr J Lindsay (instructed by Joseph Magee & Co Solicitors) for
the Defendant**
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SENTENCING REMARKS
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O'HARA J

[1] On 16 April 2022 the defendant murdered Mrs Alyson Nelson in her home in Whitehead, County Antrim. He pleaded guilty to that murder on 23 November 2023. As required by law I sentenced him on that date to life imprisonment. At a further hearing on 19 January 2024, I heard submissions about the tariff which I should set, the tariff being the minimum period which the defendant must serve in prison before his release will even be considered. At the end of the tariff period it will be for the Parole Commissioners to assess what, if any, continuing risk he poses to the public and whether he should be released.

Background

[2] Mrs Nelson was 64 years old when the defendant who was then 66 years old murdered her. She was a retired nurse and the daughter of a midwife. Public service ran in her family. Within her family she cared for her mother, her husband Hector, the father of the youngest of her four children, as he died of cancer and also for her brother Donald who has Down Syndrome.

[3] Mrs Nelson first met the defendant online in December 2018. At that point he lived in England though he was originally from Northern Ireland. Over the coming months they grew closer. It appears that he may first have visited her in Whitehead in September 2019. Within a short time he had moved in and started to live with her. That lasted for approximately one year after which he moved to a flat in Whitehead which she found for him. There is a dispute about why the relationship ended. Her family suggests it was due to his continuous excessive drinking, something which he denies though he cannot give any alternative explanation.

[4] Approximately 18 months passed between their separation around October 2020 and the murder in April 2022. There was some ongoing limited contact between them during this period. While that contact made Mrs Nelson and her children uncomfortable because at least some of it was inappropriate, nobody reported the defendant to the police, nor did anyone have any foreboding about what was to happen in April 2022.

[5] In the weeks before her death Mrs Nelson had started to see a Mr Gault. She had met with and gone out with him on a few occasions. He knew from her that the defendant's continued presence in Whitehead was unsettling. He advised her to keep her doors locked.

[6] On 16 April Mr Gault went with Mrs Nelson for a drink or two in a local bar, the Whitecliff. After a while the defendant arrived, sat at the bar and stared over at them as he had done two weeks earlier. On 16 April however he spoke to Mrs Nelson as she came back from the toilets and then came over to their table. To Mr Gault he looked to be angry and threatening. There was a tense exchange with the defendant being advised to back off. One of the witnesses to this exchange, a Mr Murray, told police that the defendant had recently said to him that he was jealous of Mr Gault's new relationship with Mrs Nelson.

[7] After these exchanges Mrs Nelson left the bar. She and Mr Gault were to go into Belfast by train for dinner but before they did so she wanted to let her dogs out for a few minutes. She was to return when that was done so Mr Gault waited for her in the bar.

[8] A while later the defendant left. CCTV at the front door of Mrs Nelson's home captured what happened next. The defendant arrived wearing latex gloves and entered the house. He left barely a minute later, still wearing the gloves but openly carrying a long knife which he had just used to murder Mrs Nelson by stabbing her repeatedly in a vicious unrelenting attack.

[9] The autopsy report from the Assistant Pathologist, Dr Turner, details the injuries inflicted by the defendant on the much smaller person of Mrs Nelson. They included stab wounds to her cheek, chin, neck and jaw, to the front and back of her chest and to both arms. The fatal wound was one which went through her left chest and passed upwards cutting the major blood vessels on the left side of her neck. The

wounds to her hands were classic defensive injuries sustained as she raised her arms to protect herself from attack. Mrs Nelson died very quickly.

[10] The defendant was seen both entering and leaving Mrs Nelson's home. With this information the police were able to find him in his own home within the hour. They discovered his bloodstained clothes and the latex gloves. In addition they found the knife which had been used to commit the murder. It had already been cleaned.

[11] During his police interviews the defendant lied by saying that he had not seen Mrs Nelson since March when she had kindly given him a lift to the airport. He changed his version of events and admitted that he had seen her in the Whitecliff Bar on 16 April but asserted that other than saying hello to her he had not spoken to her nor did he know who she was with.

[12] Despite the overwhelming evidence against him - the CCTV footage, the knife, the gloves and the bloody clothing - the defendant made no admissions during his police interviews.

[13] As already indicated the defendant did not plead guilty to the murder until November 2023. He was arraigned and pleaded not guilty in February 2023 but at least admitted the killing on that occasion. At that point he was seeking a psychiatric report on mental health issues. That report dated October 2023 from a Dr Kumar was of no assistance to him in any way, a fact which led eventually to the guilty plea in November.

Victim impact statements

[14] Two statements each were provided by Mrs Nelson's two daughters, Laura and Rachel, on behalf of the family. They describe in detail how caring their mother was, showing kindness to complete strangers and being constantly bubbling with life. She was a nurse for many years before ill health forced her retirement. After that, apart from caring for her late husband, she had also cared for her late mother in her final years and then Donald until that became too much for her. Explaining her murder to him was one of the many traumatic aspects of this whole nightmare for Mrs Nelson's children.

[15] Mrs Nelson's role in the Whitehead community was illustrated after her death by the hundreds of people who came out on the streets to support her family and to show their horror at what had been done to her.

[16] Her family's loss is immeasurable. They have lost a beloved mother and a grandmother. She is no longer around to spoil her grandchildren or even to see and hold the youngest one Joseph who was born in August after her death. Birthdays and Christmases will never be the same again for them.

The defendant

[17] The defendant is now 68 years old. Dr Kumar's report and the helpful pre-sentence report provided by Ms Finnegan of the Probation Board depict a man who had a difficult start to his life with his mother dying when he was only 3 years old and his father being away constantly with the Royal Navy. When his grandparents who had cared for him died in 1964 and 1965 his father left the navy. This was a difficult period because his father was, according to the defendant, a functioning alcoholic who was physically abusive. This led to the defendant himself enrolling in the navy when he was 15 years old and remaining there for 25 years, a period of his life which he appears to have enjoyed. His transition to civilian life was more problematic. Employment was not consistent and effectively seems to have ended, he says, when he slipped on black ice in 2019 and suffered concussion which led on to blackouts, loss of memory and social isolation.

[18] The defendant has been married twice before, first in 1971 and then in 2003. Both marriages ended in divorce. His criminal record includes a conviction in 1999 for assault on his first wife and a daughter along with a conviction in 2002 for harassing his first wife and assaulting her. There is also a conviction from 2002 for assaulting a complete stranger, apparently by biting his ear.

[19] In neither the pre-sentence report nor the psychiatric report is there any explanation for the murder. The defendant purports not to recall what he did though I have no reason to believe that claim.

[20] Ms Finnegan analysed the defendant's offending behaviour, both the murder and previous convictions. She refers to incidents which show what she describes as "his ability to lose self-control alongside impulsivity and aggression." Using the accepted assessment process, she suggests that he comes within the high range in terms of the likelihood of reoffending. Despite that he has not been assessed as presenting a significant risk of harm but as I read it, that opinion is based upon him being 68 years old and starting a long period of imprisonment. If there was any prospect of his early release the assessment would surely have to be quite different.

Domestic Abuse and Civil Proceedings Act 2021

[21] The defendant did not just plead guilty to murder. He pleaded guilty to murder "aggravated by reason of involving domestic abuse contrary to section 15 of the 2021 Act". Section 15 which is headed "Aggravation as to domestic abuse" is in the following terms:

"15-(1) It may be specified as an allegation alongside a charge of an offence against a person ('A') that the offence is aggravated by reason of involving domestic abuse.

- (2) An offence as mentioned in subsection (1) does not include the domestic abuse offence (see section 1).
- (3) Subsection (4) applies where -
 - (a) an allegation of aggravation is specified as mentioned in subsection (1), and
 - (b) the aggravation as well as the charge is proved.
- (4) The court must –
 - (a) state on conviction that the offence is aggravated by reason of involving domestic abuse,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) in determining the appropriate sentence, treat the fact that the offence is so aggravated as a factor that increases the seriousness of the offence, and
 - (d) in imposing sentence, explain how the fact that the offence is so aggravated affects the sentence imposed.”

[22] For the purposes of section 15 it is required that there is a personal connection between the victim and perpetrator. The definition of “personal connection” is found at section 18(2) and includes a situation where the two people are living together or have lived together as if spouses or the two people are or have been otherwise in an intimate personal relationship with each other.

[23] In Dr Kumar’s report the defendant is said at paragraph 5.9 to have stated:

“He did not describe (Mrs Nelson) as his girlfriend because he never had a sexual relationship with her.”

The existence of a personal connection does not however depend on a sexual relationship and the fact of a personal connection has been conceded by the guilty plea, properly so.

[24] In light of the 2021 Act, when I sentence this defendant, I must do what section 15 dictates and, most importantly, I must treat the domestic abuse aspect as

an aggravating factor which increases the seriousness of the murder and I must then explain how the sentence which I impose, the tariff, has been affected.

Sentencing

[25] In this jurisdiction the courts continue to take as their starting point for tariffs in murder cases the approach which was adopted in *R v McCandless* [2004] NICA 1. In that case the Court of Appeal endorsed the Practice Statement issued in England and Wales by Lord Woolf [2002] 3 All ER 412.

[26] Paragraphs 10-19 of the Practice Statement read as follows:

“The normal starting point of 12 years

10. Cases falling within this starting point will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para 12. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph.

11. The normal starting point can be reduced because the murder is one where the offender's culpability is significantly reduced, for example, because: (a) the case came close to the borderline between murder and manslaughter; or (b) the offender suffered from mental disorder, or from a mental disability which lowered the degree of his criminal responsibility for the killing, although not affording a defence of diminished responsibility; or (c) the offender was provoked (in a non-technical sense), such as by prolonged and eventually unsupportable stress; or (d) the case involved an overreaction in self-defence; or (e) the offence was a mercy killing. These factors could justify a reduction to eight/nine years (equivalent to 16/18 years).

The higher starting point of 15/16 years

12. The higher starting point will apply to cases where the offender's culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases will be characterised by a feature which makes the crime especially serious, such as: (a) the killing was 'professional' or a contract killing; (b) the killing was politically motivated; (c) the killing was done for gain (in

the course of a burglary, robbery etc); (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness); (e) the victim was providing a public service; (f) the victim was a child or was otherwise vulnerable; (g) the killing was racially aggravated; (h) the victim was deliberately targeted because of his or her religion or sexual orientation; (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing; (j) extensive and/or multiple injuries were inflicted on the victim before death; (k) the offender committed multiple murders.

Variation of the starting point

13. Whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary the starting point upwards or downwards, to take account of aggravating or mitigating factors, which relate to either the offence or the offender, in the particular case.

14. Aggravating factors relating to the offence can include: (a) the fact that the killing was planned; (b) the use of a firearm; (c) arming with a weapon in advance; (d) concealment of the body, destruction of the crime scene and/or dismemberment of the body; (e) particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time.

15. Aggravating factors relating to the offender will include the offender's previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than to risk.

16. Mitigating factors relating to the offence will include: (a) an intention to cause grievous bodily harm, rather than to kill; (b) spontaneity and lack of pre-meditation.

17. Mitigating factors relating to the offender may include: (a) the offender's age; (b) clear evidence of remorse or contrition; (c) a timely plea of guilty.

Very serious cases

18. A substantial upward adjustment may be appropriate in the most serious cases, for example, those involving a substantial number of murders, or if there are several factors identified as attracting the higher starting point present. In suitable cases, the result might even be a minimum term of 30 years (equivalent to 60 years) which would offer little or no hope of the offender's eventual release. In cases of exceptional gravity, the judge, rather than setting a whole life minimum term, can state that there is no minimum period which could properly be set in that particular case.

19. Among the categories of case referred to in para 12, some offences may be especially grave. These include cases in which the victim was performing his duties as a prison officer at the time of the crime or the offence was a terrorist or sexual or sadistic murder or involved a young child. In such a case, a term of 20 years and upwards could be appropriate. "

[27] It was helpfully and correctly conceded by Mr McHugh for the defendant that the present case is one to which the higher starting point of 15-16 years must apply. That is for two reasons. One is that Mrs Nelson was vulnerable in the sense that she was a small woman, noticeably smaller than the defendant. The other is that multiple injuries were inflicted on her before her death. Or, to put it more accurately, we do not know which of the many stabs caused the fatal wound but, whichever one it was, she was stabbed many times either before or after it.

[28] For the prosecution Mr McDowell suggested multiple aggravating factors were present. Mr McHugh acknowledged those factors but emphasised the risk of double-counting or duplicating them by breaking them down to excess. In my judgment, taking account of the very helpful submissions of counsel, the aggravating factors can be summarised as follows:

- (i) The attack was premeditated – the defendant did not leave the bar, go home and then go to Mrs Nelson's. Rather he left the bar and went to her home either via his car or directly on foot. This means that he had the knife and the latex gloves on his person or in his car. No innocent reason has been advanced for him having the gloves and the knife so readily available. The only possible inference is that at some point before he went to the bar that day, he had decided to attack Mrs Nelson if and when he got the chance to do so. When that chance presented itself, because she went home to let her dogs out, he took it. It was the opposite of a spontaneous act committed in the heat of an emotional moment.

- (ii) The attack was sustained – it was not a single stab wound which Mrs Nelson suffered.
- (iii) Mrs Nelson was not just physically smaller, but she was also vulnerable in the sense that she was in her own home where she should have felt safe.
- (iv) The defendant was trying to clean up the evidence when he was arrested by the police and had already cleaned the knife.
- (v) He has previous convictions of a domestic abuse nature. While I accept that those offences were committed 20 years earlier, they show a willingness to attack and inflict injury on partners, past or present.
- (vi) Lack of remorse – Mr McHugh was instructed to express remorse on behalf of the defendant, and he fulfilled his duty by doing so. I find the defendant’s claim to be remorseful to be deeply unconvincing. In large part that was because no remorse at all was expressed after the murder to the police or in October 2023 through Dr Kumar or in December 2023/January 2024 to Ms Finnegan. It is debatable whether lack of remorse is an aggravating factor but at the very least the fact that it appears to me to be absent indicates that it is not a mitigating factor.
- (vii) The murder was the result, on the defendant’s own case, of jealousy at the new relationship with Mr Gault. Some evidence to support that proposition comes from local witnesses who say they had seen a change in his demeanour in previous weeks and months. Yet this murder is exactly one presentation of domestic abuse – the former partner becomes distressed/upset/angry about a new relationship, lets those feelings fester and then explodes violently. The 2021 Act identifies that as an aggravating factor. Before the Act came into force it was already recognised as an aggravating factor in many cases – see for example *R v Hutchison* [2023] NICA 3 which involved a murder in 2019 by the defendant of a long-term partner. Although that murder was committed before the 2021 Act came into force, Keegan LCJ explicitly highlighted that repeated domestic violence culminating in murder will attract heavier sentencing.

[29] For the defendant Mr McHugh invited me to recognise as a mitigating factor the fact that the defendant is now 68 years old. He submitted that it would be merciful to impose a sentence which held out some prospect of parole. In this context he highlighted the fact that the pre-sentence report reveals that within the prison the defendant has behaved well in a number of ways e.g. he is engaging in education, he is on an enhanced regime, he has received no adjudications against him due to misconduct and he has volunteered as a mentor to help others. It was submitted that for a man of his age prison might be especially tough.

[30] I do not accept that the defendant's age is such that it is a mitigating factor. There are certainly cases where youth can be and is recognised as a mitigation, but it is more difficult to find cases where old age operates in that same way, to make a difference of any significance to sentencing.

[31] In *R v Clark* [2017] 1 WLR 3851 the two defendants were 101 years old and 96 years old and were sentenced for sex offences to 13 years and 3 years respectively. Their unsuccessful appeals against sentence raised the issue of what allowance might be made for old age within the rather more tightly regulated sentencing regime in England and Wales. The court reviewed a number of decisions and then said at para [25]:

“Whilst we consider that an offender's diminished life expectancy, his age, health and the prospect of dying in prison are factors legitimately to be taken into account in passing sentence, it has to be balanced against the gravity of the offending, (including the harm done to victims), and the public interest in setting appropriate punishment for very serious crimes. Whilst the court should make allowance for the factors of extreme old age and health, and whilst courts should give the most anxious scrutiny to those factors ..., we consider that the approach of taking them into account in a limited way is the correct one.”

[32] The court also highlighted at para [26] that the Secretary of State has the statutory power to release a sentenced prisoner on compassionate grounds provided there are exceptional circumstances. Those circumstances may include such things as a terminal illness with death expected soon or where a prisoner has become severely incapacitated.

[33] The approach in *Clark* was endorsed in this jurisdiction by the Court of Appeal in *DPP's Reference (No 1 of 2018) Vincent Lewis* [2019] NICA 26. The accused was 91 years old and had his sentence increased from 11 years to 12 years on the basis that the shorter sentence was unduly lenient. Of particular note is that at para [19] the court stated:

“We are satisfied that the learned trial judge approached the question of discount for age in a very limited way as suggested in *R v Clarke*. The practical outcome of that assessment must depend upon the circumstances of the individual case.”

[34] Applying those principles to the present case, this defendant is not so old as to be able to use his age as a mitigation. Nor is there any evidence of ill-health never mind ill-health to any alarming degree to warrant a shorter sentence.

Conclusion

[35] Taking all of the factors together it is clear that the starting point of 15-16 years must increase substantially. I should make it clear that this is not a mathematical process in which three aggravating features mean three extra years. The consideration of every case is more nuanced and imprecise than that.

[36] While Mr McHugh accepted that each case turned on its own terms, he suggested that *Hutchison* was a worse case than the present. In *Hutchison*, before the court allowed the defendant some credit for his guilty plea, the sentence was 24 years, and the ultimate sanction was a 21 year tariff.

[37] On one approach Mr McHugh is correct in his comparison between the present case and *Hutchison*. The degree of violence in *Hutchison* was even worse than in Mrs Nelson's case and the history of domestic violence was substantially greater too. But as the Court of Appeal observed at para [29] of *Hutchison*, the effect of aggravating and mitigating factors is a "fact specific exercise" in each case.

[38] In the present case I am particularly struck by the level of premeditation i.e. the fact that the defendant had the latex gloves and knife to hand for when he got his chance to murder, a chance which he seized mercilessly. I am also struck by the extremity of what he did in light of the fact that his limited relationship with Mrs Nelson was comparatively short-lived and that 18 months had then passed for him to recover from any disappointment or hurt caused by the fact that it had ended.

[39] Taking all of these factors together, and before making any allowance for the guilty plea, I consider that a minimum sentence of 23 years is warranted. With reference to section 15 of the 2021 Act the fact that the offence of murder has been aggravated by domestic abuse has affected my analysis in that I have added three years to what would otherwise be a 20 year sentence. (Even without the mandatory requirements imposed by the 2021 Act the domestic abuse factor would have been similarly recognised for the reasons set out so clearly by the Lady Chief Justice.)

[40] Turning finally to the plea of guilty, it is well recognised that some reduction is appropriate even in cases of a late plea. I bear in mind in the present case that the defendant's acceptance of the facts of what he had done was relayed to the court and therefore to the family of Mrs Nelson in February 2023. In the case of *R v Turner* [2017] NICA 52 Morgan LCJ stated:

"There are very few cases indeed which would be capable of attracting a discount close to one-third for a guilty plea in a murder case ... Each case clearly needs to be considered on its own facts, but it seems to us that an offender who enters a not guilty plea at the first arraignment is unlikely to receive a discount for a plea on

re-arraignment greater than one-sixth and that a discount for a plea in excess of 5 years would be wholly exceptional even in the case of a substantial tariff.”

[41] It may not seem to Mrs Nelson’s family and friends that a guilty plea in the present case deserves any credit when the case against the defendant was overwhelming. I should also acknowledge that I appreciate from the victim impact statements how frustrated the family has been at the drawn out legal process. However a guilty plea is of value for at least two reasons. One is that it allows the family to hear the defendant have to accept his guilt openly and publicly. The second is that it saves the family from the ordeal of having to give evidence or hear others give evidence about the terrible events of April 2022.

[42] In the circumstances of this case I allow some limited credit to the defendant for his plea of guilty and I set the tariff which he must serve as 20 years. Only when that term has been served will the Parole Commissioners consider whether he should be released from jail.