

Judicial Communications Office

22 November 2024

COURT FINDS THREE MEN GUILTY OF IAN OGLE MURDER

Summary of Judgment

Mr Justice McFarland, sitting today without a jury in Belfast Crown Court, found Glenn Rainey, Walter Alan Ervine and Robert Spiers guilty of the murder of Ian Ogle on 27 January 2019. Jonathan Brown and Mark Sewell had already pleaded guilty to the murder.

Background

Ian Ogle (“the deceased”) was attacked at approximately 21:30 by five men in Cluan Place, Belfast close to its junction with the Albertbridge Road. A postmortem report found that he had been stabbed a total of 11 times, and the cause of death was certified as a stab wound to the chest. The deceased also had 37 bruise sites and seven abrasion sites to his face, head and other parts of the body which could have been caused by punches or kicks from a shod foot. The attack lasted for about 30 seconds.

On 1 February 2024, Jonathan Brown and Mark Sewell pleaded guilty to the murder. Others have pleaded guilty to offences relating to the murder: Jill Morrison, Thomas McCartney and Christopher Haire pleaded guilty to assisting an offender and Reece Kirkwood pleaded guilty to withholding information.

Events of 27 January 2019

The deceased, his partner (Vera Johnston), their daughter (Toni Johnston) and their son (Ryan Johnston) were together at his daughter’s house on the early evening of 27 January 2019. They left by car to go to the deceased’s home and on the way, they saw the deceased’s second cousin, Neil Ogle. Neil Ogle had been in the Prince Albert Bar on 1-2 July 2017 when the deceased and his son were in a fight with Ervine, Rainey and Brown but had not intervened to assist. The court heard that there had been a history of animosity between the defendants and members or associates of the deceased’s wider family for several years.

Ryan Johnston got out of the car and started punching Neil Ogle. The deceased did not punch Neil Ogle but grabbed him and said to his son to “get into him”. Neil Ogle ran towards his partner’s house and was seen by the others using his mobile phone. A caller dialled 999 to report the fight at 20:45 but it had ended by the time she finished the call. The deceased, his partner and Ryan Johnston returned to his home in Cluan Place.

At approximately 21:15, Sewell entered the Prince Albert Bar and went up to the partner of the deceased’s brother and said “Neil Ogle is lying in a pool of blood and you got him set up” or words to that effect. Sewell also threatened another relative of the deceased outside the bar before getting into a car with Brown and driving off towards the Newtownards Road.

CCTV cameras captured footage of five men passing a bus stop on the Albertbridge Road at 21:19:50 walking in the direction of Cluan Place. The prosecution asserts these were the defendants together with Brown and Sewell. Kevin Senbrook, the pastor of a local church, was speaking to the

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deceased at approximately 21:00 and said he was in an agitated state saying “they were on their way.” Senbrook saw the five men approach and attack the deceased with such ferocity that he described it as being “like a pack of hyenas.” The men had their faces covered and he could not describe them but saw one of them striking the deceased with what looked like a baseball bat. Senbrook said the men continued to hit the deceased after he had fallen to the ground and one man, who he described as the smallest of the group, returned to stamp on the deceased’s head four or five times. Another witness who had been chatting with Senbrook and the deceased described one of the attackers as having a “long skinny metal rod type thing” which was used to strike the deceased repeatedly. He said another had a baseball bat. This witness was told that if he said anything he would get the same treatment. The attack lasted for 30 seconds from 21:19:31 to 21:20:01.

CCTV cameras captured the five men leaving the scene. They were seen getting into a black Seat Leon with the registration number JGZ7406. The registered keeper of the Seat Leon was Jill Morrison, Brown’s partner. It was searched and subject to DNA sampling on 29 January 2019.

On 28 January 2019, Brown and Rainey got a lift to Dublin Airport and used cash to purchase tickets for a flight to Moscow leaving that day with an onward flight to Bangkok. Brown returned to London Heathrow Airport on 6 February 2019 on a flight from Bangkok and was arrested by police. Rainey arrived at Manchester Airport from Bangkok on 3 March 2019 and was also arrested. On 28 January 2019, Ervine asked his half-sister to take him to Larne to get the ferry to Cairnryan. He said he was planning to work there for a few days. He travelled as a foot passenger. On 4 February 2019 Ervine presented himself voluntarily to the police and was arrested.

On 14 February 2019, an extendable baton and a 33 cm long knife were recovered by police officers from the bed of the Connswater River close to the Mersey Street Bridge. The knife was confirmed by the pathologist as being capable of causing the fatal wound to the deceased, as could any knife with similar dimensions.

During police interview, Rainey, Ervine and Spiers largely gave “no comment” responses but stated that they had no involvement in the murder. Spiers went on to tell the police that he didn’t own a mobile phone, he had no knowledge of the assault on Neil Ogle and didn’t know how the knife came to be missing from his flat.

Core legal principles

The case against each defendant was circumstantial in nature. The case of *R v Exall* [1886] 4 F&F 922 states that in circumstantial evidence cases the pieces of relevant admissible evidence are to be treated as threads or cords wound together and at the conclusion of the case, taking all the evidence into account, a tribunal of fact will determine if the resulting rope created by the threads and cords is substantial enough to bear the burden placed on the prosecution to prove the guilt of each defendant beyond reasonable doubt.

None of the defendants gave evidence at the trial and did not call any evidence. The court said they are entitled to do so and to make the prosecution prove their guilt. It noted two issues. The first is that the case is tried against each defendant according to the evidence, and none of the defendants have given evidence to undermine, contradict or explain the prosecution evidence. The second is that the court may draw such inferences as appear proper from their failure to do so. Although each defendant through their counsel invited the court not to hold the failure against

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them, no evidence was placed before it upon which it could make such a decision. The court said that should it decide to draw inferences from their failure to give evidence it would be on the basis that given the case against each defendant it would have thought that the defendant should have given evidence to give an explanation for, or an answer to, the case against them. It can only do this if it thinks it is a fair and proper conclusion and that it is satisfied that the prosecution's case is such that it clearly calls for an answer by that defendant and that the only sensible explanation for that defendant's silence is that he has no answer, or none that would bear examination. Finally, the court may take it into account as some additional support for the prosecution's case but cannot find any of the defendants guilty only, or mainly, because that defendant did not give evidence.

The murder count on the indictment

The defendants were jointly charged with the murder of Ian Ogle. To be guilty of murder it must be proved that a person has killed another person and that he either intended to kill that person or to cause that person really serious bodily injury. Brown and Sewell have already pleaded guilty to that charge on the basis that they killed Ian Ogle with an intention of causing him really serious bodily injury. The evidence shows that five men walked along Albertbridge Road towards Ian Ogle at the Cluan Place junction. By their admissions Brown and Sewell have acknowledged that they were part of the group.

The prosecution case is that Rainey, Ervine and Spiers made up the rest of the group. The evidence was that it was a ferocious attack on Ian Ogle with each member of the group participating. The attack was also recorded on CCTV. The prosecution do not need to prove which of the defendants actually stabbed Ian Ogle and delivered the fatal wound. The court said:

“The man who used the knife may have direct responsibility for the death, but it is clear beyond any doubt that each of the five men were involved in the attack on Ian Ogle and that each intended to cause him, at the very least, really serious bodily injury. One used a knife, one used a baton, and the others used fists and/or their feet to attack him. This is not a case of the group forming an intention to commit one crime (eg a common assault) but that one of the group produced and used a knife with an intention to commit another crime such as wounding with intent or murder. ... The issue is therefore straightforward - Can the prosecution prove beyond reasonable doubt that Rainey, Ervine and Spiers were part of the group of five men with Brown and Sewell that attacked Ian Ogle? Taking each defendant in turn, if the answer to that question is yes, then that defendant is guilty of the murder of Ian Ogle.”

Consideration of the evidence

Identification

CCTV images show five men passing under a Glider bus stop on the Albertbridge Road at 21:18. When analyzing the images, the police allocated numbers to each man as follows: Male 4 (who the prosecution assert is Ervine), Male 2 (asserted to be Sewell), Male 5 (asserted to be Spiers), Male 3 (asserted to be Rainey) and Male 1 (asserted to be Brown). The five men are recorded on CCTV walking first towards and then away from the murder scene. The court was satisfied that these males are one and the same persons on both journeys as the clothing each of the men was wearing is distinctive.

- **Males 2** (Sewell) and **1** (Brown) have confessed to their involvement in the murder.

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- **Male 4** is the male who is leading the group both towards and back from the murder scene. CCTV images show his clothing consisted of a blue zipped jacket and dark coloured tracksuit-type bottoms displaying three white parallel stripes starting at the knee and running vertically down the leg to the bottom. At the bottom the stripes turn at an angle to be near horizontal. The court said this would appear to result from the bottoms either being too long for the wearer or lack of support at the waist. Male 4 is also wearing trainers with a grey upper and white sole. The prosecution assert that this clothing is identical to clothing worn by Ervine earlier that day when he was captured on CCTV at 12:15 in a local shop using a cash machine. This correlates with the time that cash was withdrawn from Ervine's bank account at this shop. The court was satisfied that the male shown on the CCTV within that shop at that time is Ervine. It said the distinctive directional change of the three parallel stripes at the shoe could not be regarded as unique although it was unusual. The court's overall assessment was the clothing worn by Ervine at 12:15 on 27 January 2019 is similar in type to the clothing worn by Male 4 at 21:19 that evening. It did not discount the possibility that Ervine changed his clothing during the day, although there was no evidence presented to the court that he did. This was circumstantial evidence upon which the court could rely but give modest weight to. The court also concluded that Ervine is not dissimilar in height or build to Male 4 and while this cannot assist in any form of positive identification, it was not evidence that points away from Ervine's involvement.
- **Male 5** was the third man to arrive at the bus shelter on the way to Cluan Place and the prosecution say that this man is Spiers. The prosecution presented no evidence about clothing worn by Male 5 and comparisons with clothing worn previously by Spiers. The court concluded that based on observations of Spiers in the court room, he is not dissimilar in height or build to Male 5. This cannot assist in any form of positive identification, but it is not evidence that points away from Spiers's involvement.
- **Male 3**, the fourth male to arrive at the bus shelter, is the person that the prosecution say is Rainey. Male 3 was wearing a dark waist length blue coat, grey tracksuit bottoms and white trainers. CCTV footage shows his jacket has a small distinctive motif on the right upper chest. There is also a very small light coloured spot in the left collar area near to the centre. On 23 January 2019 a male is captured on CCTV withdrawing £3,000 in cash from Rainey's bank account at the Bank of Ireland branch on High Street, Belfast. The male is wearing a baseball hat, but his face is clearly seen. The court was satisfied that Rainey was the man making the cash withdrawal. Rainey's jacket is a dark colour with a small distinctive motif on the right upper chest and a very small light coloured spot in the left collar area near the centre. The court said that no evidence has been presented about this motif or any brand of clothing associated with it. Its conclusion was that the jacket worn by Rainey on 23 January 2019 was similar to that worn by Male 3 and that this was circumstantial evidence upon which it could rely but give very modest weight to. The court also concluded that based on the recorded images of Rainey and its observations of Rainey in the court room, that he is not dissimilar in height or build to Male 3. This cannot assist in any form of positive identification, but it is not evidence that points away from Rainey's involvement.

The police have been unable to recover the clothing items worn by Males 4 and 3 with the inference being that both disposed of the items of clothing in the aftermath of the murder. The court said this is entirely speculative, and it could draw no such inference from the failure of the police to locate the clothing.

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Cell site analysis

The court's assessment of the cell site analysis was that there is insufficient evidence to place, to any accurate degree, telephones 763 (Sewell), 290 (Ervine) and 614 (Rainey) at any particular location at any particular time. It said the cell site evidence in relation to Rainey's and Ervine's telephones has the potential to place them at the murder scene at the relevant time, but also to place them elsewhere. It is therefore of little probative value in proving the prosecution case against them. It, however, does not exonerate them or point away from their guilt and is merely neutral in character. Spiers's telephone (502) does not feature in the analysis. The court considered the evidence strongly suggests that this telephone remained located in an area either in, or adjacent to, his home although it was not used between 21:02 and 21:52, or Spiers may have left his home and left his telephone at his home. The court concluded that all the cell site evidence is neutral in character in respect of each of the defendants.

Wye Street

The prosecution case was that the group assembled at Sewell's property at 14 Wye Street, and then used Brown's vehicle to travel to the murder scene, via the Prince Albert Bar. In submissions this was couched as a likelihood and the court said it was not necessary for the prosecution to prove that the group did assemble at that location, or who comprised the group at that stage. The CCTV images at 20:21 show a person cycling along Wye Street and dismounting whilst the bicycle is still moving before entering 14 Wye Street. The prosecution can prove that Erskine owned and used a bicycle at that time and on 26 January 2019 when using it, he dismounted using a similar method to the person observed at 20:21. The court did not regard this evidence as probative in any way. A similar attempt was made to suggest that another male walking along Frome Street in the direction of Wye Street could be Spiers. The court also considered that this evidence had no probative value.

DNA evidence

The court was satisfied that the DNA evidence indicates that cellular material from both Ervine and Rainey was located in the Seat Leon vehicle JGZ 7406. It was satisfied that this was the vehicle that brought the group to and from the murder scene and also that four men were in the car at the Prince Albert Bar at 21:15.

On 29 January 2019 the vehicle was subjected to sampling for DNA. A white JD Sports plastic bag was found in the rear nearside footwell containing a pair of Nike branded training shoes, a Diesel branded hat, and bank notes totalling £1,680 in an Ulster Bank fast lodgement envelope. The laces of the right training shoe had a predominant DNA profile matching that of Brown. A blood sample was recovered from the toe area with a predominant DNA profile matching Ian Ogle. The laces and inner heel of the left training shoe had a predominant partial DNA profile matching Brown. A blood stain on the sole had a profile matching Ian Ogle. A mixed DNA profile from two individuals was obtained from the hat and Sewell's DNA characteristics were present in the mixture. Swabs were taken from the interior of the vehicle. One swab from the inner front near side door contained a predominant DNA profile which matched Rainey. Another mixed DNA profile was obtained from the rear near side seat belt release mechanism with Ervine's DNA characteristics present.

The court said the presence of Brown's shoes with Ian Ogle's blood on the toe and sole of one of the shoes, clearly indicates that this was the vehicle used by Brown and others after the murder. The court did not consider that the presence of DNA material from Ervine and Rainey added much to

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the prosecution case against either as it may have been deposited by both when they were seated in the rear of the vehicle during those journeys or on other occasions. The court rejected the prosecution suggestion that the likelihood of their presence in the vehicle prior to that evening was significantly reduced as the vehicle belonged to Brown's partner and she had only owned it for a short period before the murder. It did not regard this evidence as particularly probative. The court also considered the lack of any cellular material attributable to Spiers in the vehicle. It said this did not point away from his guilt but was neutral in character. It said Male 5 was the only man wearing gloves, and if Spiers is Male 5, as the prosecution suggest, the opportunity for him to deposit cellular material from his touching of objects would be significantly reduced.

Motive

The issue of motive relates to the defendants Rainey and Ervine and to the incidents at the Prince Albert Bar on 1-2 July 2017 and on the Newtownards Road in September 2017. In the Prince Albert Bar, Rainey, Brown and Ervine were fighting with Ryan Johnston. Others were also involved, including Ian Ogle at a later time. During this fight Neil Ogle did not take the side of his family. Later in September 2017, Ervine made significant threats to the deceased's partner, threatening to kill their son Ryan Johnston, telling their daughter Tori Johnston that Ian Ogle would "never walk the Newtownards Road again" and that they didn't have a clue what was coming. The court said this hostility between the groups simmered on as time passed. It said there was no evidence that either Sewell or Spiers were involved in any of these confrontations although that after Ian Ogle and Ryan Johnston assaulted Neil Ogle on 27 January 2019, Ian Ogle shouted to Neil Ogle that he should get "Saucy [Rainey] and Sewell", which was a clear indication of Ian Ogle's perception as to where Sewell's true loyalties lay.

The court was satisfied that notwithstanding the gap in time between the 2017 incidents and the murder, there was clear evidence that there was an ongoing feud persisting in the area. It did not propose to use a pejorative term such as 'gang', favouring instead the word 'faction.' One such faction involved Ian Ogle and his immediate family and their associates. The other involved Neil Ogle, Brown, Sewell, Rainey and Ervine, and probably others. The court was satisfied that the evidence clearly reflects the assault on Neil Ogle as the precipitating event with the Brown faction seeking revenge against Ian Ogle and his faction. It said the fact that Rainey and Ervine were members of a faction which included Brown, Sewell, and Neil Ogle and that faction had a motive to seek and execute revenge against Ian Ogle, was strongly supportive of the proposition that both were members of the group of five men identified in the CCTV images on Albertbridge Road.

Evidence of association with a faction or gang, however, will never be enough upon which to base any criminal charge. The relevance is the overall surrounding circumstances. The court said there was no evidence to suggest that Spiers was involved in any way in relation to the internecine dispute, and therefore this aspect of the evidence did not impact on him, however it did not consider this pointed away from his guilt, given his association with Brown and others, in the telephony evidence.

Telephony evidence

While there was no evidence of what was actually said or communicated by messages in the interaction between the various telephones, the court said it could draw inferences as to the general thrust of the content. The relevant times of the significant events on 27 January 2019 are as follows:

- Ian Ogle and Ryan Johnston assault Neil Ogle at 20:45

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- Seat Leon leaves Pitt Place at 20:47
- Seat Leon leaves Wye Street at 21:09
- Seat Leon arrives at Prince Albert Bar at 21:14
- Murder of Ian Ogle at 21:19.

The telephony evidence prior to 20:45 reflects contact or attempted contact, between Brown and Spiers (both ways), Ervine and Kirkwood (both ways), and Neil Ogle and Brown. As this was all prior to the assault on Neil Ogle the court said this can be categorised as normal social communication between friends. After he was assaulted, Neil Ogle made a call to Brown at 20:45 lasting 97 seconds. The court was satisfied that the purpose and content of that call was to alert Brown to the fact that he had been assaulted by Ian Ogle and Ryan Johnston. There then followed an exchange of calls and text messages between Brown, Spiers, Sewell, Rainey and Ervine. The Seat Leon then left Wye Street at 21:09. The prosecution case is that at that time the group had assembled, and they were on their way to conduct the attack on Ian Ogle. After 21:09 there are no calls or text messages passing between Brown, Sewell, Ervine, Rainey and Spiers for a period of 43 minutes.

The court was satisfied that a strong inference can be drawn from the telephony activity and lack of activity, and then the renewed activity within the group which re-commenced at 21:52. It said the inference was that the group did not need to communicate with each other during this period as they were either in each other's company or had hatched a plan about which they did not need to communicate. It said that given the other evidence with regard to the movements of the vehicle, and the movements around Sewell's house on Wye Street, the most likely explanation is that they were together in that house and then in the Seat Leon. The communications commenced again at 21:52. The last recorded telephony contact within the group of five men was at 22:35. The telephones then detached from the network and apart from Rainey phoning Aeroflot on 28 January 2019, they were not used again for any telephony purpose. None of the telephone devices were recovered by police.

The court also considered what inferences it could draw for the activity after the murder. The evidence was that the group split up with at least two of the members making off on foot and the others departing in the Seat Leon. The prosecution suggested a sequence of the movements of the group. Two men are seen running across Newtownards Road at 21:28 and while these individuals cannot be identified, the court was satisfied they were part of the group of five. The Seat Leon returned to Pitt Place at 21:39, before being moved around the corner at 21:45 and the court was satisfied that the person driving the vehicle to Pitt Place was Brown. The court was also satisfied that the telephony exchanges started again when the members of the group had reached a place of perceived safety, either within their own respective homes or at other property. At 22:00 Brown became aware that the police had traced the vehicle, which contained some or all of the clothing he wore when he murdered Ian Ogle. The court was satisfied that Brown's contact after that was to alert others, to attempt to evade justice, and to concoct some sort of innocent explanation or alibi and that amongst others, he contacted Rainey, Ervine, and Spiers. A strong inference could be drawn that the purpose of the calls was to alert them as to the problems each now faced, and to plan their next moves. The court considered whether or not there could be an innocent explanation for these calls, or at least one which might not be related to the non-involvement of Rainey, Ervine or Spiers in the murder of Ian Ogle but no such explanation was suggested:

“The overwhelming inference that can be drawn from all the telephony evidence is that Brown, Sewell, Rainey, Ervine and Rainey made up the group that murdered Ian Ogle.

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The constituent parts of the telephony evidence comprise a very strong cord on which the prosecution case relies.”

Rainey's departure from Northern Ireland

Rainey used the mobile attributed to him to telephone Aeroflot on 28 January 2019 and arranged with his cousin to give him a lift to Dublin airport. When Rainey's cousin picked him up, Brown was also there. Brown and Rainey entered Dublin airport at 19:54 and then purchased tickets at the Aeroflot desk using cash for flights to Thailand, via Moscow. Rainey's counsel suggested that this travel was a regular occurrence on the part of Rainey, that this trip was pre-planned as he had withdrawn cash for it on 23 January 2019 and that he had a girlfriend in Thailand.

The court, however, said the proposition was flawed for a number of reasons. It said there was no actual evidence that Rainey had planned ahead for this journey, neither was there any evidence given as to the reason for the travel at such short notice. The apparent foresight of withdrawing cash in advance of, and for the purpose of, foreign travel was rebutted by the evidence of the method by which he arranged his flight and the short notice of the booking. The court said the paying of cash at an airport desk for last minute flights on Aeroflot and via Moscow was highly unusual and clearly indicative of a last-minute effort to leave the jurisdiction. The issue was not whether Rainey did have a girlfriend in Thailand, and he was going to visit her, but rather why would he wish to fly to Thailand at such short notice and in the method that he used in the company of Brown who had murdered Ian Ogle the previous day. The court said the fact that he returned without spare clothing into Manchester airport on 3 March 2019 would support his contention that he was visiting a location where he kept or stored clothing, but such a location could just as easily be regarded as a refuge in a time of trouble as opposed to a visit to a girlfriend. The court rejected the explanation suggested by Rainey for his departure. It was satisfied that the method and timing of his departure is a very strong piece of evidence that makes up the circumstantial case against him.

Ervine's departure from Northern Ireland

Ervine's departure from Belfast was also at short notice. His girlfriend phoned his half-sister on 28 January 2019 asking her to take him to Larne to catch the ferry to Scotland. The reason for the journey was stated to be that Ervine was planning to work in Scotland. Ervine was accompanied by another man when he was picked up about 10:30 on 28 January 2019. Foot passenger tickets were purchased with cash at the terminal. Ervine's counsel suggested that such a journey could not be regarded as unusual or suspicious given the employment, cultural and sporting links between Northern Ireland and Scotland but the court rejected this as a possible explanation for the journey. It said there was no evidence why Ervine went to Scotland, or to corroborate the statement of his girlfriend that he was going to work there or why short notice had been given:

“The urgent nature of the travel request and the perception of Jenkins that it was unusual, suggest that this was not a planned trip, but had been arranged in haste, within 12 hours of the murder of Ian Ogle. As with Rainey, I am satisfied that the method and timing of Ervine's departure is a very strong piece of evidence that makes up the circumstantial case against him.”

The Ernesto knife

There is no forensic link between the knife and baton and any of the defendants (or any other individual including Ian Ogle) although the court said that given their presence in the water one

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would not expect any forensic material to be adhering to them. One of the witnesses on 27 January 2019 described one of the males carrying a knife in his back pocket with the blade (estimated at seven to nine inches) protruding. The CCTV images of Male 5 appears to show such an implement protruding from his back trouser pocket and then later Male 5 holding a knife. Males 4 and 5 are captured by CCTV images after the murder with Male 4 carrying what appears to be a gold or silver coloured baton which was extended and Male 5 carrying what appears to be a knife.

The recovered knife was a 33 cm Ernesto 290435 coded brand. The court was satisfied that it is part of a seven-piece set comprising five knives, a sharpening tool and a cutting board. This set was readily available from a Lidl store at Connswater and at other outlets in the Belfast area, as well as by mail or internet order. The court said the proximity of the baton and the knife together on the riverbed was strongly supportive of the fact that they were both used in the attack. It also considered the results of searches of Spiers's home address. He had such an Ernesto knife set, however, he had six pieces from the set with the 33cm knife missing. The court rejected the suggestion made by Spiers that his house was treated as an 'open' house or 'party' house with people coming and going and taking things with them. It said the issue was how many houses in the Connswater area have the 33cm knife missing and have occupants who spoke to Brown just prior to the murder when Brown was organising the assembly of a group to attack Ian Ogle:

"As each of these variables applies the number starts to diminish rapidly. In conclusion I consider that the fact the 33cm Ernesto knife was missing from Spiers's house, and such a knife was located in the Connswater river is very supportive of the proposition that Spiers carried and used that knife in the murder of Ian Ogle."

Spiers's lies to the police

The prosecution also relied on the fact that Spiers lied to the police when he was being interviewed about not owning a mobile phone and not knowing about the assault on Neil Ogle. The court considered that both of these lies had the potential to support evidence of Spiers's guilt as opposed to merely undermining his general credibility when one considers the answers he gave to the police. In such circumstances the court is required to consider why Spiers lied, and to ignore the lies unless it is satisfied beyond a reasonable doubt that he did not lie, for example to cover up an involvement in this incident, but short of murder, or for another innocent reason such as out of shame or embarrassment given his association with others who were involved in the murder. The court said the fact that Spiers has lied does not, in itself, prove that he is guilty.

Spiers had not admitted he did lie, so the court had no explanation from him as to why he lied. It considered all the relevant surrounding evidence to ascertain if there was an explanation that would explain why he lied about these two crucial matters - his knowledge about the precipitating incident that resulted in the murder of Ian Ogle and his ownership of a mobile phone. The telephony evidence indicated contact between Spiers and Brown at the relevant time before and after the murder but ceased very shortly after the murder. There was no contact with the other parties. The court said that on his case, he had no connection with the murder that would require him to lie. His association with Brown are the text messages and phone calls on 27 January 2019 with Brown departing Belfast the next day:

"I am therefore satisfied beyond a reasonable doubt that Spiers did not have a reason, or reasons, to lie to the police about not owning a mobile phone or knowing about the assault on Neil Ogle which were innocent in nature, such as out of shame or

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embarrassment about his connection to Brown, or others, or to conceal his involvement in this incident short of him committing the murder. As such I can take his lies into account as further support for the prosecution case against Spiers.”

The failure of Rainey, Ervine and Spiers to give evidence

The dominant strands that make up the case against **Rainey** are his association with the faction which included Brown, Sewell, Neil Ogle and others and his previous conduct towards the Ian Ogle faction; the telephony evidence prior to and after the murder, and his departure from Northern Ireland with Brown the day after the murder. Of lesser importance is the DNA evidence, the clothing comparison and the cell site evidence. The court did not consider that the weight it can attach to the DNA, clothing comparison and cell site evidence is such that it requires an explanation from Rainey. However, it considered the other evidence to be particularly significant. Each of these strands calls for an explanation from Rainey, and his failure to give one meant that the court can draw an inference against him. It said it proposes to do so, and as such it further supports the case against him, both in enhancing the strength of the inferences that can be drawn from these individual strands, and by assisting the prosecution in rebutting any notion of coincidence in relation to these and the other weaker strands.

The dominant strands that make up the case against **Ervine** are his association with the faction which included Brown, Sewell, Neil Ogle and others and his previous conduct towards the Ian Ogle faction, including specific threats to do harm to Ian Ogle; the telephony evidence prior to and after the murder, and his departure from Northern Ireland the day after the murder. Of lesser importance is the DNA evidence, the clothing comparison and the cell site evidence. I do not consider that the weight that I can attach to the DNA, clothing comparison and cell site evidence is such that it requires for an explanation from Ervine. However, I consider the other evidence to be particularly significant. Each of these strands does, in my view, call for an explanation from Ervine, and his failure to give one means that I can draw an inference against him. I propose to do so, and as such it further supports the case against him, both in enhancing the strength of the inferences that can be drawn from these individual strands, and by assisting the prosecution in rebutting any notion of coincidence in relation to these and the other weaker strands.

Spiers did answer some of the questions posed by the police, so the court has received some evidence about some explanations that he has given. However, he did not give evidence under oath, and he did not allow himself to be cross-examined about his involvement in the murder. The strands that make up the case against Spiers are the telephony evidence prior to and after the murder, the missing Ernesto knife from his knife set, and his lies to the police. I consider all of this evidence to be particularly significant. Each of the strands does, in my view, call for an explanation from Spiers. What he did say to the police lacked credibility and therefore his failure to give explanations means that I can draw an inference against him. I propose to do so, and as such it further supports the case against him by enhancing the strength of the inferences that can be drawn from these individual strands, and by assisting the prosecution in rebutting any notion of coincidence in relation to these strands.

Conclusion

The court commented that this was a circumstantial case involving different strands of evidence. It gave no weight to some of the strands of evidence and very little weight to others. The court referred specifically to the identification evidence based on clothing comparisons and use of a bicycle, the cell-site analysis and the DNA evidence from the rear of the Seat Leon. It said,

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however, the other strands of evidence are of much greater significance and weight. In the cases of Rainey and Erskine, it referred to the evidence of motive and the nature of their respective departures from Northern Ireland the day after the murder. In the case of Spiers, it referred to the Ernesto knife and the lies he told the police. In relation to all of the defendants the court regarded the telephony evidence to be highly significant and probative: “It is a very weighty cord in the rope relied upon by the prosecution.”

The court said it could not identify any evidence that points away from any defendant:

“In all the circumstances I am satisfied beyond all reasonable doubt that Rainey, Erskine and Spiers were part of the group of five men, the others being Brown and Sewell, that murdered Ian Ogle at Cluan Place at 21:19 on 27 January 2019, and I find each guilty of count 1 on the indictment.”

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Judiciary NI website (<https://www.judiciaryni.uk/>).

ENDS

If you have any further enquiries about this or other court related matters please contact:

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