

Neutral Citation No: [2024] NICC 25

Ref: OHA12606

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

ICOS No: 24/036892

Delivered: 25/09/2024

**IN THE CROWN COURT OF NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE**

THE KING

v

MALACHY JAMES CRAWFORD

**Ms L Ievers KC with Mr M Farrell (instructed by the Public Prosecution Service) for the
Crown**

**Ms E McDermott KC with Mr B Thompson (instructed by McDermott McGurk & Co
Solicitors) for the Defendant**

SENTENCING REMARKS

O'HARA J

Introduction

[1] The defendant, Malachy Crawford, was originally charged with the murder of Paul O'Boyle. On 14 June 2024, the defendant pleaded not guilty to murder but guilty to the lesser, but still very serious, charge of manslaughter. The prosecution considered whether that plea was enough in the circumstances of this particular case. On 3 July 2024, the prosecution confirmed that the plea to the manslaughter charge was accepted.

[2] It is against that background that I must now pass sentence on the defendant. I am grateful to counsel for their very helpful oral and written submissions. Notwithstanding that assistance, I am left with the task of trying to solve a problem which has no satisfactory answer – what is the correct sentence to pass on this defendant who has taken Mr O'Boyle's life but had no intention of doing so?

The facts

[3] Paul O'Boyle was 58 years old when on Sunday 16 April 2023, he was drinking in a bar in Rasharkin, Co Antrim. What happened that night is not in dispute and was captured all too clearly on CCTV cameras fitted in the bar. Mr O'Boyle had been drinking for some hours with his brother, Colum and with the defendant. They were not close friends, it seems, but they knew each other.

[4] At some point around 9pm, Paul O'Boyle bought a round of drinks, including one for the defendant. The three men were drinking at the bar, though Paul O'Boyle was perhaps on the edge of the conversation rather than at the heart of it. Without warning he stood up, leaned into the defendant's face and headbutted him. Neither then, nor since, has anyone explained why this happened.

[5] Paul O'Boyle, having attacked the defendant, then walked outside to the smoking area. Within a minute the defendant followed him. He walked up to Paul O'Boyle, pointing at his head where he had been hit and without breaking stride punched Paul O'Boyle with his left hand. Mr O'Boyle fell straight to the ground and never got up. As it turned out, his head had hit the concrete, and he had sustained an injury which made recovery impossible.

[6] Another camera then captured the defendant standing over Mr O'Boyle's prone and helpless body and punching him once more, somewhere around the head, with his right hand. The defendant then walked away. As he did so, he passed Colum O'Boyle coming out of the bar to see what was happening.

[7] An ambulance was soon called, and Paul O'Boyle was taken to hospital, but he died eight days later on 24 April without ever regaining consciousness. The medical evidence is that the first punch to the head caused the fall which led to Paul O'Boyle's head hitting the concrete and suffering irreversible brain damage. The second punch did not cause any injury of any significance.

[8] Medical evidence also shows that Paul O'Boyle was intoxicated to a degree which would have made him unsteady on his feet and lacking co-ordination. As a result, he was more likely to fall backwards if punched. I note here that the defendant was almost certainly equally intoxicated, if not more so.

[9] The defendant was arrested in his home in the early hours of 17 April. When questioned by the police, who had not yet seen the CCTV, he admitted what he had done (save for the second punch) and expressed remorse. The police accepted that he was being both honest and sincere and had given them a full account of what had happened.

[10] By the time he was re-arrested after Paul O'Boyle's death, the police had the full CCTV footage, including the second punch. The defendant claimed that he could not recall throwing it. He also claimed to be disgusted with himself.

Victim impact statements

[11] I have read the moving statements provided by Sarah O'Boyle, Paul O'Boyle's wife of almost 20 years. In addition, I have read statements from his sister Geraldine and from his brother, Colum, who was, of course, in the bar that night. All three of them have endured great difficulty with coming to terms with the sudden and senseless way in which Paul, who was at the heart of the family, lost his life. The last 18 months have been truly miserable for them and the future may not really be any easier.

[12] These statements are important because they remind me, and everyone else who reads them, that so many lives can be derailed by a criminal act such as a punch which was never intended to cause serious injury, never mind death. It may well be that 90 or 95 or even 99 times out of 100, the person who is punched gets up again without suffering any long-term harm. But, on the few occasions, like this, when things go so terribly wrong the consequences are catastrophic for the family and friends left behind.

Pre-sentence report

[13] What then about the defendant? He is now himself 58 years old, the same age as Paul O'Boyle was. He has a respectable record in employment as a welder, but his later years have been blighted by an addiction to alcohol. At times he has sought help for this and at times that help has succeeded in keeping him away from alcohol for some time, but on his version of events he had started drinking again in the days and weeks just before 16 April 2023.

[14] The defendant has a minor criminal record, mostly for driving offences. His last conviction for any sort of aggression was one for assault committed in December 2007, more than 15 years ago. He is not by nature a violent man. His limited criminal record is of little relevance to my sentencing consideration.

[15] I am grateful to Mr Mullan, of the Probation Board for Northern Ireland, for his concise and, in my view, correct analysis of this defendant. Mr Mullan reports that the defendant came across as having a clear understanding of the seriousness of what he had done, and the devastating impact it has had on Paul O'Boyle's family and friends and the community of Rasharkin.

[16] Since being released on bail, it appears that the defendant has avoided alcohol and is determined not to relapse. Given this progress and his remorse and his very limited criminal record, Mr Mullan's conclusion is that the defendant poses only a low likelihood of general re-offending, and he does not pose a significant risk of serious harm to others. In large part, that is because of the factors which Mr Mullan highlights, including:

- (i) Unlike other cases, this is not one where the defendant has a pattern of violent criminal conduct – what happened on 16 April 2023, was not typical of the defendant.
- (ii) The defendant has kept to his bail conditions which include an alcohol ban for the last 18 months.
- (iii) He has shown from the early hours of 17 April his understanding and regret for what he did.

Sentencing principles

[17] Manslaughter is in legal parlance both a specified and a serious offence, for the purposes of Chapter 3 of the Criminal Justice (NI) Order 2008. As a result, the provisions of Article 13 are engaged. I have to decide whether, in the defendant's case, there is a significant risk to members of the public of serious harm occasioned by the commission by the defendant of further specified offences. In this context, serious harm means death or serious personal injury, whether physical or psychological.

[18] As already indicated, I share Mr Mullan's view that this is not such a case.

[19] Tragically, cases like the present are not uncommon in our courts. Far too often the Crown Court and the Court of Appeal have had to consider what length of sentence is fair and just, where a man dies as a result of a single blow struck in the heat of the moment without the attacker intending to kill or even cause serious injury.

[20] I have been referred, in particular, to a number of authorities which include *R v Quinn* [2006] NICA 27, *R v Allen* [2013] NICA 69, *R v McCoy* [2018] NICC 2 and *R v Rice and others* [2020] NICC. What emerges from those guideline cases is that the range of sentence imposed in a case such as the present is likely to be somewhere between two years and six years if the defendant pleads guilty. Where exactly any case fits on that range will depend on what we describe as aggravating and mitigating factors. In truly exceptional cases, a defendant may avoid prison altogether, but that is very rare because a life has been taken so almost always a punishment has to be imposed which will include a term of imprisonment.

[21] There was initially some level of disagreement between the prosecution and the defence about the nature and number of competing factors in this case. In the course of discussion, those differences reduced. In my judgment, the aggravating factors can be summarised as follows:

- (i) The defendant was drunk when he killed Paul O'Boyle.

- (ii) To some degree Mr O'Boyle was vulnerable because he himself, was drunk, though that had not stopped him from being violent just a short time earlier.
- (iii) The second punch which hit the defenceless Mr O'Boyle.
- (iv) The defendant just walked away and left Mr O'Boyle – I am sceptical about the explanation that the defendant did not realise how severely injured Mr O'Boyle was.

[22] The mitigating factors, in my judgment, are as follows:

- (i) The defendant's immediate substantial admissions to the police and his early plea of guilty.
- (ii) His remorse and sorrow which, in this case, I regard as sincere and heartfelt, a view shared by the police and by the Probation Board.
- (iii) His acknowledgement of the grief and loss of the O'Boyle family.
- (iv) The sad fact that the episode was instigated by Mr O'Boyle.

[23] I cannot impose a sentence which will make good what happened on 16 April 2023. Tragically, the O'Boyle family will always have to live with the loss of Paul O'Boyle, a loss which they feel deeply and constantly.

[24] The guidelines which I follow indicate to me that this is not one of those rare cases where the defendant should not go to prison. In my judgment, he must go to prison, but I am satisfied that his sentence should be at the lower end of the range.

[25] On balance, I impose a determinate custodial sentence of two years and six months' imprisonment. In my judgment, the second punch, in particular, takes this case above the bottom of the range which starts at two years, notwithstanding the strong mitigating factors identified above.

[26] Parliament has determined that 50% of a sentence is to be served on licence. That means that the sentence of two years and six months will comprise 15 months in prison followed by 15 months on licence. Licence conditions of the sort envisaged in the Probation Board report seem to me to be appropriate in this case. They will assist Mr O'Boyle on his release from prison in achieving what he himself has identified as his aim which is to stay free from alcohol and, therefore, free from trouble for years to come.