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IN THE CROWN COURT IN NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE

THE KING

v

TIMOTHY WALKER
and
NATALIE BRANNIGAN

Mr D McDowell KC with Ms L Ievers KC (instructed by the Public Prosecution Service) for the Crown
Mr J Kearney KC with Mr T Campbell (instructed by Donnelly & Wall Solicitors) for the defendant Walker
Ms E McDermott KC with Mr C Rea (instructed by Donnelly & Wall Solicitors) for the defendant Brannigan

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SENTENCING REMARKS

O'HARA J

Introduction

[1] Denis Shearer was brutally attacked when asleep in his bed in Bangor on 28 February 2021. He died nine days later on 9 March. The defendant, Walker, was soon charged with his murder and the defendant Brannigan was charged with assisting an offender, namely Walker.

[2] On 16 November 2023, both defendants pleaded not guilty at their arraignment. On 18 April 2024, Walker pleaded guilty to the lesser offence of manslaughter. That was not accepted by the prosecution as sufficient in the circumstances of this case. Finally, on 2 December 2024, both defendants pleaded guilty to the full charges which they faced – murder in the case of Walker and assisting an offender in the case of Brannigan.

[3] I imposed on Walker on 2 December 2024, the mandatory sentence of life imprisonment. The next stage was that submissions were presented in writing and then orally on 4 March 2025, as to the tariff which I should impose on Walker and the sentence which Brannigan should serve. The tariff is the minimum period which Walker must serve in prison before his release will be considered by the Parole Commissioners. When that minimum sentence has been served, the Parole Commissioners will consider his case and decide in light of all the information which is then available to them whether the time has come for his release. Whenever that time does come, Walker will remain subject to recall to prison in the event of any future offending or breach of licence – that is the consequence of the sentence of life imprisonment.

Background

[4] Denis Shearer was 25 years old when he was murdered. From the age of two he had lived in foster care with John and Irene Stevenson. He still lived with them in February 2021. It is clear from Mrs Stevenson's witness statement that Denis had significant behavioural and mental health problems for much of his life despite which the Stevensons selflessly continued to provide him with all the love and stability which they could.

[5] A short time before February 2021, a serious allegation was made against Denis Shearer which was reported to the police. Wheels had been set in motion by the police to investigate this issue and Denis Shearer knew that but he had not yet been interviewed when he was murdered. Accordingly, there is simply no way of knowing whether the allegation was true to any degree at all. It should not and cannot be assumed that the allegation was well-founded. We will just never know.

[6] On the evening of 27 February 2021, the defendants attended a family party in Holywood, Co Down, where they live. The defendants have been in a long-term relationship and have four children but they do not live together, Walker living separately but reasonably close by. At the party they both drank to excess and argued, according to those who were present. They left at different times for their respective homes.

[7] What happened next was that at about 3am Walker drove from Hollywood to the Bangor address where Denis Shearer lived with the Stevensons. This was a house that he knew. He broke the locks on the porch door and the front door and found his way inside. Then he went upstairs, closed the Stevensons' bedroom door and went into the room where Denis Shearer was sleeping. At that point Walker attacked him by repeatedly striking him on the head with a blunt weapon. At least nine forceful blows were inflicted causing severe injury to the brain and extensive fracturing of the skull.

[8] Mr and Mrs Stevenson heard a loud bang at some point while this was happening. When Mrs Stevenson went into Denis's bedroom she saw blood on the

duvet and pillow. There was also blood on the walls and on the ceiling. Denis did not respond when she shook his leg and yelled his name, so she called 999.

[9] As this was happening Walker drove back to Holywood and returned to the house where the party had taken place earlier. He asked for help and said that he had done something stupid to Denis Shearer. There then followed a series of calls which led to Brannigan returning to this house and meeting Walker.

[10] At around 6am, Walker drove his car to north Belfast and set it on fire. Brannigan also drove to that part of Belfast, collected him and took him from there to Newtownards. At the time she did this Brannigan knew from Walker and from what he had said to others that he had seriously assaulted Denis Shearer.

[11] It was the Stevensons who suggested from the start that it might have been the defendants who were involved in the attack on their foster son. The police soon found CCTV and other evidence which linked the defendant and his car and phone to the route from Holywood to Bangor and back to Bangor before going on to Belfast. Brannigan was arrested on 28 February. She soon admitted to the police a version of events which the prosecution accept is in keeping with what happened. So far as Walker is concerned the police could not find him initially, although on 1 March in a phone call to the police he said that he would "take the rap for everything." He surrendered himself to the police on 2 March. During a series of interviews he said that he would take responsibility for what had happened and that Brannigan had done nothing wrong. Despite this apparent admission, he then said during a series of interviews that:

- He could not remember going to Denis Shearer's home.
- He denied being in that part of Bangor.
- He denied attacking Denis Shearer.
- He claimed that his car must have been stolen.
- He claimed to have heard voices in his head telling him to do things.
- He claimed to have previously sold the mobile phone which the police were able to connect to his reported movements.

The manslaughter issue

[12] As already stated, the defendant pleaded guilty to manslaughter on 18 April 2024. That plea was advanced on the basis of a psychiatric report from Dr M Husain dated 22 March 2024, after Dr Husain had met him four times. The prosecution then retained Dr R Brennan, who reported on 29 August 2024, not agreeing with the analysis of Dr Husain. Each psychiatrist then provided an addendum report –

Dr Husain on 13 October and Dr Brennan on 22 November. It is necessary to consider the extent of their agreement and disagreement for two main reasons. The first is to understand why the defendant ultimately pleaded guilty to murder and the second is because a mental health history can be relevant to sentencing and, in particular, to the level of culpability and the issue of the risk of future harm.

[13] In this case the mental health history also demands scrutiny because the prosecution explicitly accepts that Walker's mental health played a role in his action in murdering Denis Shearer although not enough of a role to entitle him to plead guilty to manslaughter.

[14] Since section 53 of the Coroners and Justice Act 2009 became law in Northern Ireland in June 2011, a defendant who kills another individual is not to be convicted of murder if a series of conditions is satisfied. I summarise those conditions as follows:

(i) The defendant was suffering from an abnormality of mental functioning which arose from a recognised medical condition.

(ii) That abnormality substantially impaired his ability to understand the nature of his own conduct or form a rational judgment or exercise self-control.

(iii) The abnormality of mental functioning explains the defendant's conduct if it caused or was a significant contributory factor in causing him to carry out that conduct.

In this case, the psychiatrists, as they must do in all cases, read and considered Walker's personal and medical history and had access to his medical notes and records. The long and detailed reports which they each wrote confirm that Walker has a long history of mental health difficulties.

[15] Walker is now 43 years old. He had a difficult and unhappy early life in that his father was allegedly violent and bullying, involving him in criminal acts such as theft. He had a better relationship with his mother and could recall some positive childhood memories.

[16] When he was about 11 years old he was assaulted over the course of a year by a cousin, something which he did not disclose to anyone until some years later when he told Brannigan about it. It was his relationship with Brannigan which led him to move from England to Northern Ireland where she is from.

[17] In 2016, Walker was diagnosed with a depressive episode with psychotic features. There had been a gradual onset of depressed mood, paranoia and evolution of auditory hallucinations during the previous two or three months. These hallucinations were alleged to occur on a daily basis and he described at the time several unfamiliar male voices which only he could hear and which had a

derogatory and self-accusatory content. As a result of that diagnosis he was prescribed medication which included anti-psychotic drugs, an antidepressant, a sedative and painkillers.

[18] On review in March and September 2017, Walker was found to be stable but the diagnosis remained unaltered as it then continued to do through 2018. In 2019, he was reviewed again, this time by a Dr Gail Walker, psychiatrist. A recent relapse in his symptoms was identified, secondary to compliance with his medication. The oral anti-psychotic medication was reduced due to concerns about a side-effect of weight gain.

[19] There was no further review until March 2021, after the murder and after his arrest, when he reported that in 2020 voices had started coming back to him. This was before the report of the allegation against Denis Shearer and well before the murder. Coincidentally, the psychiatrist who saw him in March 2021, was the same Dr Walker. On examination in March 2021 she found no acute psychotic symptoms.

[20] In Dr Husain's opinion, Walker suffered in February 2021 from depression with psychosis, a recognised mental condition which satisfies the first of the three conditions of the 2009 legislation. So far as the second condition is concerned, Dr Husain was satisfied that this too was met. His opinion was that Walker knew what he was doing since he drove back to the address of the party after the attack and was able to confirm to those present that he had done something to Denis Shearer. However, Dr Husain concluded that Walker was not able to exercise self-control or form a rational judgment when he attacked Denis Shearer because his ability to do so was substantially impaired by his abnormality of mental functioning, ie the depression psychosis.

[21] Finally, Dr Husain expressed himself satisfied on the third condition, that all of this explained why Walker killed Denis Shearer.

[22] Dr Brennan's analysis was somewhat different. He was significantly more sceptical about Walker's account than Dr Husain had been. In his judgment, it was questionable whether Walker had been psychotic at all in February 2021. He highlighted the fact that when medically examined after his arrest he was not judged to be psychotic. In addition, he rejected entirely Dr Husain's opinion (or theory) that the psychosis had somehow been neutralised or negatived by the fact of the attack on Denis Shearer.

[23] Accordingly, on Dr Brennan's analysis, even if Walker's account of events is reliable (which he clearly questions) the conditions necessary for a verdict of manslaughter were not met. Dr Brennan emphasised the fact that on all of the evidence, including his own version of events, Walker had been very drunk that night. In Dr Brennan's opinion the major significant contributory factor at the time of the killing was Walker's level of intoxication rather than the voices in his head telling him that his close relation was at risk.

[24] This all led Dr Brennan to conclude:

> "5.51 Since the defendant denied that he had any prior intention to harm the victim or had planned to do so, it would be reasonable to assume on balance that the major significant contributory factor at the time of the alleged offence was the defendant's significant level of intoxication, and the lower threshold thereafter for him to act impulsively, aggressively and irrationally to any underlying thoughts or feelings about the victim or possibly just symptoms of psychotic illness, such as command hallucinations telling him to harm the victim […], if these were actually present at the time. While it could be reasonably argued that as a consequence, his ability to form a rational judgment and exercise self-control was impaired around the time of the alleged offence, it is my opinion that the primary reason for this was his alcohol intoxication rather than the possible presence of auditory hallucinations telling him that [a relative] was at risk and that he needed to harm the victim as a consequence, as he had apparently been experiencing similar symptoms in recent days/weeks and had not apparently acted upon them.
>
> 5.52 On this basis, it is my opinion on balance, that if the defendant had not been intoxicated on the evening of the alleged offence he would not have acted as is alleged as a direct response to any underlying symptoms of psychotic illness he may have experienced. On that basis, it is my opinion that he cannot rely on the diminished responsibility defence."

[25] None of this is to challenge the fact that Walker does have a history of mental ill health. But for the charge of murder to be reduced to manslaughter the bar is set very high and deliberately so. Dr Brennan's analysis was a strong rebuttal of Dr Husain and led eventually, correctly in my mind, to the defendant being advised to plead guilty to murder.

[26] Or to put it in the bluntest possible terms, Walker would not have killed Denis Shearer but for the fact that he was drunk at the time. In those circumstances, murder is the only proper verdict.

Victim statements

[27] I have received three important statements, one each from Denis Shearer's natural parents and one from Mrs Irene Stevenson. Taking his birth parents first, their statements explain that they gave Denis into foster care when he was very young because he deserved a better life than at that time they were going to be able to give him. In no way does that diminish their pain about what Walker did to him in February 2021, inflicting such terrible injuries. He was on life support in hospital until, and in his own best interests, the decision had to be taken to turn off the machine. His mother describes that as the hardest decision anyone can ever have to make.

[28] Mrs Stevenson's statement reflects all of the love she and her husband gave to Denis. Her loss is made even worse by the fact that her husband died in 2024. Like her, he was deeply affected by the invasion of their home by Walker, by what Walker then did to their foster son and by the inevitable but upsetting forensic and police actions which followed. She pays tribute to Denis, especially for helping her and her husband through the first year of Covid and describes in her statement how "the house is just so empty without his chatter and laughter."

[29] Mrs Stevenson finished her statement by reminding me and everyone else that:

> "This evil act has affected so many people in our immediate and wider family and it is not something anyone will ever get over. My life will never be the same again. I have constant flashbacks and a dark cloud hangs over me permanently."

Sentencing guidelines for murder

[30] For some years the guidance provided by the Court of Appeal in *R v McCandless* [2004] NICA 269 has been followed. It approved and adopted for Northern Ireland a Practice Statement issued by the Lord Chief Justice in England & Wales in May 2002. At para [9] of *McCandless* the court stated as follows:

> "[9] The *Practice Statement* set out the approach to be adopted in respect of adult offenders in paragraphs 10 to 19:
>
> *"**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.
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> 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."

[31] It is also relevant to note that in the previous paragraph of its judgment in *McCandless*, the court said that the starting points have to be varied upwards or downwards by taking account of aggravating or mitigating factors. It is, however, important to emphasise that the process is not to be regarded as one of fixing each case into one of two rigidly defined categories, in respect of which the length of term is firmly fixed.

[32] While the guidance in *McCandless* remains relevant, its application was reviewed generally in the recent important case of *R v Whitla* [2024] NICA 65. In the course of that judgment the Lady Chief Justice said as follows:

> "[40] This appeal turns upon application of *McCandless* once again. As such we consider that the time has come to refresh the *McCandless* categories. This approach is based on the collective experience of the members of this court that a lower starting point of 12 years, previously termed the normal starting point (sub para [10] of the Practice Statement) rarely arises in murder cases. Only exceptionally if the circumstances explained in *McCandless* arise may consideration be given to the lower culpability of the offenders. The experience of this case illustrates the fact that having to consider this starting point in every case may deflect the sentencer away from reaching an appropriate sentence. Recourse to this starting point will only arise where culpability is low and

so arises in only a small number of cases. This should be the practice going forward.

[41] We are cognisant that most murder cases in Northern Ireland will fall within what has previously been termed the higher starting point of 15/16 years which involves high culpability (sub para [12] of the Practice Statement.) As such we think it better that this should now be termed the normal starting point.

[42] In addition, where exceptionally high culpability arises a higher starting point as described in sub para [19] of the Practice Statement adopted in *McCandless* can be applied of 20 years or more. We are content that the descriptors given in *McCandless* cover most circumstances that arise for this higher bracket based upon exceptionally high culpability but repeat the fact that sentencers have flexibility to consider modern circumstances. Multiple stabbing cases can come within this bracket.

[43] We stress that what we have said does not amount to any sea change in terms of murder sentencing. It is simply a recalibration to reflect the complexion of cases we have had before our courts in the 20 years since *McCandless* was penned. In summary, *McCandless* should now be read with following revision:

(i) The normal starting point is 15/16 years. This is based on high culpability.

(ii) In exceptional cases of low culpability, the starting point may reduce to 12 years.

(iii) In cases of exceptionally high culpability the starting point is 20 years.

[44] It is not necessary for us to redefine *McCandless* any further as the factors that feed into each starting point and aggravating or mitigating factors are comprehensively set out. In addition, sentencing judges are expressly reminded that they have the flexibility to vary the starting point upwards or downwards to take into account the particular circumstances of each case."

[33] Another factor which has to be borne in mind is the impact on sentencing in murder cases of mental health disorders or disabilities. This is a subject which I

addressed in *R v Harland and Gracey* [2023] NICC 8, at paras [29]-[31] in the following terms:

> "[29] I have also been helpfully referred to a decision of the Court of Appeal in England and Wales, *R v PS and others* [2020] 4 WLR 13. In those cases, the issue was the effect which mental health conditions might have on sentencing judges when assessing culpability and harm and any aggravating or mitigating factors. Of course, that judgment was given in the context of guidelines issued by the Sentencing Council. Those guidelines are much more prescriptive than any equivalent in Northern Ireland. Nevertheless, it is difficult to find anything to dispute in what is said at paragraphs [17] and [18]:
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> > '17. It will be apparent from all of the above that sentencing an offender who suffers from a mental disorder or learning disability necessarily requires a close focus on the mental health of the individual offender (both at the time of the offence and at the time of sentence) as well as on the facts and circumstances of the specific offence. In some cases, his mental health may not materially have reduced his culpability; in others, his culpability may have been significantly reduced. In some cases, he may be as capable as most other offenders of coping with the type of sentence which the court finds appropriate; in others, his mental health may mean that the impact of the sentence on him is far greater than it would be on most other offenders.
> >
> > 18. It follows that in some cases, the fact that the offender suffers from a mental health condition or disorder may have little or no effect on the sentencing outcome. In other cases, it may have a substantial impact. Where a custodial sentence is unavoidable, it may cause the sentencer to move substantially down within the appropriate guideline category range, or even into a lower category range, in order to reach a just and proportionate sentence. A sentence or two in explanation of those choices should be included in the remarks.'

[30] In truth, this approach chimes with one which was already apparent in this jurisdiction – see for example *R v Doran* [1995] NIJB 75 in which Hutton LCJ said at page 5:

> 'Mental illness, which, of course, can vary greatly in severity and degree and in effect, is not an automatic reason for reducing the sentence imposed for a criminal offence, but we consider that there can be cases in which it is just for a court to make a reduction in the sentence which it would otherwise impose to take account of the mental illness by the accused and of its effects on his criminal conduct.
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> There are a number of authorities in which this approach has been taken. In the Australian case of *Joyce v Svikart* [2 June 1994, unreported] the accused was sentenced to 3 months' imprisonment for assault. He appealed against this sentence to the Supreme Court of the Northern Territory of Australia sitting in Darwin on the ground (inter alia) that:
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> 'The learned Chief Stipendiary Magistrate erred by failing to give sufficient weight to the appellant's mental illness (schizophrenia) when determining questions of general deterrence.'

On the hearing of the appeal the court reduced the sentence and Thomas J stated:

> '19. I accept the principle of law in dealing with persons suffering mental illness is: General deterrence should often be given very little weight in the case of an offender suffering from a mental disorder or abnormality because such an offender is not an appropriate medium for making an example to others.'

[31] Following this established approach it is clearly possible to make allowance for a mental illness in some circumstances. However, that can only be to a limited degree because otherwise the need to punish offenders

> and deter not just them but others from serious criminal offending would be undermined. This point is illustrated by the judgment of Coghlin LJ in *R v Foster* [2015] NICA 6 in which at para [16] he said:
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> > 'As Kerr LCJ observed in *R v Quinn* [2006] NICA 27 substantial sentences are required to deter individuals from this type of wanton violence and to remind them that if their actions go beyond what they in their drunken condition intended they must face the consequences. Deterrent sentences are also required to mark society's outright rejection of such behaviour and to reflect the inevitable emotional consequences of the loss of a life.'"

Timothy Walker

[34] With those authorities in mind and having considered all of the materials put before me, I turn now to consider the appropriate tariff for Walker.

[35] For the prosecution Mr McDowell submitted that there is a significant list of aggravating factors which would have meant that even before the *Whitla* decision the starting point for the murder of Denis Shearer would have been 15-16 years. The nine factors which he identified were as follows:

(a) It was a brutal and sustained attack involving significant force where extensive/multiple injuries were inflicted. The injuries were so bad that they were initially believed to be gunshot wounds.

(b) The victim was vulnerable. He was attacked with a weapon as he lay asleep in his bed with no chance of defending himself. There was a level of intoxication through cannabis and a sedative drug.

(c) It was a vigilante attack where Walker decided in light of the allegations made about Denis Shearer to take the law into his own hands.

(d) It occurred in the victim's home where he was entitled to feel safe. Entry was forced and other people were present in the house, namely his elderly foster parents.

(e) The defendant armed himself with a weapon in advance.

(f) The defendant was significantly intoxicated through drink and possibly cocaine and drove in that state.

(g) He destroyed evidence, namely his car and phone by deliberately setting the car alight.

(h) He took steps to avoid detection by not going home and hiding instead elsewhere.

(i) He has previous convictions including offences of violence.

[36] For the defendant, Mr Kearney took issue with (c) and (i). In relation to (c), the vigilante issue, it was submitted that this should not be regarded as a vigilante attack, whatever the term vigilante attack means. I accept that there is a looseness to the term "vigilante attack" which is unhelpful but, in my judgment, the inescapable fact is that Walker's actions that night, even in his drunken state, were quite deliberate.

[37] On the issue of (i), the previous convictions, I agree that the record is from a much earlier point in Walker's life and that until the murder in 2021, he had no violent criminal record for approximately 20 years. Accordingly, he does not have the advantage of a clear record, but the criminal record he does have is not, in my mind, an aggravating factor.

[38] Mr Kearney then submitted that the other aggravating factors should not take the tariff beyond 15-16 years and that before allowing separately for the guilty plea the starting point should be reduced by reason of a number of mitigating factors.

[39] Before analysing those factors, two points must be made. The first is that when the case is as serious as murder, personal factors carry significantly less weight in mitigation. The second point, as Mr Kearney accepted, is the one made by Mr McDowell that contrary to Mr Kearney's original submission, once the murder has been admitted there is no longer a burden on the prosecution to prove each outstanding issue beyond a reasonable doubt – see *Archbold 5A* at para 340.

[40] The first mitigating factor advanced by Mr Kearney was Walker's mental health history which alone is said to warrant a substantial reduction in sentence in accordance with para [11] of the Practice Statement referred to in *McCandless*. That history has already been summarised in these remarks, but what is also clear is that in the months before the murder, Walker was taking a lot of alcohol and drugs because ridiculously he decided that they would have a positive effect on his mental health. I accept that there is a mental health issue which is relevant to sentencing, as the Crown has acknowledged. The question is by how much the sentence should be reduced in light of that history.

[41] The second mitigating feature advanced for Walker was that it cannot be concluded on the facts of the case that Walker intended to kill Denis Shearer as opposed to cause him serious harm. I reject that as a mitigating factor. I do not believe that anyone, even if drunk, who goes into another man's house and beats

him on the head with a blunt instrument multiple times, causing terrible injuries, has anything else on his mind than murder. In any event, the distinction, if there is one, between the two scenarios is so negligible in this case as not to matter.

[42] Another aspect relied upon by Mr Kearney was that while this is a case of murder, it is close to being a case of manslaughter. He relies for this submission on Dr Husain's report and on some aspects of what Dr Brennan opined. With all due respect to Dr Husain, my judgment is that his analysis was overly sympathetic to the defendant. This is not a case which I believe came close to the borderline between murder and manslaughter. I do not make any allowance to the defendant on that ground.

The pre-sentence report

[43] As in all of these cases, I have the benefit of a detailed pre-sentence report from Mr Greer of the Probation Board. Walker told Mr Greer that he feels he was rushed into pleading guilty to murder and that "he maintains his belief that manslaughter is more appropriate in this case." (Mr Kearney confirmed in court that he had gone over this issue again with the defendant before the plea hearing started and that the defendant did not take any issue with the fact that he has pleaded guilty or the advice that he received.)

[44] This assertion to Mr Greer clearly contributes to the following lines in his report at page 5:

> "PBNI would be concerned that the lack of personal responsibility and the complete mismanagement by Mr Walker who reports to consistently addressing his poor mental health by excessively abusing alcohol and cocaine. Mr Walker advises that he continued to abuse alcohol and drugs while experiencing poor mental health during the period of bail following the events."

[45] Walker also told Mr Greer that there were voices in his head telling him that Denis Shearer was going to commit a serious offence. That claim is not consistent with other versions of events which Walker has given to the police and psychiatrists.

[46] Perhaps inevitably, the conclusion of the Probation Board is that Walker falls within the high range in terms of the likelihood of reoffending and that at a risk management meeting he was assessed to pose a significant risk of serious harm at this time.

[47] If, and when, Walker is released by the Parole Commissioners they should consider the licence conditions helpfully suggested by Mr Greer.

Conclusion on Timothy Walker

[48] At the heart of this case, with all its medical reports, expert opinions and legal submission, is one simple truth, namely that in the early hours of 28 February 2021, Walker drove to Denis Shearer's home and murdered him. In doing so, he has caused terrible long-term damage to those who knew, loved and cared for Denis Shearer.

[49] The guidelines on what the tariff for the murder should be are only that, guidelines. They are not applied on some mathematical basis so that each aggravating or mitigating factor adds or removes one year from the sentence.

[50] I take the starting point for the tariff at 16 years, but I reject Mr Kearney's submission that despite all the aggravating factors the tariff should go no higher than 16 years before allowances are made for ill-health and for the guilty plea.

[51] Even without the *Whitla* decision this is a case which would have been a higher starting point case because of how vulnerable Denis Shearer was when he was asleep in his bed when he was attacked. This is also clearly a case where a substantial upward adjustment of sentence is warranted because of the large number of factors referred to at paragraphs [35]-[37] which add to that starting point. Taking them all into account, I raise the starting point from 16 years to 21 years.

[52] I turn now to the mitigating factors. The defendant's mental health history is accepted by the prosecution as relevant. While I agree with that, I do not think that it merits a substantial reduction. This is not a case in which Walker happened to bump into Denis Shearer and could not contain himself in the heat of the moment. This is a case where he set out for his home armed with a weapon and beat him with such force and vigour that he left blood all over the bedroom and inflicted such injuries that Denis Shearer died.

[53] Another point which concerns me is the failure of Walker to admit to the police what he did. It was suggested on his behalf, that he had co-operated fully with the police. That is simply not the case. He took responsibility to relieve Brannigan of blame but without ever admitting even that his phone was the one which the police could trace. This attitude is consistent with his avoidance in his accounts to the psychiatrists and Mr Greer. I do not think that it is putting it too strongly to suggest that Dr Brennan was highly sceptical of what he was told. I too, am more than sceptical of the defendant's claim that he cannot recall what he did that night.

[54] Taking all of these issues into consideration, I reduce the tariff from 21 years to 18 years before turning finally to reducing the sentence in light of the guilty plea. This did not come until December 2024, but it followed immediately after the exchanges between the psychiatrists. In the circumstances, I will allow some reduction of the tariff by reason of the guilty plea and I reduce it to 15 years. That is

the period which the defendant must serve in prison before the Parole Commissioners consider whether to release him. He is entitled to have time spent in custody since March 2021 count towards that sentence provided that time in custody was because of the murder charge.

Natalie Brannigan

[55] I turn now to deal with Brannigan. Her case is less complex because her only involvement was after the fatal attack on Denis Shearer. It is important to record the fact that she is not suggested to have known anything about the attack in advance. Her crime was to help Walker after she knew from him, as she certainly did, that he had done something terrible to Denis Shearer.

[56] The prosecution rightly acknowledge that when arrested and questioned by the police Brannigan made reasonably full admissions to them quite quickly. It is also acknowledged that apart from a police caution in 2012, Brannigan who is now 42 years old, has no record whatever.

[57] In *AG's Reference (No.16 of 2009) (Yates)* [2009] EWCA Crim 2439, the Court of Appeal stated that the issues to be addressed when sentencing for the offence of assisting an offender are as follows:

(i) The nature and extent of the criminality of the principal – in this case that is beyond dispute – the principal's crime is murder.

(ii) The nature and extent of the assistance provided – there is no dispute between the prosecution and defence that while what Brannigan did was criminal and was serious, the assistance which she provided to Walker was very much at the lower end of the scale.

(iii) The extent to which the actions of the offender had damaged the interests of justice – again, there is consensus between the prosecution and defence that the damage to the interests of justice was not significant, because soon after her arrest Brannigan admitted what she had done and provided assistance to the police.

[58] The pre-sentence report on Brannigan, written by Ms Morgan of the Probation Board, records that while Denis Shearer lost his life and Brannigan's behaviour is concerning, she does not currently meet the threshold to be assessed as posing a significant risk of serious harm to the public. It is also indicated that there is a low likelihood of reoffending. I agree with both of these analyses. I further acknowledge the position of the Probation Board that where the risk of further offending is low, probation supervision is not required.

[59] In preparing her report, Ms Morgan engaged with the relevant health and social care trust about what would happen to Walker and Brannigan's four children,

if Brannigan was sent to jail. The Trust's view is that a jail sentence, even if short, would be "extremely detrimental" to the children who have already lost their father for many years to come.

[60] Support for that contention is found in a report from Dr D O'Driscoll, education and child psychologist. Having assessed Brannigan as being of average intelligence, he then considered the position of each of her four children. Without going into unnecessary detail about their various circumstances, it is clear that some of them, at least, require the care and dedicated support which can best be provided by a parent.

[61] Finally, I take account of the fact that the tragic events of February 2021 have been hanging over Brannigan for four years during which she has had to deal with uncertainty about her future and that of her children if she goes to jail. Her anxiety during that period has been far less than those who cared for and loved Denis Shearer but it is, nonetheless, a relevant factor.

[62] I do not consider Brannigan to be a dangerous person or a threat for the future. I see her instead as a woman who made a terrible mistake four years ago and who helped her partner, but only in a limited way and in the short-term, after he had attacked Denis Shearer and left him at death's door.

[63] While I believe that the threshold for a custodial sentence has been passed in this case, I do not believe that it is necessary or proportionate for Brannigan to be sent to jail now. Instead, I impose a sentence on her of two year's imprisonment which I will suspend for two years from today's date. The result of that, which I must explain to Brannigan, is that if she does not reoffend in the next two years that will be the end of the matter, but if she does reoffend then apart from facing whatever sentence is imposed for that fresh offence, she will face being put in jail for two years for assisting Walker after his fatal attack on Denis Shearer.

[64] The prosecution invited me to consider making a number of ancillary orders in Brannigan's case. These included a disqualification from driving and forfeiture of her car. In light of her family obligations I have decided not to make such orders.

[65] I acknowledge that it will seem strange to some that this leniency is being shown to a woman who left her children in the early hours of the morning and drove, probably when drunk, to help her partner, knowing what he had done to Denis Shearer. However, given the presence of multiple mitigating features, I am satisfied that imposing an immediate prison sentence on Brannigan is not necessary nor is it in anyone's interest. That does not take away from the seriousness of what she did.