

IN THE CROWN COURT IN NORTHERN IRELAND

CRAIGAVON CROWN COURT (SITTING AT BELFAST)

THE QUEEN

-v-

GEORGE SAMUEL SAVAGE

HART J

[1] The defendant has been convicted on a number of counts of common assault contrary to Section 47 of the Offences Against the Person Act 1861 in respect of his wife, and of his step-daughter, (to whom I shall simply refer as R in order to protect her identity). The defendant has been convicted by the jury of these offences and it is important to emphasise that the defendant was either acquitted of offences of a much more serious character, or the jury were unable to agree on a verdict in relation to other charges of common assault, allegations which in some respects were more serious than those which gave rise to the counts on which the accused has been convicted, and in respect of which the prosecution have decided not to proceed.

[2] The defendant, who was born on 1 January 1966 and is therefore now 42, and his wife were married in October 2000. It is apparent from the evidence given in the course of the trial that there were very considerable difficulties of a financial and sexual nature between them in the course of the marriage, and ultimately his wife tried to take her life on 26 January 2006. It is unnecessary to refer further to these difficulties in view of the jury's acquittal of the accused on charges of rape and indecent assault, other than to say that the events of 26 January have to be viewed against the background of the much more serious allegations against the defendant in respect of which he has been acquitted or no longer faces any charges. As Mr McDowell for the prosecution recognised, it cannot be inferred that she attempted to take her life because of the circumstances relating to the charges upon which he has been convicted when he has been acquitted of those other charges. I will therefore leave that out of account when sentencing the defendant.

[3] I will deal first with the two counts of which the accused has been convicted in relation to R. Count 3 relates to her allegation that some two to three weeks before Christmas 2005 the defendant slapped her on the back of the head. R described how she had been cheeky to the defendant and he slapped her really hard on the back of her head with his hand. She said that he "whacked" her, which implied that a good deal of force was put behind the blow because she also said "he's got a good lot of strength so he does".

[4] Count 4 relates to a more serious allegation, namely that on Christmas Eve 2005 one of the defendant's children (to whom I shall refer only as T) tripped over a stool and the defendant accused R of pushing T. When R denied this the defendant pushed her down onto the mat and then proceeded to kick her once in the stomach as hard as he could. She said that he was in his stocking feet at the time. She started to cry and although her mother wanted to take her to the hospital R did not agree to that because she did not want Christmas spoilt for the other children.

[5] By their verdicts the jury have accepted the accounts given by R of these assaults committed upon her when she was 11 years old.

[6] The defendant was also convicted of four counts of common assault under in relation to his wife. Of these the most serious was count 9 which involved an incident which occurred a few days after Christmas 2001. She described how she had lain on in bed one Saturday morning because she was tired. She suffered from diabetes and also had their first child who was a baby at this stage. She described how she knew the defendant would be angry at her still being in bed and would accuse her of being lazy, so when she heard him return home by car about midday she jumped out of bed and lifted their son (to whom I shall refer as G) out of his crib. She was still in her nightdress when the defendant came in, called her a lazy bastard and other foul names, and then put her against the wall by her shoulders, put his hands round her throat and punched her with his fists, striking her on the arms and upper body.

[7] She described how she got away, grabbed the car keys and took G with her, drove down to the defendant's father's house and told him what had happened. The defendant accepted in interview that there was an incident when he had pushed his wife when she was pregnant, that she had rung his father who had come up, and the defendant said that he "got a real telling off".

[8] Count 12 relates to an episode in October 2005 when her car had been damaged when a school gate blew against it. The defendant was extremely angry when she rang and told him about this. Ultimately she went to find his mother, who then accompanied her to the matrimonial home. When they arrived the defendant lunged at his wife in an attempt to punch her, but was

prevented from doing so because his mother stood between him and his wife with her arms out and kept them apart, saying that it was not that bad and that the car could be fixed. The defendant continued to swear, and was described as ranting and raving, and his mother took his wife and the two small boys to her house until the defendant calmed down.

[9] Counts 14 and 15 were specimen counts to represent those occasions on which his wife said she had been assaulted by the defendant over the years and on dates she was unable to specifically identify.

[10] Count 14 relates to those occasions when she says that the defendant struck or slapped her. She told the jury that the slightest thing set him off and he would punch her, clip her on the back of the head, or throw something, such as the remote control for the TV at her. She said that this happened very regularly, and that there was something every day because hardly a day went past without an argument. When cross-examined she said that whilst a slap would not cause a bruise, a punch would depending upon its force and that she was bruised on occasions.

[11] Count 15 was also framed as a specimen count to represent occasions when it was alleged that the defendant had pushed his wife into furniture, or pushed furniture at her. In the event, she only described him pushing a chair at her on one occasion in the kitchen, and said that he pushed it so hard that the feet came off. Therefore this count, as does count 12, represents an assault in the purest sense of the term as it involved the threat of force but not the actual application of force, rather than an assault including a battery which is the position in relation to counts 3 and 4 (in respect of R), and counts 9 and 14 (in the case of his wife).

[12] I have considered what has been said on his behalf and the pre-sentence report. I have been provided with a number of character references from friends, neighbours, public figures and two ladies who were girl friends of the defendant in the past. All testify to his upright and hard-working nature, and the absence of any tendency towards violence. The defendant has a clear record. So far as mitigating factors are concerned, the defendant can point to his clear record but I do not consider that there is any other mitigating factor in view of the acceptance by the jury of the evidence of repeated acts of violence on his part.

[13] So far as R is concerned, whilst the assault alleged in count 3 would not justify an immediate custodial sentence, the occasion when the defendant kicked R in the stomach represents a serious assault and one which could have, but fortunately does not appear to have, resulted in significant physical injury. I am satisfied that only an immediate custodial sentence is appropriate.

[14] The assaults in the pure sense of the term alleged in counts 12 and 15 would not justify an immediate custodial sentence. However, I am satisfied that an immediate custodial sentence is appropriate in relation to the assault which is the subject of count 9. This was the most serious assault in relation to his wife. The assaults which were the subject of count 14 were also serious because of their type and number, representing as they do a prolonged pattern of repeated violence towards his wife.

[15] I am satisfied that it is appropriate to make the sentences in relation to R concurrent with each other, but consecutive to the sentences imposed in relation to the assaults upon his wife as otherwise the defendant would not be appropriately punished for assaults on a child who was in his care at the time. So far as the assaults on his wife are concerned, the sentence must adequately reflect the fact that these assaults occurred on more than one occasion.

[16] It cannot be emphasised too strongly that where someone inflicts violence upon his wife, or a child who is in his care, that an immediate custodial sentence may be necessary, depending upon the nature and gravity of the assaults, and the number of the assaults. When passing sentence for a number of offences it is necessary to ensure that the total sentence is not disproportionate to the overall criminality of the defendant.

[17] I sentence the defendant as follows:

- Count 3 - Seven days imprisonment.
- Count 4 - Two months imprisonment concurrent with Count 3.
- Count 9 - Six months imprisonment.
- Count 12 - Seven days imprisonment.
- Count 14 - Six months imprisonment.
- Count 15 - Seven days imprisonment.

The sentences on counts 9, 12, 14 and 15 will be concurrent with each other making a total of six months, but consecutive to the two months imposed on count 4, making an effective total of eight months imprisonment.