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

Delivered: **3/12/2010**

IN THE CROWN COURT IN NORTHERN IRELAND

**ANTRIM CROWN COURT
(sitting at Belfast)**

THE QUEEN

v

COLIN DAVID HOWELL

HART J

[1] Howell has pleaded guilty to the murders in 1991 of his wife Lesley Howell, and of Trevor Buchanan, the husband of his then lover and now co-defendant Hazel Stewart who has since remarried. I shall however refer to her as Hazel Buchanan, her married name at that time. Howell has indicated his intention to give evidence against his co-defendant who has pleaded not guilty to both counts of murder and awaits trial on those charges. As she is contesting the charges I do not propose to refer to her alleged role in the events leading up to, during and after the murders, as this will have to be considered by the jury during the trial. Therefore nothing I say is to be taken as reflecting upon her innocence or guilt of the charges against her.

[2] As Howell has indicated his intention to give evidence for the prosecution I consider I should now proceed to fix the minimum term which he must serve before he can be considered for release by the Parole Commissioners because Howell's role is clear from his admissions to the police during interview and in the witness statement he has made after his pleas of guilty to the charges of murder. Because of his admissions this is not a case where it necessary to await the outcome of the trial of his co-defendant in order to assess his part in these events.

[3] Though I do not intend to refer to the alleged role of Hazel Buchanan in these murders, it appears from the committal papers that she accepts she and Howell were engaged in an adulterous relationship for some time prior to the murders, and although there is a dispute as to the intensity of their

relationship after the murders, the relationship continued for several years afterwards before each subsequently remarried.

[4] Howell married Lesley Howell in 1983, and by 1991 they had four young children ranging from a few months to 6 years of age. After qualifying as a dentist he worked in Coleraine and then set up his own practice in Ballymoney. Hazel Buchanan was married to Trevor Buchanan who was a constable in the RUC, and they had two young children of similar ages to the Howell children. Both families were involved in a local church in Coleraine, and through this involvement in the church and having young children of comparable ages the families became acquainted.

[5] In 1990 Howell and Hazel Buchanan commenced an adulterous relationship, and after some time this relationship became known to leading members of their congregation and to their respective spouses. Howell and Buchanan were persuaded to discontinue their relationship. Naturally this relationship caused great distress and unhappiness to their spouses. In 1991 they resumed their relationship in the period leading up to the murders.

[6] For present purposes the events leading up to the murder of Lesley Howell and Trevor Buchanan can be described reasonably simply. Howell admits that he conceived, planned and carried out the double murder, and did so in a fashion designed to make it appear that his wife and Trevor Buchanan had taken their lives in a suicide pact.

[7] On the night of 18 May 1991 Howell waited until his wife was asleep in the lounge of their home, and when he saw that she was sleeping deeply with a quilt pulled up to her neck he went to the garage attached to their house, where he took a hose pipe that he had already modified by attaching a plastic bottle over one end of the hose, so that the thicker part fitted over the tail pipe of the car and the thinner part fitted the hose pipe. He had prepared this device earlier that day. When he saw that his wife was asleep he attached it to the car, led the hose pipe into the lounge, and switched on the car engine, thus feeding carbon monoxide fumes into the lounge where his wife was asleep.

[8] When he realised that the carbon monoxide fumes were not going to fill the whole room he went inside the room and tucked the hose pipe under the quilt so that his wife would breathe in the fumes more effectively. He saw her stir as if she might be about to wake, so he ran into the room and pulled the quilt over her head. He recounted how his wife called out the name of their elder son and he thought she then took two breaths of the gas. He waited outside for a short period and then switched off the car engine.

[9] When he was satisfied that she was dead and that it was safe to remove her body from the house he put her body in the boot of their Renault car. He

then drove the car with his wife's body in it to the Buchanan house, where he met the accused, Hazel Buchanan. Her husband was also asleep and Howell again attached the hose pipe to the car and brought it into the house. He laid the hose pipe on the pillow beside Trevor Buchanan and switched on the car engine. After some two to three minutes Trevor Buchanan became restless and suddenly lifted his head, whereupon Howell went into the room, pulled the quilt up over Trevor Buchanan's head and tried to force him under the quilt. There was a short struggle, but Howell forced the pipe into Trevor Buchanan's mouth and then felt his body go weak. Trevor Buchanan slumped onto the floor beside the bed, and Howell pulled the quilt back over his head leaving the nozzle there and fled from the room before he could be overcome by the fumes.

[10] Shortly afterwards Howell dressed Trevor Buchanan's lifeless body in a top, jeans, socks and shoes and put his body into the car as well. Howell then drove the car to Castlerock. His initial intention had been to abandon the car at the Barmouth, but when he realised that this would appear suspicious he decided to drive to his late father-in-law's unoccupied house in Castlerock.

[11] When he arrived there he left the car in the garage, having first of all placed Trevor Buchanan's body in the driver's seat so as to make it appear that his death occurred at the garage. He then positioned a piece of Hoover pipe so that it led from the exhaust of the car into the back of the car, switched on the engine, pulled down the garage door and left. He made his way home on a bike he had brought with him in the car and positioned nearby for that purpose.

[12] In The Queen v. McCandless and Others [2004] NI 269 the Court of Appeal in Northern Ireland directed judges in this jurisdiction to apply the *Practice Statement* issued by Lord Woolf CJ in 2002 (reported at [2002] 3 All ER 417) when fixing the minimum term to be served by an accused who has been sentenced to life imprisonment before he can be considered for release by the Parole Commissioners. Under Article 5(2) of the Life Sentences (NI) Order 2001 the minimum term to be served is the period the court considers appropriate

“to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it.”

[13] The *Practice Statement* sets out the approach to be adopted in respect of adult offenders, and sets two starting points, and in the circumstances of the present case the appropriate starting point is the higher level of 15/16 years, which is dealt with from paragraph 12 onwards of the *Practice Statement*.

“12. The higher starting point will apply to cases where the offender’s culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases will be characterised by a feature which makes the crime especially serious, such as: (a) the killing was ‘professional’ or a contract killing; (b) the killing was politically motivated; (c) the killing was done for gain (in the course of a burglary, robbery etc.); (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness); (e) the victim was providing a public service; (f) the victim was a child or was otherwise vulnerable; (g) the killing was racially aggravated; (h) the victim was deliberately targeted because of his or her religion or sexual orientation; (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing; (j) extensive and/or multiple injuries were inflicted on the victim before death; (k) the offender committed multiple murders.

Variation of the starting point

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

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

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

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

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

Very serious cases

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

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

[14] It is essential to bear in mind that the *Practice Statement* serves to provide guidance, and that when deciding the appropriate minimum term the court does not attempt to place each case in either of two rigidly defined categories, rather, as Carswell LCJ observed in McCandless, the starting points are

"as the term indicates, points at which the sentencer may start on his journey towards the goal of deciding upon a right and appropriate sentence for the instant case. "

And he re-emphasised this point at [31] of his judgment when he said that

"It is to be remembered that the figure of 15 or 16 years is only a starting point for the consideration of the court, and that having commenced from there its duty is to end up at a figure which properly represents the minimum period for which the perpetrator of the crime should be detained before his release can be considered. In assessing the

heinousness of the factors which bring the case into the higher bracket the court is not double counting, merely determining the seriousness of the crime.”

[15] These were truly heinous crimes, constituting as they did the cold blooded, carefully planned and ruthlessly executed double murder of two people who Howell saw as standing in the way of his adulterous desire to be with Hazel Buchanan. Each murder was carried out when the victim was asleep and thus entirely defenceless. Even when each stirred in their sleep Howell did not draw back and spare their lives, but physically subdued their faint signs of approaching consciousness, thereby ensuring their deaths. As a consequence two innocent people were murdered, and six children deprived of the love of their mother or their father. The reputations of their innocent parents, who had already been wronged by Howell, were further stigmatised by the false implication that they had taken their own lives in a suicide pact.

[16] Although Mr Murphy QC (who appears for the prosecution with Mr Neil Conner) stated that the prosecution accept that Howell was not motivated by money when he committed the murders, he pointed out that Howell had been in financial difficulties at the time, and profited financially from his wife’s death, inheriting her estate and that of her father who had died a few days before, as well as receiving the proceeds of a number of insurance policies. As a result he received various sums amounting to just over £414,000.

[17] Lesley Howell and Trevor Buchanan each had close family who were naturally devastated by these deaths, and who have had to live for many years with the belief that they had taken their own lives. Not only were their children deprived of the love and companionship of their respective parents throughout their childhood, but their brothers and sisters also suffered grievous loss. I have been provided with victim impact statements from two of Howell’s children, from Lesley Howell’s brother, and from members of Trevor Buchanan’s family. These are deeply moving and dignified accounts of the effects of the deaths of Lesley Howell and Trevor Buchanan on so many people. It is particularly poignant to read the descriptions of the effect of the death of their son on Trevor Buchanan’s elderly parents, whose remaining years were blighted by the severe effect of their son’s death upon them. It is apparent from what each has described in their statements that many lives have been gravely affected for many years by these murders. Since the last hearing I have also been provided with a letter sent by other members of Howell’s family in which they say that they realise that he has committed a terrible crime, but ask the court to take into account that he confessed to the police.

[18] The premeditated and ruthless way the murders were planned and carried out, the grave effect they had on the lives of so many others, the

financial benefits to Howell, and the pain and grief he allowed others to experience for so many years before he confessed his guilt are all aggravating factors that must be reflected in the minimum term he must serve before he can be considered for release.

[19] I have the benefit of Howell's very detailed admissions to the police in which he refers at length to his background and life. I also have a psychiatric report prepared on his behalf by Dr Helen Harbinson, a consultant psychiatrist, together with a shorter report prepared on his behalf by Dr Ian Bownes, another consultant psychiatrist. These materials give an extremely comprehensive picture of Howell and his character, and I consider that a pre-sentence report would not serve any useful purpose in this case.

[20] Dr Harbinson is of the opinion that Howell suffered a psychotic psychiatric episode whilst in custody, and she also expresses the opinion that he suffers from an abnormality of mind in the form of a severe personality disorder, although she points out that personality disorders are excluded from the terms of the Mental Health (NI) Order 1986. By his pleas of guilty Howell accepts that he had the necessary intent to kill at the time he committed these murders. I do not consider that any condition of the type identified by Dr Harbinson from which Howell may have suffered constitutes a mitigating factor. He is an intelligent man who knew exactly what he was doing throughout, and it should be recorded that in his letter to the court he expressly disavowed any attempt to rely on any psychiatric explanation for his conduct.

[21] For nearly two decades Howell concealed his guilt until he was driven by his conscience to confess; first to his second wife, and then to the elders of a Christian fellowship he had joined, and they contacted the police. Through Mr Weir QC (who appears for Howell with Mr Francis Rafferty), and in his letter to the court, Howell has expressed his remorse for what he describes in that letter as "the heinous crime I acted out and covered up for 18 years." By confessing his guilt and stating his willingness to give evidence for the prosecution he has demonstrated in a practical fashion his remorse for what he did. Mr Murphy recognised that his confession is a mitigating factor, and I consider that Howell's willingness to give evidence for the prosecution is a further mitigating factor. These are the only mitigating factors in the case, but they are factors which must be taken into account in his favour, not least because had he not confessed he would never have been brought to justice for these dreadful crimes. Unpalatable though it may seem to many, the courts recognize that criminals who plead guilty should receive a lesser sentence than would have been the case had they been convicted after a trial because by doing so they publicly accept their guilt.

[22] Tragically, murders of those who are seen as standing in the way of the fulfilment of lustful desires are not uncommon in this jurisdiction and

elsewhere, and there have been a number of such cases in Northern Ireland in recent years. In R v. Monaghan and McGinley [2003] NICC 1 Kerr J (as he then was) imposed minimum terms of 15 years imprisonment following the conviction of the defendants for the murder of Mrs McGinley's husband. When fixing the minimum term Kerr J took into account that the deceased was asleep when he was murdered and therefore in a vulnerable position. However that case, unlike the present case, was expressly regarded as an opportunistic crime.

[23] In R v. Neil Graham [2004] NICA 40 the Court of Appeal considered that the appropriate minimum term was one of 18 years after conviction for what the court described as a "meticulously planned murder carried out with painstaking care and deviousness" by the defendant.

[24] In R v. Ferguson and Crymble [2007] NICC 54 McLaughlin J considered that the accused had displayed premeditation, had abused the relationship of trust between husband and wife and had also attempted to conceal the body. A minimum term of 20 years imprisonment was imposed upon Jacqueline Crymble who was the principal perpetrator.

[25] In each of those cases the defendant was convicted after pleading not guilty, and in each case the court was concerned only with a single murder. Whilst the *Practice Statement* identifies a number of murders as a factor requiring the adoption of the higher starting point of 15/16 years, Mr Murphy also referred me to a number of English decisions in which significantly higher terms have been imposed. However, those decisions have to be treated with caution because the provisions of Schedule 21 to the Criminal Justice Act 2003 require judges in England and Wales to take a starting point of 30 years where there have been two murders. These provisions do not apply to Northern Ireland, where, as Kerr LCJ stated in R v Hamilton [2008] NICA 27 "the touchstone in this jurisdiction for the fixing of minimum terms in life sentence cases remains the *Practice Statement*".

[26] I consider that this is a case which requires a substantially higher minimum term than one of 15/16 years because of the number and gravity of the aggravating factors to which I have referred. There cannot be any mathematical equivalence between the number of deaths and the eventual minimum term, nevertheless the sentence in the present case must recognise that these were two separate murders, and although they were closely connected in both time and the manner in which they were carried out, they were nevertheless distinct and separate crimes, each characterised by the aggravating factors to which I have already referred. Had Howell been convicted of these murders after pleading not guilty I consider that a minimum term of 28 years imprisonment would have been appropriate.

[27] As I have already stated, the only mitigating factors are that he confessed his crimes to the police and has volunteered to give evidence against his co-defendant. He has thereby accepted his guilt and given practical expression to his remorse. Taking both of these factors into account in his favour I sentence him to a minimum term of 21 years imprisonment. This will include the time spent in custody on remand.