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IN THE CROWN COURT IN NORTHERN IRELAND

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BELFAST CROWN COURT

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THE QUEEN

v

PATRICK CRYMBLE
AND
SAMANTHA BROWN

_____

Ciaran Murphy QC and James Johnston (instructed by the PPS) for the Crown
John Kearney QC and Rosemary Walsh (instructed by Campbell & Caher) for the first Defendant
Niall Hunt QC and Christopher Sherrard (instructed by McLaughlin & Co) for the second Defendant

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HUMPHREYS J

Introduction

[1] On 20 January 2018 the deceased Mark Joseph Ponisi was subjected to a brutal and sustained attack which, coupled with his alcohol intake, led to his untimely death. The two defendants, Patrick Crymble and Samantha Brown, were jointly charged with his murder but, following the provision of medical evidence, the prosecution accepted pleas of guilty to manslaughter on the grounds of diminished responsibility.

[2] The court now moves to pass sentence against each defendant in respect of this crime. In advance of today's hearing, I have been in receipt of:

(i) Detailed written submissions from the prosecution and defence lawyers;

(ii) Victim Personal Statements from the deceased's wife, daughter and four siblings;

(iii) Pre-sentence reports from the Probation Board; and

(iv) Psychiatric reports from Dr Kennedy, Dr Loughrey and Dr O'Kane.

[3] I have taken all of these into account, even where they have not been specifically referenced, as well as the careful oral submissions of counsel which I have heard today. I am very grateful to all the legal teams involved for the diligent and sensitive way in which this case has been handled.

[4] Manslaughter cases represent some of the most difficult cases for sentencing judges. The defendant has pleaded guilty to an unlawful homicide but the degree of culpability can vary greatly between different cases. For that reason, the sentencing guidelines in manslaughter cases are very wide and the court must instead focus on the particular circumstances of the given case in order to arrive at a just outcome. For that reason, it is necessary to consider the circumstances of the death of Mr Ponisi in a little detail.

The Events of 20 January 2018

[5] Mark Ponisi was a 53 year old unemployed man who was alcohol dependant. The two defendants were both aged 26, were habitual users of drugs and alcohol and were in a relationship for a short time. The three met on a Friday evening in Belfast, drink and drugs were consumed, and they ended up back in a flat where Ms Brown lived on London Road, Belfast in the early hours of the morning. Another individual, Colin Hetherington, was also in their company and more drink was purchased and consumed.

[6] I had the highly unusual benefit of hearing a six minute recording of a voicemail message accidentally left on an off duty police officer's phone. This provided a first hand account of part of the attack and I was able to ascertain from it some of the conduct and behaviour of the defendants. Otherwise the picture of events derived from the statements and interviews was confused, no doubt as a result of the levels of intoxication. The vicious attack was precipitated by an allegation was made of sexual assault by the deceased on Ms Brown. She reacted angrily and, it would appear, was the first to engage in violence by slapping the deceased. She also encouraged the attack which ensued. However, on any interpretation of the evidence, Mr Crymble was the primary assailant. He was responsible for hitting the deceased with a hammer and ramming curling tongs down his throat. As well as encouraging the assault, Ms Brown kicked and slapped the deceased. Eventually, and importantly however, by amount five minutes into the voicemail recording she was asking Crymble to stop. The police interviews also make it clear that Crymble was the primary perpetrator of the violence.

[7] Both defendants contacted the ambulance service some hours after the assault and gave false accounts of the events of that evening. When the police arrived, Mr Ponisi was already dead.

[8] Mr Hetherington, the eye witness, gives an account of a wanton orgy of violence, involving punching, kicking, and the use of a variety of weapons. I accept that this evidence has not been tested, and that he was intoxicated at the time, but it forms part of the evidential picture and it was supported to an extent by the voicemail recording.

[9] The post mortem report revealed that the deceased had multiple injuries around his head and body, including a broken nose, broken ribs and extensive bruising. He was also heavily intoxicated at the time of his death and this was the principal cause of death although the assault was a significant contributory factor.

Diminished Responsibility

[10] Section 5 of the Criminal Justice Act (Northern Ireland) 1966 as amended by section 53 of the Coroners and Justice Act 2009 provides that to avail of a defence of diminished responsibility, a defendant must show that he was suffering from some abnormality of mental functioning which:

(a) Arose from a recognised mental condition; and

(b) Substantially impaired his ability to understand the nature of his conduct, to form a rational judgement or to exercise self-control; and

(c) Provides an explanation for the defendant's acts or omissions in doing or being a party to the killing.

[11] Medical evidence in relation to Mr Crymble revealed that he was suffering from a mild learning disability, mixed personality disorder and features of post traumatic stress disorder. His abnormality of mental functioning substantially impaired his ability to exercise self-control and explained his conduct. On this basis, the Crown accepted his plea of guilty to manslaughter on the grounds of diminished responsibility.

[12] In respect of Ms Brown, the medical reports indicated she was suffering from alcohol dependency syndrome and an adjustment disorder which substantially impaired her ability to form a rational judgement and exercise self-control. Again, a plea was accepted on foot of this evidence.

Personal History

[13] I have had the benefit of full and detailed accounts of the family history and background of each of the defendants. I do not need to rehearse this material for

these purposes. Suffice to say each has had a difficult upbringing, characterised by broken relationships and poor mental health. Neither defendant has ever been able to enjoy a stable working or family environment. Their traumatic backgrounds have, of course, been taken into account in the evidence which led to the acceptance of the plea of diminished responsibility.

Criminal Records

[14] Patrick Crymble has a criminal record which involves some 18 previous offences, mostly for low level violent offending. Between the ages of 18 and 21, he was detained in Muckamore Abbey Hospital where he displayed strongly violent tendencies. None of these antecedents led to serious harm being caused

[15] Samantha Brown has 19 previous convictions for various low level offending, including offences of common assault and public disorder. Again, no significant harm was previously caused by her.

Victim Impact

[16] The statements from Mark Ponisi's family members tell of his struggles with alcohol but the constant love he had for his children and grandchildren. As a result of the actions of the defendants, he will not see his grandchildren grow up. Their actions have destroyed lives. The words of his daughter, Shannon, have resonated with me in particular as she describes how her world fell apart and how her father did not live to see her go to university, something of which he would have been so proud.

Sentencing Principles

[17] There is no basis on the evidence before the court to justify the making of a hospital order in respect of either defendant.

[18] The court must therefore move to consider the appropriate sentence in light of the provisions of the Criminal Justice (Northern Ireland) Order 2008 ('the 2008 Order'). Manslaughter is both a specified offence and a serious offence for the purposes of the 2008 Order.

[19] Article 13 states:

> "(1) This Article applies where—
>
> (a) a person is convicted on indictment of a serious offence committed after the commencement of this Article; and

(b) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences.

(2) If—

(a) the offence is one in respect of which the offender would apart from this Article be liable to a life sentence, and

(b) the court is of the opinion that the seriousness of the offence, or of the offence and one or more offences associated with it, is such as to justify the imposition of such a sentence,

the court shall impose a life sentence.

(3) If, in a case not falling within paragraph (2), the court considers that an extended custodial sentence would not be adequate for the purpose of protecting the public from serious harm occasioned by the commission by the offender of further specified offences, the court shall—

(a) impose an indeterminate custodial sentence; and

(b) specify a period of at least 2 years as the minimum period for the purposes of Article 18, being such period as 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.

(4) An indeterminate custodial sentence is—

(a) where the offender is aged 21 or over, a sentence of imprisonment for an indeterminate period,

(b) where the offender is under the age of 21, a sentence of detention for an indeterminate period at such place and under such conditions as the Secretary of State may direct,

subject (in either case) to the provisions of this Part as to the release of prisoners and duration of licences.

(5) A person detained pursuant to the directions of the Secretary of State under paragraph (4)(b) shall while so detained be in legal custody.

(6) An offence the sentence for which is imposed under this Article is not to be regarded as an offence the sentence for which is fixed by law.

(7) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article."

[20] Thus, the court must impose a life sentence where there is a significant risk of serious harm occasioned by the offender and where the seriousness of the offence is such as to justify a life sentence. If not, the court then considers whether an extended custodial sentence would be adequate for protecting the public from the risk of harm. If not, then the court imposes an indeterminate custodial sentence.

[21] Article 14 of the 2008 Order addresses extended custodial sentences:

"(1) This Article applies where—

(a) a person is convicted on indictment of a specified offence committed after the commencement of this Article; and

(b) the court is of the opinion—

(i) that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences; and

(ii) where the specified offence is a serious offence, that the case is not one in which the court is required by Article 13 to impose a life sentence or an indeterminate custodial sentence.

(2) The court shall impose on the offender an extended custodial sentence.

(3) Where the offender is aged 21 or over, an extended custodial sentence is a sentence of imprisonment the term of which is equal to the aggregate of -

(a) the appropriate custodial term; and

(b) a further period ("the extension period") for which the offender is to be subject to a licence and which is of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences.

(4) In paragraph (3)(a) "the appropriate custodial term" means a term (not exceeding the maximum term) which—

(a) is the term that would (apart from this Article) be imposed in compliance with Article 7 (length of custodial sentences); or

(b) where the term that would be so imposed is a term of less than 12 months, is a term of 12 months.

(5) Where the offender is under the age of 21, an extended custodial sentence is a sentence of detention at such place and under such conditions as the Secretary of State may direct for a term which is equal to the aggregate of—

(a) the appropriate custodial term; and

(b) a further period ("the extension period") for which the offender is to be subject to a licence and which is of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences.

(6) In paragraph (5)(a) "the appropriate custodial term" means such term (not exceeding the maximum term) as the court considers appropriate, not being a term of less than 12 months.

(7) A person detained pursuant to the directions of the Secretary of State under paragraph (5) shall while so detained be in legal custody.

(8) The extension period under paragraph (3)(b) or (5)(b) shall not exceed—

(a) five years in the case of a specified violent offence; and

(b) eight years in the case of a specified sexual offence.

(9) The term of an extended custodial sentence in respect of an offence shall not exceed the maximum term.

(10) In this Article "maximum term" means the maximum term of imprisonment that is, apart from Article 13, permitted for the offence where the offender is aged 21 or over.

(11) A court which imposes an extended custodial sentence shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (suspended sentences) in relation to that sentence.

(12) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article."

[22] Key to the court's sentencing task therefore is the question of 'dangerousness', that is to say the assessment as to whether the offender presents a significant risk of serious harm by the commission of further specified offences. The court is obliged to take into account all information regarding the nature and circumstances of the offence, and may consider any information about the offender which is before it.

[23] The Court of Appeal in this jurisdiction has, in *R v EB* [2010] NICA 40, approved the guidance on this assessment process in *R v Lang* [2005] EWCA Crim 2864:

"(i) The risk identified must be significant. This was a higher threshold than mere possibility of occurrence and could be taken to mean 'noteworthy, of considerable amount or importance'.

(ii) In assessing the risk of further offences being committed, the sentencer should take into account the

nature and circumstances of the current offence; the offender's history of offending including not just the kind of offence but its circumstances and the sentence passed, details of which the prosecution must have available, and, whether the offending demonstrated any pattern; social and economic factors in relation to the offender including accommodation, employability, education, associates, relationships and drug or alcohol abuse; and the offender's thinking, attitude towards offending and supervision and emotional state. Information in relation to these matters would most readily, though not exclusively come from antecedents and presentence probation and medical reports. The sentencer would be guided, but not bound by, the assessment of risk in such reports. A sentencer who contemplated differing from the assessment in such a report should give both counsel the opportunity of addressing the point.

(iii) If the foreseen specified offence was serious, there would clearly be some cases, though not by any means all, in which there might be a significant risk of serious harm. For example, robbery was a serious offence. But it could be committed in a wide variety of ways, many of which did not give rise to a significant risk of serious harm. Sentencers must therefore guard against assuming there was a significant risk of serious harm merely because the foreseen specified offence was serious. A pre-sentence report should usually be obtained before any sentence was passed which was based on significant risk of serious harm. In a small number of cases, where the circumstances of the current offence or the history of the offender suggested mental abnormality on his part, a medical report might be necessary before risk can properly be assessed.

(iv) If the foreseen specified offence was not serious, there would be comparatively few cases in which a risk of serious harm would properly be regarded as significant. Repetitive violent or sexual offending at a relatively low level without serious harm did not of itself give rise to a significant risk of serious harm in the future. There might, in such cases, be some risk of future victims being more adversely affected than past victims but this, of itself, did not give rise to significant risk of serious harm."

[24] In *R v Hackett* [2015] NICA 57, the Court of Appeal considered a diminished responsibility case, where there has been a finding of dangerousness, and substituted life sentence with an indeterminate custodial sentence with a specified minimum term of seven years. Morgan LCJ stated:

> "[52] The approach which the court should take in applying the similar provisions in England and Wales was addressed in R v Kehoe [2008] 1 Cr App R (S) 41 and is helpfully encapsulated in paragraph 17:
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> > 'When, as here, an offender meets the criteria of dangerousness, there is no longer any need to protect the public by passing a sentence of life imprisonment for the public are now properly protected by the imposition of the sentence of imprisonment for public protection. In such cases, therefore, the cases decided before the Criminal Justice Act 2003 came into effect no longer offer guidance on when a life sentence should be imposed. We think that now, when the court finds that the defendant satisfies the criteria for dangerousness, a life sentence should be reserved for those cases where the culpability of the offender is particularly high or the offence itself particularly grave.'
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> [53] Lord Judge CJ returned to this issue in R v Wilkinson (Grant) [2009] 1 Cr App R (S) 628 where he said that the crucial difference between a discretionary life sentence and a sentence of imprisonment for public protection arising at the time of sentence is the seriousness of the instant offence as assessed in the overall statutory context.
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> He continued at paragraph [19]:
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> > 'In our judgment it is clear that as a matter of principle the discretionary life sentence under section 225 should continue to be reserved for offences of the utmost gravity. Without being prescriptive, we suggest that the sentence should come into contemplation when the judgment of the court is that the seriousness is such that a life sentence would have what Lord Bingham observed in R v Lichniak [2003] 1 AC

> 903 would be a 'denunciatory' value, reflective of public abhorrence of the offence, and where, because of its seriousness, the notional determinate sentence would be very long, measured in very many years.'
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> [54] For the reasons we have given, in light of the additional medical evidence, we differ from the learned trial judge's assessment that the overall responsibility of the appellant remained comparatively high. He relied upon the decision in R v Crolly [2011] NICA 58 but since the offence was committed in February 2007 the dangerousness provisions did not apply. He also relied upon R v Wood [2009] EWCA Crim 651. That was a diminished responsibility case where the court imposed a life sentence in respect of an attack with a meat cleaver and lump hammer inflicting 53 injuries on a homosexual victim. The court said that a life sentence should be reserved for those cases where the culpability of the offender was particularly high or the offence itself was particularly grave. Life imprisonment would be rare in such cases, usually reserved for particularly grave cases, where the defendant's responsibility for his actions, although diminished, remained high. We do not consider that these cases provide material support for the imposition of a life sentence in this case."

[25] *Hackett* was followed by Colton J in *R v Dolan* [2020] NICC 7 where the defendant has subjected his victim to a brutal and violent death and a plea of guilty to manslaughter on the grounds of diminished responsibility was accepted. He commented:

> "The 2008 Order is in effect a 'game changer' in terms of the appropriate sentence in diminished responsibility cases. There is no longer any need to protect the public by passing a sentence of life imprisonment because the public is now properly protected by the imposition of the sentence of an indeterminate custodial sentence. This was undoubtedly a shocking and grave offence. I will deal with your culpability later. Whilst it was undoubtedly diminished by your mental condition I do not consider that it was low. Nonetheless, I do not consider that this is a case which requires the imposition of a life sentence. In the circumstances of this case and having regard to the statutory context of the 2008 Order I consider that the appropriate sentence is an indeterminate custodial

> sentence. I consider this is a sufficient sentence to provide appropriate protection to the public. I will turn to the issue of the appropriate tariff shortly. However, I would emphasise that irrespective of any tariff I impose you will only be released on licence if this is approved by the Parole Commissioners who will be best placed to assess the risk you pose to the public at any given time."

[26] In cases where the court assesses the defendant as not falling within the statutory definition of dangerousness, sentencing falls to be determined in line with the principles in *R v Magee* [2007] NICA 21 and *R v Crolly* [2011] NICA 58. In *Magee* Kerr LCJ stated:

> "[22] It is not surprising that there are relatively few decisions in this jurisdiction which could properly be described as guideline cases for sentencing for manslaughter. Offences of manslaughter typically cover a very wide factual spectrum. It is not easy in these circumstances to prescribe a sentencing range that will be meaningful. Certain common characteristics of many offences of violence committed by young men on other young men are readily detectable, however, and, for reasons that we will discuss, these call for a consistent sentencing approach.
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> [26] We consider that the time has now arrived where, in the case of manslaughter where the charge has been preferred or a plea has been accepted on the basis that it cannot be proved that the offender intended to kill or cause really serious harm to the victim and where deliberate, substantial injury has been inflicted, the range of sentence after a not guilty plea should be between eight and fifteen years' imprisonment. This is, perforce, the most general of guidelines. Because of the potentially limitless variety of factual situations where manslaughter is committed, it is necessary to recognise that some deviation from this range may be required. Indeed, in some cases an indeterminate sentence will be appropriate. Notwithstanding the difficulty in arriving at a precise range for sentencing in this area, we have concluded that some guidance is now required for sentencers and, particularly because of the prevalence of this type of offence, a more substantial range of penalty than was perhaps hitherto applied is now required.

> [27] Aggravating and mitigating features will be instrumental in fixing the chosen sentence within or – in exceptional cases – beyond this range. Aggravating factors may include -
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> (i) the use of a weapon;
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> (ii) that the attack was unprovoked;
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> (iii) that the offender evinced an indifference to the seriousness of the likely injury;
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> (iv) that there is a substantial criminal record for offences of violence; and
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> (v) more than one blow or stabbing has occurred."

[27] In *Crolly* Higgins LJ commented:

> "In a case of manslaughter by reason of diminished responsibility the sentencing court is concerned principally with three separate matters – the seriousness of the offence, the abnormality of mind and the extent to which it diminishes the offender's responsibility for the killing and the background of the offender. Like manslaughter the options available to the court are many and varied depending on the circumstances of the case."

The Assessment of Dangerousness – Patrick Crymble

[28] The report of Dr Kennedy dated 15 November 2021 sets out various risk factors in relation to Crymble, including:

(i) Previous low level violent offending as evidenced by his criminal record;

(ii) Instances of violence and threats of violence in his hospital records;

(iii) Substance misuse;

(iv) Significant mental illness;

(v) Relationship problems; and

(vi) Poor engagement with treatment and supervision.

[29] In her opinion, if the same constellation of risk factors were to recur again, then the potential for the defendant to similarly offend was present. She concludes:

> "The future violence risk for serious harm in my view is thus a significant one, which will require indefinite management and supervision."

[30] There is no other psychiatric evidence to contradict the findings of Dr Kennedy.

[31] A pre-sentence report ('PSR') was prepared by Mr Bill Greer. He concludes that whilst the defendant is assessed as presenting a high likelihood of reoffending, he was not assessed as presenting a significant risk of serious harm.

[32] Mr Greer was asked to supplement his opinion in light of Dr Kennedy's report and a further PSR was prepared dated 16 March 2022. It states that it was "entirely plausible that the court could consider the defendant dangerous" but repeats the finding that he was not assessed as presenting a significant risk of serious harm.

[33] It is well-established that PSRs are an important part of the dangerousness assessment process. However, they are not binding on the court and ultimately the determination is a legal one to be undertaken in accordance with the provisions of the 2008 Order.

[34] The court is mandated to take account of the nature and the circumstances of the offending which explains why this was set out in some detail previously. This was a brutal, sustained and vicious attack perpetrated principally by Mr Crymble. I have also had the benefit of the detailed analysis of Dr Kennedy which I entirely accept.

[35] In light of all the information presented to the court, I have no hesitation in finding that Crymble presents a significant risk of serious harm in accordance with the test in the 2008 Order.

The Assessment of Dangerousness – Samantha Brown

[36] The PSR in respect of Ms Brown confirms the health problems she has experienced and the long term substance abuse issues. In the opinion of the author, Ms Morgan, this defendant presents a high likelihood of reoffending in light of the risk factors identified, including:

(i) Her history of aggressive behaviour;

(ii) Poor mental health;

(iii) Substance misuse;

(iv) Lack of acceptance of responsibility and empathy; and

(v) Risk taking and impulsive behaviour.

[37] However, she was not assessed as presenting a significant risk of serious harm. She would require close supervision in a planned transition back into the community if the risks of reoffending were to be mitigated. It is noteworthy that this defendant has been on remand for over 4 years and during that time has engaged positively with the opportunities presented to her in prison.

[38] I had the benefit of psychiatric reports from both Dr Kennedy and Dr O'Kane. Dr Kennedy concludes:

> "A scenario where she could experience sexual assault to perceive this in her mind while intoxicated could trigger angry thought. This is likely linked to past traumatic sexual experience."

[39] I agree that there are risks relating to Ms Brown but, having considered all the evidence, I have concluded that she does not meet the statutory test of dangerousness.

Sentence – Crymble

[40] Patrick Crymble, in light of the principles set out in *Hackett* and *Doran*, I have determined that this case is not of such gravity as to warrant the imposition of a life sentence under Article 13 of the 2008 Order. However, I have also determined that the imposition of an extended custodial sentence is not adequate to protect the public from the risk of serious harm which you pose and I will therefore impose an indeterminate custodial sentence upon you. I take into account the level of risk you pose to the public as evidenced by your conduct and your expressed view in relation to the licence and supervision as set out in the report of Dr Kennedy at paragraph 2.15. You told her that you do not wish to be subject to supervision and you would prefer to serve a long prison sentence than be released on licence. I note what was said in relation to your attitude today by your counsel but your attitude to supervision is a matter which I am specifically required to take into account.

[41] I am therefore obliged to set the minimum period which you must serve in prison before you are eligible for release. This minimum period is such as the court considers appropriate to satisfy the requirements of retribution and deterrence. I stress that the ultimate decision as to when you are released will be a matter for the Parole Commissioners who themselves must be satisfied that it is no longer necessary for the protection of the public that you remain in custody.

[42] I accept the submission made that the you had the intention to cause Mr Ponisi grievous bodily harm rather than to kill him, despite some of the utterances on the voicemail recording. Had you been convicted of murder after a contested trial, and a life sentence imposed, I would have set the tariff in your case at 13 years. This would have been a 'normal starting point' case in line with the principles in *R v McCandless* [2004] NICA 1.

[43] There are a number of significant aggravating factors, namely:

(i) The significant and sustained levels of violence used in the attack;

(ii) The use of various weapons;

(iii) The relative vulnerability of the deceased;

(iv) The failure to seek medical assistance in time when his life may have been capable of being saved;

(v) The duplicitous attempts to exculpate yourself and a botched effort to clean up the crime scene;

(vi) The history of violence, albeit at a much less serious level.

[44] The mitigating features in this case are:

(i) Your mental health;

(ii) The lack of any premeditation or planning;

(iii) Your guilty plea, to which I will return; and

(iv) Your remorse. I am satisfied that you have shown a degree of remorse and you counsel made an express statement to that effect in court today.

[45] It is accepted that your responsibility was diminished but it was nonetheless significant. I assess your residual culpability for this offending as being relatively high. Had you been convicted after a contested trial of the offence of manslaughter, I would have imposed a minimum term of 10 years in an indeterminate custodial sentence.

[46] You are, however, entitled to credit for your timely plea of guilty offered and accepted once medical evidence was available.

[47] I consider that a discount of 20% is appropriate and I therefore order that the minimum term in this case be fixed at eight years pursuant to Article 13(3)(b) of the

2008 Order. This will include the period spent to date in custody. Standing back, I am satisfied that this is the appropriate period to satisfy the requirements of retribution and deterrence.

Sentence – Brown

[48] Samantha Brown, whilst I have found that you are not dangerous within the meaning of the statute, I must nonetheless sentence you in respect of your culpability in the death of Mark Ponisi. Whilst you are guilty as a principal offender, I have found that you played a lesser, but still significant, role in the killing than your co-accused. You took part in, and escalated, the events which led to the death.

[49] The same are aggravating factors are present, namely:

(i) The significant and sustained levels of violence used in the attack;

(ii) The use of various weapons;

(iii) The vulnerability of the deceased;

(iv) The failure to seek medical assistance;

(v) The duplicitous attempts to exculpate yourself and a botched effort to clean up the crime scene; and

(vi) The history of offending, albeit at a much less serious level.

[50] The mitigating features are:

(i) Your mental health;

(ii) The lack of planning or premeditation;

(iii) Your plea of guilty; and

(iv) The remorse which I accept you have shown, both from what was said in court today and from the pre-sentence reports.

[51] In light of all the evidence I have concluded that the starting point in this case, following a contested trial would have been a determinate custodial sentence of 12 years.

[52] You are entitled to credit for the plea of guilty which was entered on a timely basis once the medical evidence was available. I will therefore reduce the sentence of one of 10 years' imprisonment, of which five years will be spent in custody and

five years on licence. The custodial period will include the time spent on remand to date.

[53] Pursuant to Article 23 of the 2008 Order, I propose to recommend that the following conditions attach to the licence upon your release:

(i) You must participate in any psychological assessment and engage with mental health services if deemed appropriate by the Probation Officer;

(ii) You must participate actively in an alcohol and drug counselling programme as directed by the Probation Officer;

(iii) You must permanently reside at an approved address approved by the Probation Board; and

(iv) You must actively participate in any programme of work recommended by the Probation Officer.

[54] I appreciate this has been a lengthy and complex judgment following on from a long drawn out criminal process. I hope that the conclusion of today's proceedings brings some closure for the family of Mr Ponisi. They have conducted themselves with great dignity throughout. No sentence which I pass will bring back a much loved husband, father, brother and friend. I appreciate that the family may think that the sentences imposed are not long enough. That in itself is a natural reaction. Sentencing is a difficult task for judges and I have given this conclusion much anxious scrutiny to adopt the phrase used by counsel.

[55] To summarise:

(i) Patrick Crymble is sentenced to an indeterminate custodial sentence, with a minimum term of eight years. This means that the date for his release is not fixed but will be decided by the Parole Commissioners once they are satisfied in relation to the risk to the public. He will not be eligible to apply for release until the period of eight years has been served and, if released, he will be subject to licence;

(ii) Samantha Brown is sentenced to a determinate custodial sentence of 10 years' imprisonment, which means she will be released after serving five years in prison. Once she is released she will be on licence for a further period of five years, and subject to conditions and supervision in the community. If she fails to comply with the conditions of her licence, she will be subject to return to prison at any time to serve the remainder of her term.