

IN THE CROWN COURT IN NORTHERN IRELAND

THE QUEEN

v

RYAN QUINN

DEENY J

[1] Ryan Quinn was indicted for the murder of Finbarr McVey on the 27th day of September 2003. When arraigned before me he pleaded guilty to manslaughter and the prosecution accepted that plea, reasonably in the circumstances. It seems clear on all the evidence that the defendant did not have the necessary intent to kill or cause really serious injury which would have led to a conviction for murder.

[2] The defendant says there was some verbal exchange between Finbarr McVey and himself earlier in the evening in the streets of Cookstown and there had been some fracas between them some nine months before. They knew one another without being close friends.

[3] On the night in question the defendant had a considerable amount of drink taken without being drunk. Resentment of these earlier incidents seems to have festered within him. He was seen moving about with his fists clenched near Finbarr McVey in Molesworth Street in the early hours of the morning. He then walked up and without any warning or provocation of any kind he struck Mr McVey from behind on the side of the head knocking him to the ground. This must have been a hard blow because the pathologist records marked bruising of the sterno mastoid muscle. It was suggested by counsel that Mr McVey's greeting to Declan Curran was mistaken for aggression, but, having re-read his statement and the papers I am satisfied that is not the case. Tragically for Mr McVey the blow itself or the rotation of the head it caused ruptured his vertebral artery and he died in a short space of time. It is, indisputably, a tragedy that a well loved young man in the

prime of life should be struck down in this way. Not only is his life ended but such an early death devastates other lives as well, as here with his own immediate family, who have suffered this great loss.

[4] It appears to me that the offence is of such gravity that a custodial sentence must follow. I do not accept the submission of Mr Dermot Fee QC for the defendant that a non custodial sentence could suffice. He referred to the decision of the Court of Appeal in England in R v Coleman (1992) CAR (S) 508. However that was where the single blow was of moderate force and the death resulted from the fall. The Court expressly distinguished “the case where the actual blow caused the injury which caused death.” In R v Harrison [1996] 2 CAR (S) 250 Hutchinson LJ was dealing with a single blow with a fist which fractured the skull of the deceased. He drew this distinction among others. “An unlucky punch in the course of a spontaneous fight is very different from a wholly unprovoked blow to an innocent bystander”. I agree with that sentiment and note the sentence imposed therein. It seems to me that considering the cases since Coleman that in more recent years the tendency has been to impose somewhat higher sentences. See R v Rumbol [2001] 2 CAR (S) 291. In this case there was absolutely no action on the part of the deceased justifying this assault or contributing to his demise.

[5] I take into account in favour of the plaintiff his plea of guilty at the early opportunity on which it was made. It must be said, however, that the case against him was a strong one and not based on a single witness and it is hard to see how he could have avoided a conviction for manslaughter. Credit nevertheless must be given for the plea although I have to say that there did not seem to me to be any firm evidence of significant remorse.

[6] I also give the defendant credit for his previous good character. It seems he was a hard working young man. He returned to work despite quite a nasty injury to his foot before this accident. His former Parish Priest testified in the witness box to him being a quiet boy and a good neighbour and I take that into account. It is consistent with the well reasoned references submitted on his behalf suggesting that this offence was wholly out of character, and the well argued submissions of his counsel. I have taken these into account, as I have the helpful Pre-Sentence Report from the Principal Secretary.

[7] One of those submissions was to the effect that it would be his wish to emigrate when he was at liberty to do so. There may be a difficulty in him going to North America as he hopes but he will be free to live elsewhere in these islands and further a field. I think it in his interests and in the interests of the family of the deceased that he should be able take that course. A custody probation order could prevent that. Given his previous good character it does not seem to me that a Custody Probation Order is necessary

in the case and I have decided not to make one to allow him to move away, if he so desires, at the end of his custodial sentence.

[8] Any sentence the court imposes may seem lenient to the family of the deceased, but it is equally likely to seem harsh to the family of the defendant. One must strike a balance between the need to deter young men from unprovoked assaults while bearing in mind that the defendant did not intend the tragic consequences that followed, that he has pleaded guilty and that he is of hitherto good character. I have concluded that, in all the circumstances, the proper sentence is one of four years' imprisonment.