

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

THE QUEEN

v

RYAN SUBRYAN

HART J

[1] The defendant has pleaded guilty to various offences committed against three women in Belfast over the course of two days between 28 June and 30 June 2007. The second and third victims were the subject of sexual offences, and are therefore entitled to automatic anonymity by statute. The first victim was not the subject of a sexual offence as such, but as will appear the offence was clearly sexually motivated. In her case I see no reason why she should not receive the same degree of protection as the other victims, although her identity is not protected by any statutory provision. In each instance therefore I shall refer to them only by letter to protect their identity.

[2] When arraigned on 31 October 2008 the defendant pleaded not guilty to all counts upon the indictment. However, on 5 December 2008 he asked to be re-arraigned on a number of charges and pleaded guilty to those charges, pleas which were accepted by the prosecution. The court then ordered the remaining charges to lie on the file, not to be proceeded with without leave of the Crown Court or the Court of Appeal.

[3] The first of the three attacks occurred in the early hours of 28 June 2007 and involved a woman to whom I shall refer simply as B. The defendant has pleaded guilty to count 1, threats to kill, and count 2, the kidnapping of B. B was walking home alone along the Lisburn Road in the early hours of the morning following an argument with her boyfriend. She was approached by the defendant who tried to engage her in conversation before suggesting that she accompany him to a party. She refused his advances and he went away, but a few minutes later she heard a car driving slowly behind her and as it

approached realised the driver was the same man who had approached her earlier.

[4] The defendant offered her a lift home, saying that she lived in a dangerous area. He then got out of the car and proceeded to drag her forcefully into the car. In her police statement she described what happened in the following passage.

‘He went behind me, caught my face with his right hand covering my mouth, he put his left arm round me and pulled me in the direction of the car. In the beginning I tried to pull myself free. He threatened that he would shoot me if I started shouting. He pulled me to the back of the car and pushed me onto the front passenger seat. He jumped over the bonnet and instantly he was behind the wheel. He caught me by my clothes and tried to keep me inside the car. He tussled me and even he might have hit me in the chest. He asked me if I would like to see his weapon. After that he took out a weapon from the compartment on the driver’s side. He put the weapon against my temple saying that he would kill me but before that he would fuck me. The weapon was a revolver, I think that the handle was either wooden or brown. The barrel of the revolver might have been about 15cm long.’

[5] B thinks that she was held captive in the car for about 15 to 20 minutes as the defendant drove slowly around various streets adjoining the Lisburn Road. As the car turned very slowly into Ulsterville Avenue the opportunity presented itself to her to escape. She opened the door and jumped out of the car despite his trying to hold onto her by pulling at her hair. She then ran into a nearby alleyway and hid herself behind some rubbish bins. She rang her boyfriend and explained to him where she was, and after some time he was able to find her and took her home. She later reported the matter to the police. The defendant’s reference in the passage quoted above to having intercourse with her demonstrates that his behaviour was sexually motivated.

[6] A victim impact report upon B dated 2 December 2008 has been prepared by Ms Anne Kelly, a chartered psychologist. B, who is 28, was a Ph. D. student spending a sabbatical year in Northern Ireland. She described a range of symptoms which lead Ms Kelly to conclude that B has the symptoms of post-traumatic stress disorder and co-morbid clinical depression. Such has been the effect of these events upon B that she returned to Poland the day after her interview with Ms Kelly and wishes never to return.

[7] The second attack occurred two nights later on the night of 30 June 2007, and relates to a woman to whom I shall refer as S. The defendant has pleaded guilty to two counts in respect of S, namely threats to kill and indecent assault. S had been in a city centre bar and became confused and concerned about having lost her mobile phone. She was approached by the defendant who pretended that he would try and find it for her. A short time later he returned and said that he had contacted the person who had the mobile phone and tricked her into coming with him in his car. He drove her down to somewhere in the Titanic Quarter near the shipyard and proceeded to assault her.

[8] At pages 141 to 143 S described how he pulled her shorts down to mid-thigh level, and, holding her down, placed his penis close to her mouth. This was plainly an attempt to force her to engage in oral sex with him, and is the basis for the indecent assault charge. S was able to avoid oral sex by moving her head from one side to the other. As these events were taking place the defendant said to her that if she did not have sex with him he was going to get his gun and shoot her in the head. When he moved over her towards the back of the car she pushed him, jumped out and ran away. Two passers-by found her walking near the Odyssey and came to her assistance, learnt what had happened and contacted the police. It is not entirely clear what time in the morning of Saturday 30 June this attack occurred, but William Ball and Danielle Black who came to her assistance left their work at the Odyssey some time after 2.00 am, and S thought that she had walked for some considerable time before she met them.

[9] A victim impact report upon S has been prepared by Ms Kelly dated 31 December 2008. S is now 19 and Ms Kelly records that she has lost over a stone in weight since the attack, and, having described her symptoms, concludes that S has symptoms of chronic post-traumatic stress disorder with secondary severe clinical depression. Although she has formed a relationship since this attack that has resulted in the birth of a young child, memories and images of the assault adversely affected that relationship. Ms Kelly has recommended that S engage in cognitive behaviour therapy.

[10] The final set of charges relates to a third attack perpetrated by the defendant not long afterwards in the early hours of the same morning upon a woman to whom I shall refer only as C. The defendant has pleaded guilty to rape and assault occasioning actual bodily harm of C.

[11] C decided to walk home after a night out, she thought 'probably about 2ish', and had crossed the Lagan towards the Short Strand area when she was accosted by the defendant who kept telling her that she was a beautiful woman. CCTV shows a person answering the defendant's description in the area at 2.06 am, and then he appears behind C. Although she told him to go

away he continued to follow her. Her next recollection was of waking up and realising that she was naked from the waist down with her clothing strewn nearby. She realised that she had been raped, made her way home, told her husband what had happened, and the police were called.

[12] C was examined by Dr Beirne who found a total of 18 areas of bruising and swelling or marks and abrasions to C's head, back and left arm. Dr Beirne summarised her findings as follows.

'General examination revealed multiple bruises and abrasions to the face, mouth, left ear, neck, left arm, back and buttocks. A bruise is due to the application of blunt force. An abrasion is an injury involving only the outer layers of the skin. Swelling of the left cheek and both lips was noted. The facial injuries may have been caused by punches. The bruise noted on the left arm resembles that caused by fingertip pressure. The exact cause of the abrasions is unclear but they may have been caused by friction against a rough or gritty ground surface.'

Photographs taken by the police shortly afterwards show the extent of the bruising and swelling of C's face, and it is clear that she must have been struck repeatedly with considerable force.

[13] Ms Kelly has also prepared a victim impact report on C dated 3 January 2009. She concludes that C, who is a 43 year old married woman, suffers from mild clinical depression. From this report C appears to be a lady who is demonstrating a commendable determination to get on with her life. However, that is not to say that the effects of this attack upon her have been insignificant. On the contrary, in the immediate aftermath of the attack her GP prescribed anti-depressant medication and Diazepam, as well as a sleeping tablet. However, C does not like taking medication and has declined to take the anti-depressants, and only occasionally takes the Diazepam. She requires the help of the sleeping tablet nightly for insomnia. She received two sessions of counselling after the trauma, but declined Ms Kelly's offer to write to her GP to arrange for therapy.

[14] When the defendant was first questioned by the police, whilst he admitted that he had spoken to B and to S, he denied that he had attacked them in any way, and he denied the rape and assault of C. However, on 9 August 2007 at his own request he was further interviewed and admitted the assault and rape of C. At page 196 he said:

'I am not gonna lie I don't know the woman okay and I was, I was out that night, I was, I had drinks I had ecstasy just doing stuff I don't normally do. After I left the club I was driving around don't know what I was doing actually to be honest and I met that woman on the road and I did assaulted (sic) her and I did rape her but officers I do want to say to you that, I am terribly sorry for what I did. It is not that I am proud of it or anything alright and I am very sorry for whatever harm I may have caused that woman and I would do (sic) love to indicate that if by any chance I could get the privilege to apologise to her I would love to do that and what, what I did is not, is not something I would normally do alright, it is not like I am some vicious beast what people might think.'

[15] There are a number of aggravating features of the charges against the defendant.

- (i) The defendant attacked three different victims over a period of two days.
- (ii) On two of those occasions he threatened his victims with being killed with a gun.
- (iii) Each of the attacks involved a significant element of violence, for example B was forcibly dragged into the car, and C was left with very considerable bruising about her face and on the remainder of her body.
- (iv) The offences involved the kidnapping of B.
- (v) In the course of the second attack he attempted to subject S to the additional degradation of oral sex.
- (vi) Not only did the offences all have a common sexual motive, but they showed a marked escalation in sexual violence over a very short period of time.
- (vii) The effects upon the victims are of considerable significance.

[16] The defendant is 25 and a native of Guyana. On 24 April 2005 he was removed from the Republic of Ireland to the United Kingdom, arriving at Cardiff International Airport. He was then arrested and deported to Guyana. On 26 October 2006 he was arrested on arrival at Heathrow Airport having presented a forged South African passport in a false name. Notwithstanding his earlier deportation, he was permitted to remain until 1 May 2007 as a visitor, but his application for permission to reside in the European Economic Area was refused on 2 June 2007, and at the time of these offences he was therefore in this jurisdiction unlawfully.

[17] He has three convictions in this jurisdiction for driving offences, as well as a number of related offences. Whilst these are not an aggravating feature of the case, they mean that he cannot claim the positive credit allowed to a person of good character.

[18] The only mitigating feature is the defendant's plea of guilty. I have already referred to the plea of not guilty he entered in relation to some of the offences despite his admissions. As has been repeatedly pointed out in this jurisdiction, in order to benefit from the maximum discount on the penalty appropriate to any specific charge it is necessary that a defendant admits his guilt of that charge at the earliest opportunity, and that means during interview. The defendant did so, but then pleaded not guilty on arraignment. A further consideration is that the reduction in the sentence for a plea of guilty is affected by the strength of the case against the defendant, and in the case of the attack upon C the DNA evidence made his conviction inevitable. Nevertheless, by his pleas of guilty in advance of the trial the defendant has spared his victims the prospect of having to come to court to give evidence about what they had suffered, and, whilst not made at the earliest opportunity, his pleas of guilty are matters for which he is nevertheless entitled to a degree of credit.

[19] Mr Lyttle QC (who appears on behalf of the defence with Mr Browne) also relied upon the defendant's alleged remorse for his behaviour. However, whilst he did express regret during interview in the passage already quoted, not only did he plead not guilty upon arraignment as I have pointed out, but as the pre-sentence report records, he denies any sexual element in his contact with B and S, despite the sexual remarks he made to B and the indecent assault charge against S to which he has pleaded guilty. However, whilst these continuing denials of a sexual element to the first two attacks suggest that his regret lacks real validity, as Mr Lyttle QC pointed out, elsewhere in the pre-sentence report it is recorded that he accepts he did threaten to rape B.

[20] The defendant is married with two young children. I have also been provided with a number of references that testify to his having undergone a religious conversion whilst in prison. Whilst that may well be true, it does not sit easily with his denials of guilt by pleading not guilty on arraignment, and I entertain a degree of scepticism about the true extent of his remorse. His father has sent an unusual letter in which he accepts his own responsibility for behaving badly towards the defendant when he was a child.

[21] The defendant has been served with a notice under the Immigration Act 1971 and I am obliged to consider whether I should make a recommendation that he be deported. These were extremely grave crimes and I am satisfied that it is in public interest that he be deported upon his release from custody, and I so recommend.

[22] As the sentence must exceed twelve months imprisonment I have to consider whether I should impose a custody probation order or, as these were sexual attacks, I should direct that he be subject to an Article 26 licence upon his release. If he is to be deported this may prove to be an academic question, but given the nature and number of his attacks in such a short time, I am satisfied that the appropriate way to seek to protect other women from being attacked in the future is to order that upon his release he should be on licence under Article 26 of the Criminal Justice (NI) Order 1996. I also order that he be subject to a Sexual Offences Prevention Order of indeterminate length that he be prohibited from being alone in a private vehicle with a female without having made full disclosure of these offences. He will be subject to the requirements of the Sex Offenders Register for life.

[23] Given the nature of the defendant's offences and the number of offences committed within such a short time I have considered whether or not a life sentence on the rape charge would be appropriate. In R v McCandless and others [2004] NI 1 at [50] Caswell LCJ referred to the approach to be adopted when considering whether to impose a life sentence in cases other than murder where such a sentence is mandatory.

“The criteria for imposing a sentence of indeterminate length were laid down in *R v Hodgson* (1967) 52 Cr App R 113 at 114, in terms approved and adopted by this court in *R v McDonald* [1989] NI 54:

‘When the following conditions are satisfied, a sentence of life imprisonment is in our opinion justified: (1) where the offence or offences are in themselves grave enough to require a very long sentence; (2) where it appears from the nature of the offences or from the defendant's history that he is a person of unstable character likely to commit such offences in the future; and (3) where if the offences are committed the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.’

The application of this test received further explanation in *Attorney-General's Reference (No 32 of 1996) (Whittaker)* [1997] 1 Cr App R (S) 261, where the court emphasised that the two essentials are a crime of sufficient seriousness and good grounds for believing that the offender may remain a serious danger to the public for a period which cannot be estimated at the time of sentencing. In the ordinary

way a court will look for specific medical evidence to support the latter proposition, but it may be inferred from the evidence before the court.'

[24] Whilst the number of attacks over a period of only two days, the sexual motive in each case, and the increasing gravity of the offences, all suggest that the defendant may remain a serious danger to women in the future, given the absence of any previous sexual offences on the defendant's record I have decided, not without some hesitation, that I should not impose a life sentence.

[25] These offences were very grave and require substantial sentences. When deciding the total sentence for these offences I have to ensure that it is not disproportionate to the defendant's overall criminality. I must also ensure that, consistent with that principle, the individual sentences are such that the defendant is properly punished for having carried out three separate attacks. To reflect these considerations I will therefore impose sentences on the charges relating to B and S that are concurrent with each other, and make the sentences in respect of the rape and assault upon C concurrent with each other, but consecutive to those in respect of the attacks upon B and S.

[26] In relation to the attack upon B, I sentence the defendant to 3 years' imprisonment on count 1 and 4 years' imprisonment on count 2. The sentences will be concurrent with each other.

[27] In relation to the offences committed against S, I sentence the accused to 3 years' imprisonment on count 5 and 5 years' imprisonment on count 7. The sentences on counts 5 and 7 will be concurrent with each other and concurrent with the sentences on counts 1 and 2.

[28] So far as the attack on C is concerned, I sentence the accused to 13 years' imprisonment on count 9 and 4 years' imprisonment on count 10, the sentences on counts 9 and 10 will be concurrent with each other but consecutive to the sentences imposed on counts 5 and 7, making an effective total of 18 years imprisonment.