Neutral Citation No. [2012] NICC 19

Ref: **GIR8512**

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

Delivered: **21/5/2012**

THE CROWN COURT IN NORTHERN IRELAND

SITTING AT BELFAST

REGINA

-v-

BRENDAN McCONVILLE
JOHN PAUL WOOTTON
SHARON WOOTTON

SENTENCING REMARKS

GIRVAN LJ

[1] I have read and carefully considered the moving statements provided to the Court by the widow and members of the family of the victim of the terrible crime for which this court must pass sentence. These statements illustrate graphically the dreadful and traumatic loss to the families of those bereaved by cold hearted and callous acts of terrorist murder. No person with any remaining sense of humanity or compassion could fail to be moved by seeing and reading of the devastation visited on the families of those who have lost a loved one because self-appointed executioners decided that they are entitled to sacrifice a human life in furtherance of terrorist and political goals, decisively rejected by all right thinking members of society.

[2] I have noted that the defendants Brendan McConville and John Paul Wootton refused to co-operate in the preparation of pre-sentence reports and refused to attend interviews with the Probation officers appointed to prepare reports for the Court. Their attitude confirms that they have no remorse for what they did.

[3] I have read and carefully considered the reports prepared in connection with the accused Sharon Wootton who pleaded guilty to the offence charged against her at the

first opportunity, made admissions in respect of her actions in the course of police interviews and has expressed remorse for her actions. The Crown does not allege against her any participation in the murder of Police Constable Carroll and does not allege that she knew of her son's involvement in the killing when she removed computers from her house which she knew or suspected the police would be likely to seize in the course of their investigation into the republican activities of activists following the murder.

[4] Following the convictions of McConville and John Paul Wootton for the murder, I sentenced them each to a life sentence imprisonment in accordance with the sentence fixed by law. There is a slightly different order made in connection with Wootton because of his age and I will come back to that in due course. It is now necessary for the Court to determine the minimum terms which they must serve before they can be considered for release by the Parole Commissioners and I must also determine the appropriate sentence on the other counts.

[5] In setting the minimum term which the defendants Wootton and McConville must serve before they are eligible for release I must follow and apply the principle set out in R v McCandless. The case sets out the practice statement issued by Lord Woolf and reported in 2002 3 All England Law Reports 412. I do not propose to set out the full terms of the practice statement which are contained so far as material in the written submissions.

[6] As paragraph 12 of the practice direction identifies the higher starting point would apply where the offender's culpability is exceptionally high or the victim is in a particularly vulnerable position. The Crown correctly submits that this case falls into the higher starting point and it is relevant to consider from paragraph 12(b) that the killing was politically motivated and that the victim was providing a public service. It must also be taken into account that the victim, being a police officer, was deliberately targeted and the murder was carried out on behalf of a terrorist organisation and designed to disrupt normal society in Northern Ireland.

[7] Paragraph 18 of the practice direction recognises that a substantial upward adjustment maybe appropriate in the most serious cases. Paragraph 19 refers to cases which are especially grave. It refers to (for example) a victim performing duties as a prison officer but there is little difference in that connection between a prison officer and a police officer or indeed any member of the security forces when the fact is that the offence was a terrorist murder.

[8] The use of the practice statement in McCandless has long been applied in Northern Ireland, counsel for the Crown refer to the position in England and Wales under the Criminal Justice Act 2003 which contains in the schedule and sections various provisions setting out appropriate statutory tariffs. That legislation refers to a murder

done for the purpose of advancing the political, religious or ideological cause. The Lord Chief Justice Kerr in R v Hamilton identified the factors and recognised that the courts in this jurisdiction were not bound by the developments in England but are entitled to take them into account. They are not irrelevant in the general consideration of those factors.

[9] In the context of Northern Ireland the killing of a police officer acting in the course of his public duty by those who seek to terrorise the community for their own political or ideological motives, must come within the highest category of sentencing. The killing in this instance comes at a time when terrorist activity has thankfully substantially decreased, and it has been wholly rejected as demonstrated by the will of the people. Any terrorist who continues to carries out acts of terrorism at this point in time must be deterred from continuing in that course and any sentence must reflect that need for deterrence.

[10] The most recent application of the relevant principles in this context of a terrorist murder case is the case of R v Shivers. The accused in that case was convicted on two counts of murder, six counts of attempted murder and one of possession of two firearms and ammunition with intent to endanger life. The crime in that case involved a murderous attack on members of the security forces involving two fatalities and attempts to kill a number of other people. While it was contended on behalf of the defendant McConville, that this, unlike Shivers, case did not involve multiple killing and was therefore less heinous, one has to bear in mind that in reality there is no difference in the moral turpitude of those involved in these two separate sets of crime. In the present case the murder was carried out as a result of a planned terrorist attack. The fact that only one victim was shot does not detract from the moral evil involved and those involved in this attack would doubtless have proceeded with their murderous acts if the opportunity had presented itself. What they wanted to achieve was publicity for their campaign of violence and if it had been possible to do so I entertain no doubt that they would have murdered more than one police officer. It was not moral restraint that led to those involved to desist but the need to get away from the scene as quickly as possible.

[11] Mr McConville does not come before the Court with a clear record for he was convicted in 2008 for the offence of possession of firearm and ammunition in suspicious circumstances. He was given a suspended sentence of nine months' imprisonment suspended for three years and the murder in this instance was committed less than a year after his conviction for that offence and during his period of suspended sentence.

[12] This is an aggravating feature.

[13] In these circumstances I propose to follow the course adopted in Shivers, in the case of McConville I shall fix the minimum period to be served before he can be

considered for release at 25 years imprisonment. In this context 25 years means a full 25 years and no question of remission arises during that period. He will then be considered at the end of that period by the Parole Commissioners who would have to be satisfied that it is safe to release him on conditions.

[14] In fixing an appropriate tariff for the defendant John Paul Wootton, the Court has to bear in mind that he was a young person at the time the offence was committed and the Court must bear in mind the approach spelt out in the Woolf practice direction. In this instance the mandatory sentence is detention at her Majesty's pleasure, a minimum term should be specified. This must take account of the gravity of the offence. The normal starting point in a person of this age is 12 years for a defendant of 18 years. Wootton was very close to that age at the time when the offence was committed. Having arrived at the starting point the Court is required to take account of the aggravating and mitigating factors which will determine the appropriate minimum term and may result in the 12 year period being decreased or increased. The sliding scale proposed is intended to recognise the greater degree of understanding and capacity for normal reasoning which develops in adolescence over time as well as the fact that young offenders are likely to have a greater capacity for change.

[15] The defendant John Paul Wootton had a clear record which is a mitigating factor. His involvement in the murder plot was more peripheral to that of McConville, who the Court concluded in the evidence was at the scene of the crime and was a key participant in a group of the persons actively involved in the shooting. It has been said correctly that it has not been proved that McConville shot the bullet that killed the deceased, however he was, on my findings, at the scene and an active participant and encourager of what happened if he was not the actual firer of the gun.

[16] In the case of John Paul Wootton while the Crown did not prove that the car was used to remove the firearm in question, the defendant co-operated in being a driver of a getaway car. The car had clearly been used in connection with other serious firearms offences pointing to Wootton being an active participant in actions connected with a terrorist campaign and the evidence relating to his collection of information confirmed his commitment to advance the interests of a terrorist campaign.

[17] In Shivers at paragraph 26, Mr Justice Hart said that:

> "...whilst it is others who know what the principle offenders intend and provide assistance to them, normally receive equivalent sentences to those who are directly responsible for the crime, nevertheless depending upon the importance of the role of the secondary parties, some modest allowance may sometimes be made to recognise the fact the role of a

> secondary party maybe less prominent than that of the person who commits the crime itself".

[18] In the case of Shivers the Court concluded that the allowance to be given in that connection was very, very modest indeed. In this instance the point made by Mr Justice Hart may have some greater strength. There must be some allowance made in this case for the fact that Wootton did play a more limited role and taking account of his age. But regard must also be had to the gravity of the offence and the defendant's knowing and willing involvement in playing a role in helping to remove at least one key participant from the scene of the crime. In all the circumstances I conclude that the proper minimum term in his case should be fixed at 14 years.

[19] In the case of Count 2, relating to possession of firearm and ammunition with intent, as in the case of Shivers the offence was committed after 15th May 2008, that is to say after the relevant date for the purposes of chapter 3 of the Criminal Justice (Northern Ireland) Order 2008, and the dangerousness provisions of that Order apply. Given the nature of those offences and the defendants' willingness to participate in such grave terrorist crime the requirement of Article 13(2)(b) of the Order are satisfied and I sentence each to life imprisonment on that account. In the case of McConville I fix the minimum term on that count at 10 years, the equivalent of a 20 year term of imprisonment. In the case of Wootton, taking account of his youth and his clear record and other matters I have mentioned, I fix the relevant minimum term at five years which is the equivalent of 10 years imprisonment.

[20] On the third count Wootton was convicted of collecting or attempting to collect useful information for terrorists. It is quite clear that Wootton did take part in an attempt to obtain information as to the whereabouts of a member of the Police Service of Northern Ireland and he made, as I recorded in the judgment, the cold hearted comment that "*A cop is a cop.*" This indicated a belief in an entitlement to target police officers in the execution of their duty and to provide information which it must have been known would be used to set up, kill or maim a member of the Police Service.

[21] Those involved in the collection of information in this context play an active and important role in the running of terrorist organisations which live off the acquisition of such information. I am again satisfied that the dangerousness provisions of the 2008 Act apply. I consider that an extended custodial sentence would not be adequate for the purpose of protecting the public from serious harm and accordingly I sentence the defendant on that count to imprisonment for an indeterminate period. I fix the minimum period to be served in respect of that offence at three years which is the equivalent of a six year sentence.

[22] In the case of Sharon Wootton the Court found that on her plea she obstructed the police in the carrying out of her duties and she pleaded guilty to that offence as I

said earlier at the first opportunity when that count was alleged against her. I read and carefully considered the clinical psychology report in respect of the defendant and the other reports in relation to her. She is clearly not an intelligent women and she has limited cognitive ability. It is clear however, that she was intelligent enough to realise that because of her son's Republican sympathies or activities the police were likely to come knocking at her door to search for material relating to her son because of those views or actions. She must have known that the investigation flowed from the murder of Police Constable Carroll. Where individuals deliberately obstruct the police investigation for a serious crime such as murder, they are guilty of a serious offence. It should normally attract a period of immediate imprisonment measured at least in several months if not longer.

[23] In this case taking account of the circumstances, the naivety of the defendant's action which did not in fact obstruct the inquiry, her limited intelligence, her frankness to the police during the interview and her plea to the charge as soon as it was preferred, I am prepared in the circumstances to impose a suspended sentence and accordingly I sentence her to 12 months imprisonment, that term being suspended for three years. If she is of good behaviour during the three years the sentence will not be activated. If she commits an offence the sentence may be put into effect. Mrs Wootton's counsel and solicitor will no doubt fully explain to her the consequences of the need to comply with the law to avoid the activation of the suspended sentence.

[24] That concludes the matter.