

THE QUEEN v DARREN LARMOUR

DECISION ON TARIFF

Before Kerr LCJ and Nicholson LJ

KERR LCJ

Introduction

1. On 20 October 1988 Nicholson J, sitting at Belfast Crown Court, sentenced the prisoner to two terms of life imprisonment for the murders of Edward Campbell on 3 July 1987 and Thomas Dickson on 6 October 1987. The prisoner was also sentenced to several determinate terms of up to 20 years' imprisonment for offences including possession of firearms with intent, conspiracy to murder and false imprisonment. He was in custody between 20 October 1987 and 23 September 1998 when he was released under the Northern Ireland (Sentences) Act 1998. His licence was revoked on 22 August 2001. The prisoner pleaded guilty to all counts.

2. On 18 May 2004 Nicholson LJ and I sat to hear oral submissions on the tariff to be set under Article 11 of the Life Sentences (NI) Order 2001. The tariff represents the appropriate sentence for retribution and deterrence and is the length of time the prisoner will serve before his case is sent to the Life Sentence Review Commissioners who will assess suitability for release on the basis of risk.

Factual background

3. On the evening of 2 July 1987 the prisoner and a number of other men in a loyalist gang associated with the Ulster Freedom Fighters spent the night drinking at a club in the Silverstream area of Belfast. While there they hatched a plan to murder a man that they thought to be associated with the Irish National Liberation Army. At 12.22am on 3 July 1987 the prisoner and a co-defendant called at the office of D-Cabs (a so called "Catholic" firm) in King Street, Belfast, and ordered a taxi to Ligoniel. The deceased, Mr Campbell, took the fare. As the taxi neared the top of the Crumlin Road the

prisoner produced a gun and ordered Mr Campbell to drive to Legmail Street where two more co-defendants were picked up. Mr Campbell was placed in the boot of the taxi and the men drove to the home of their proposed target. When they got there they heard dogs barking and they abandoned their plan. After driving off talk turned to the taxi driver and whether he had heard the men using their names. They drove to a disused quarry on the Hightown Road and stopped the car. Mr Campbell was released from the boot and put to one side while the men discussed who was going to shoot him. The prisoner said that they did not ask Mr Campbell whether he was a Catholic, but assumed that he was because he worked for a firm that was perceived to be Catholic. He was then led off and shot dead by one of the group. Some accounts, including his own, suggest that the prisoner stayed at the car during the shooting. The details of the death are gruesome: a co-defendant is said to have pulled the trigger but the gun did not fire. Mr Campbell is then said to have asked, "You're not going to shoot me" to which the gunman replied, "I am if this will work". Local residents heard shots at around 1am. The car was later burnt out and was located by police at 1.35am. Police found Mr Campbell's body at 8.35 the same morning.

4. Dr Derek Carson, deputy state pathologist, carried out a post mortem examination of Mr Campbell's body on 3 July 1987. He concluded that death was caused by laceration of the brain, heart, pulmonary trunk and lungs due to gunshot wounds to the head and chest. He found that 5 or 6 bullets had struck Mr Campbell. Bullet wounds were found to the neck, left lower chest, left forearm, and right thigh. Dr Carson stated:

"The sharp upward directions of some of the wound tracks would suggest that he was lying on the ground when these shots were fired. However it was not possible to be certain in which order the bullets had struck him, at what range they were fired, or whether more than one weapon was used ... Either of the bullets damaging the brain and heart would alone have proved fatal, and death must be considered as being due to the combined effects of these injuries."

5. On the afternoon of Tuesday 6 October 1987 the prisoner was at home when a co-defendant, Morrison, called with him. The pair went out in Morrison's van and Morrison told the prisoner that he was going to "get" Thomas Dickson who he knew to be working under his car at the back of his house. The prisoner stated that Morrison was carrying two guns in the back of his van, although Morrison claimed that they collected the weapons from a field. The prisoner agreed to take part and shortly before 4pm the pair drove to Alliance Road. Morrison stated that they entered a derelict house where he put on an army jacket and loaded the shotgun. The weapon carried by the

prisoner, a Berretta, was already loaded. The men donned ski masks and proceeded down an entry to the rear of 42 Alliance Parade where Mr Dickson was underneath his car. Morrison fired the first two shots and according to the prisoner's own recollection of events, he then fired 4 or 5 shots at Mr Dickson as he staggered down the entry. The assailants then ran back the way they had come, returned to the derelict house and discarded the coat, masks and guns which were later retrieved by police. Mr Dickson died in hospital at 7pm, just over three hours after he was shot.

6. Dr Carson carried out a post mortem examination of Mr Dickson on 6 October 1987. He concluded that the cause of death was brain injury due to a gunshot wound of the head and lung injuries due to a shotgun wound of the back. Death was a result of wounds created by at least two weapons: a shotgun and a handgun. Wounds were found to the back of the lower chest, the outer side of the right upper arm, the back of the right side of the head and the front of the left upper chest. Dr Carson was of the view that death should probably be ascribed "to the combined effects of the shotgun wound of the back and the bullet wound of the head, it being uncertain as to the exact part played by each. The other wounds would also have contributed to the degree of shock which must have been present and hence they too contributed to the death although to a lesser degree."

7. The prisoner was arrested on 14 October 1987. By the time of his arrest a number of incriminating statements had been made by another member of the gang who had been arrested earlier. Despite initial denials the prisoner started to make admissions in the early evening of the day of his arrest. At 9.20pm the prisoner made a statement regarding his role in Mr Campbell's murder. The statement concluded: "I regret what I done". Questioning continued into other activities and later that same evening the prisoner eventually admitted his part in Mr Dickson's murder. When asked why he had murdered Mr Dickson the prisoner replied that people in the area did not like him and it had been reported that he had struck two women in a local club. He told police that he was not sorry that Mr Dickson was dead as he considered him to be an "evil" man: "he beat everybody including his own family, he terrorised the whole neighbourhood, everybody was afraid of him."

Antecedents

8. The prisoner's past criminal conduct is petty in nature and was dealt with entirely in the Magistrates Court. He had six prior appearances between 1982 and 1985. The only offences of violence were two common assaults. The first was dealt with by way of a fine imposed by Newtownards Magistrates' Court in November 1982. The second was dealt with by 3 months' YOC detention imposed by Belfast Magistrates' Court in June 1983.

Judge's sentencing remarks

9. With regard to the murder of Mr Campbell the judge said:

"The killing of this taxi driver was a brutal and depraved act of violence."

As to the prisoner's particular role the judge said: -

"You, Larmour, went with Molyneaux to get the taxi and you put a weapon of some kind to his head in order to hijack that taxi. Later at the quarry you were with the others when Mr Campbell was taken out of the boot. The last period of his life, as he lay in the boot of the taxi and then taken out to be executed, will not doubt haunt his widow to the day she dies. It is to be hoped that you also will never forget it. He died because he was a Catholic taxi driver. He might have survived had he been a Protestant. You, Larmour, told the police that there was a discussion between you and the others as to who was going to shoot Mr Campbell. Apparently, according to you, none of you wanted to do that."

10. With regard to the murder of Mr Dickson the judge said:

"On 8 October you, Larmour and Morrison, murdered Thomas Dickson. He was working at his car when he was shot by the two of you and died in hospital. He was a Protestant. You didn't like him so you killed him when he was defenceless. You were all involved in one way or another with the UDA. A group comparable with the Provisional IRA and the INLA."

...

"I sentence you... Larmour...to imprisonment for life for the murders which you have committed. You have expressed remorse and you have pleaded guilty, and indeed your confessions were the only evidence against you. Had you not confessed you would have walked free as others have walked free who no doubt played as

grievous a part and as wicked a part as you in these murders. I do not know whether your remorse is genuine but the police who interviewed you consider that you did show remorse and certainly the statements that have been read out by Mr Grant indicate a deep remorse for your crimes. Others will have an opportunity to judge whether or not you are remorseful and whether or not you are fit ever again to be released into society."

The Practice Statement

11. In *R v McCandless & others* [2004] NICA 1 the Court of Appeal held that the *Practice Statement* issued by Lord Woolf CJ and reported at [2002] 3 All ER 412 should be applied by sentencers in this jurisdiction who were required to fix tariffs under the 2001 Order. The relevant parts of the *Practice Statement* for the purpose of this case are as follows: -

"The normal starting point of 12 years

10. Cases falling within this starting point will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para 12. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph.

11. The normal starting point can be reduced because the murder is one where the offender's culpability is significantly reduced, for example, because: (a) the case came close to the borderline between murder and manslaughter; or (b) the offender suffered from mental disorder, or from a mental disability which lowered the degree of his criminal responsibility for the killing, although not affording a defence of diminished responsibility; or (c) the offender was provoked (in a non-technical sense), such as by prolonged and eventually unsupportable stress; or (d) the case involved an overreaction in self-defence; or (e) the offence was a mercy killing. These factors could justify a reduction to eight/nine years (equivalent to 16/18 years).

The higher starting point of 15/16 years

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."

The prisoner's condition

12. The prisoner has been diagnosed as suffering from Huntington's chorea, a degenerative disease of the brain which is characterised by progressive dementia. He is already in need of full time care and will become increasingly disabled. It has been accepted by the Crown that this condition may be taken into account in fixing the tariff in his case.

Conclusions

13. It is to be noted that at paragraph 19 of the *Practice Statement* it is stated that terrorist murders may warrant a tariff of 20 years and upwards. This is certainly a case in which the higher starting point of 15/16 years would be

fully justified. There were two murders; they were politically motivated and Mr Campbell's murder was carried out at least partly to defeat the ends of justice, as he had been a witness to the names and faces of the prisoner and his accomplices. Moreover, Mr Campbell was particularly vulnerable. He was working as a taxi driver, an often-targeted group, at the height of the troubles.

14. A number of significant aggravating factors are present. The murders were planned and premeditated; illegal firearms were used and the prisoner was armed in advance. In both instances the undoubted intention was to kill.

15. Apart from his medical condition, the principal mitigating factor is the prisoner's approach to the case after arrest. He made full admissions to the police and later pleaded guilty. A further mitigating factor is his youth - the prisoner was aged just 21 at the time of the murders.

16. Taking all those factors into account we have concluded that the appropriate tariff in his case is fifteen years. This will include the time spent by the offender in custody on remand.