

IN THE CROWN COURT OF FERMANAGH AND TYRONE

THE QUEEN

-v-

SEAN HACKETT AND RONAN MULRINE

STEPHENS J

Introduction

[1] Sean Hackett, on Thursday 6 March 2014, by a unanimous jury verdict, you were acquitted of the offence of murder in relation to the death of your father, Aloysius Hackett, on 4 January 2013, but found guilty of his manslaughter on the grounds of diminished responsibility. Accordingly unanimously the jury decided that you had discharged the onus of proof in establishing that at the time you killed your father you were suffering from an abnormality of mental functioning which impaired your responsibility for your acts. You were also by a unanimous jury verdict found guilty on two counts of possession of a firearm and ammunition with intent by that means of endangering life, contrary to Article 58(1) of the Firearms (Northern Ireland) Order 2004.

[2] Ronan Mulrine you were initially arraigned on 8 November 2013 and you pleaded not guilty to all 5 counts against you on the indictment. On 6 December 2013, you were re-arraigned and you pleaded guilty to two counts of possessing a firearm and ammunition in suspicious circumstances, contrary to Article 64(1) of the Firearms (Northern Ireland) Order 2004. Three counts were left on the books not to proceed without the leave of the Court or the Court of Appeal.

Factual background to the offences

[3] Sean Hackett, you are now 19, and in January 2013 you were 18 years 8 months, (DOB: 23 May 1994). On Friday 4 January 2013 you shot three times at your father, Aloysius Hackett, as he was returning home at night to the family home

at 6A Aghindarragh Road, Augher, Co Tyrone. Two of those shots struck your father in the head and one of those shots was fatal.

[4] The weapon that you used was a 0.22 rifle which, together with ammunition, you obtained from Ronan Mulrine. The weapon and ammunition belonged to and was licenced to Ronan Mulrine's father, Gabriel Mulrine. He kept it securely in a locked gun cabinet at his home together with other firearms.

[5] You, Ronan Mulrine, then just approximately one month short of your 18th birthday, now 19, (DOB 23 January 1995) had not been told by your father where he kept the key to the gun cabinet but you had discovered where it was kept. You were approached by Sean Hackett who wished to obtain a firearm in order to shoot rabbits. Sean Hackett was your friend whom you held in high esteem and whom you trusted and respected. I accept that to some extent you were in awe of Sean Hackett though there is no evidence that you tried but failed to dissuade him from obtaining this lethal weapon and ammunition. I accept that your youth played some part in that failure to even attempt to dissuade him. However in the event you willingly participated putting to one side what I am satisfied would have been your own appreciation that what you were doing was wrong. You obtained from your father's gun cabinet the rifle together with the ammunition and lent them to Sean Hackett. You did this on two separate occasions. The first was prior to Christmas 2012. The weapon and ammunition was then returned but you obtained them again, taking them to Augher and giving them to Sean Hackett whom you met there by arrangement on 1 January 2013. In the event Sean Hackett used the rifle and ammunition to shoot and kill his father on 4 January 2013. There is no suggestion that you knew or had any reason to suspect Sean Hackett's real intentions which were that he wished to use the rifle and ammunition to kill one or other of his parents. You knew that both you and Sean Hackett did not have a licence for the rifle and ammunition and you knew that giving them to Sean Hackett was wrong.

[6] You, Sean Hackett, are the youngest in a family of four children. You were brought up by your parents Eilish and Aloysius Hackett at their family home at 6A Aghindarragh Road. You were living there with your parents when these crimes were committed. Both you and your father shared a passion for GAA football both being members of St McCartan's GAA Club in Augher. You had excelled at that sport for instance captaining the Tyrone Minors to a championship and showing leadership qualities. There was no family background of arguments, of animosity, of violence or of personality clashes. There was no domination and no abuse. There was no neglect or adversity of any kind. There was no conflict with your siblings. There was no history of any family psychiatric disorder. All your physical and emotional needs were adequately met during your formative years. There was no animosity or criticism or hostility as between you and either of your parents. Your father was proud of your sporting achievements. You had an excellent well rounded upbringing. You told Dr Pollock that you never really liked your first school and that you were not into books. That you were into sport which was the only thing you worried about. Subsequently at St Ciaran's College in Ballygawley you had

good relations with the teachers and pupils. You attended regularly and there were no behavioural problems. You told Dr Brown that you enjoyed secondary school. You told Dr Pollock that you liked St Ciaran's a lot better. That you were part of a big group of friends. You achieved 9 GCSEs, that is 6 Cs and 3 Bs. At A level you achieved an A* and an A in sports development and a D in information technology. Dr Pollock considered that you were of high average intellectual abilities.

[7] You left school in the summer of 2012 and started in technical college in Omagh in September 2012. You chose a course on wind turbine technology. The course was mostly mathematical and you struggled to cope with it. You lost interest after a couple of months. You last attended college around the start of December 2012. In addition to attending Omagh Technical College you also worked part-time in the Costcutter shop in Augher. You worked there on Mondays, Fridays and at weekends. You told Dr Brown that you enjoyed working in the shop and got on well with the bosses.

[8] You told Dr Brown that you never really had a great relationship with your father and apart from football you would not have talked about many things. You said that your father had never been violent. You said that you loved your father. By way of contrast your uncle Seamus Daly said that you and your father were like brothers.

[9] You explained to Dr Ian Bownes, Consultant Psychiatrist, that one of the difficulties that emerged in your life in the summer of 2012 was that you had been put out of an all-Ireland Minors final. That you were a part of all that hype and when it was suddenly all over it took a while to recover emotionally.

[10] You had started a serious relationship with a young woman in the summer of 2011. However by the summer of 2012 there were a number of difficulties in that relationship and from September 2012 you were not really together. The break-up of that relationship caused you to experience emotional difficulties.

[11] In or about late September 2012, as a result of these difficulties and your abnormality of mental functioning, you formed the intention of killing one or other of your parents. You told Dr Bownes that you started having thoughts that you should kill one of your parents. That the thoughts just arrived in your mind one day; all of a sudden and out of the blue. As a result on Sunday 28 October 2012 you attempted to strangle your mother. You told Dr Pollock that you got a cable off the TV in your brother's room and that you took the cable out to the garage. You left the cable there and then persuaded your mother to go to the garage. At this stage you put the cable around her neck and she screamed and you then desisted. You told her that you were not happy with your life and that you wanted her up in heaven. She kept asking why and you said "If you were up there things would be better for me down here". You told Dr Bownes that the day you attacked your mother you were sitting with your sister just before it happened. The thoughts of killing your mother grew and grew in your mind and you started planning every step of what

you should do as your sister was beside you in the room. You left the cable in the garage first and then called your mother in. You said that she did not want to come in at first because she was frightened of the mice but that you tricked her in and then put the cable over her head from behind but it caught on her hair and then she screamed and her scream stopped you. After that you burst into tears with her and that it was her scream that shook you back into some form of normality.

[12] In relation to this incident Dr Pollock considered that you had two beliefs and that these beliefs continued to exist on 4 January 2013. The beliefs were:

- (a) That killing one of your parents would permit that parent to assume a guardian like role for you in heaven and the parent would be able to assist to resolve your unhappiness and psychological malaise.
- (b) That killing one your parents would present the ultimate distraction and solution to resolve your unhappiness by changing life forever.

In relation to these beliefs, Dr Helen Harbinson, Consultant Psychiatrist, has stated:

“His belief that when he killed his parents they would look after him from heaven was bizarre and in my opinion, delusional. ... In his delusional state he failed to appreciate that by killing a parent he would lose him/her for ever, inflict irrevocable harm on his family and himself and in no way improve his lot. He believed that by killing his father it would make everything better but on the contrary, things could not be worse.”

[13] In relation to the incident on Sunday 28 October 2012 in which you tried to strangle your mother you told Dr Brown:

“In my head it was a sense of power if I actually went and done this”.

You said in your mind:

“I was going to kill someone – it didn’t matter how or when. I knew it was going to be one of my parents.”

You said that you did not know why you thought you were going to kill one of your parents.

“You didn’t like where you were, your life at that stage.”

You felt that you were doing the course at college for the sake of doing it. You said that you had tried to distract yourself with drinking and gambling and then you felt that killing someone “would settle you a lot more”.

[14] After this incident your parents insisted that you seek medical advice and you saw your General Practitioner on 29 October 2012. Your mother accompanied you to that appointment. The GP’s record states

“Broke up with long term girlfriend a few weeks ago. Didn’t mention to family but they noticed a change in his personality. Yesterday he tried to strangle his mother in the garage. He thought that if his mum was in heaven then she would be able to help him down here. When he started to attack his mum he wasn’t able to continue. Now has no thoughts of harming himself or anyone else. Discussed. Seems contrite about what happened yesterday and reassures that he has no further plans for harming self or anyone else. Details given of Life Line and Breakthrough and to contact either or both of these. Came in with mother today.”

After that GP’s appointment you attended one session of counselling. Again your mother accompanied you. You did not take up another appointment nor did you go to the other counsellor identified by your GP. You did not return to your GP. You did not share with anyone that you were continuing to plan to kill one or other of your parents. There was a complete failure on your part to inform anyone or to obtain any assistance.

[15] Approximately 2 weeks after this incident occurred on 28 October 2012 you stated to Dr Pollock that everything returned to normal. I consider that no one, apart from yourself, had any idea that you were planning to kill anyone. Despite the close and intimate relationship between you and your mother, what you were doing and what you were thinking was a complete secret from her and from everyone else. No one knew and in my estimation no one had any way of knowing, that in fact you were calculating, planning and preparing to inflict extreme violence upon and to kill one or other of your parents.

[16] On 24 December 2012 you agree that you obtained the rifle and ammunition from Ronan Mulrine and that you subsequently returned it.

[17] On 1 January 2013 you again obtained the rifle and ammunition. It is clear that on both occasions that you obtained the rifle and ammunition that you practised with them so that you could proficiently carry out your plan of killing one or other of your parents. It is also clear that you did this in such a way that no one knew that you had the rifle apart from Ronan Mulrine and that no one knew that you were

practising with it. In short there was considerable planning and preparation in advance of the events of 4 January 2013.

[18] You were living at home with your parents. Your other siblings, apart from Kevin were not living at the family home. On 3 January 2013 your brother Kevin left the family home and this provided you with the opportunity to kill one or other of your parents whilst all your siblings were away.

[19] On 4 January 2013 you told Dr Pollock that you worked from 7.00 am to 2.00 pm in Costcutter's in Augher. Your mother was also working there and you were thinking about killing her. You told Dr Pollock that you were in good enough form at work, not in a bad mood, joking away with the deliverymen. Again I consider that no one would have known what you were thinking. I also consider that you presented throughout that day to others as pleasant and untroubled. You were able to hide your true intentions from everyone including your most intimate family members.

[20] At 2.00 pm you told Dr Pollock that you went home and loaded the gun. That you stood behind the car at the back of the house trying to plan out killing your mother whilst waiting for her to return from work.

[21] At 3.00 pm your mother arrived home and you told Dr Pollock that you crouched behind the wall but that you didn't do anything and that you couldn't bring yourself to kill her. Your mother went into the house and had a shower and you had the gun in the house building yourself up to shoot her. Again you couldn't do it. You then went into Augher and at about 4.00pm you went into Johnson's Bar in the Main Street. You were carrying your pool cue and you went straight to the pool room to practice. Rosaleen McCloskey, who works in the Bar, said that you were your usual self smiling, well-mannered and always polite. After about 20 minutes your friend Darragh Cavanagh joined you in the pool room. Rosaleen McCloskey went up to the pool room once to ask you to come down to the bar to speak with another customer, Pat Cassidy and you came down and chatted to him for a few minutes. Hazel Kettle the Manager of Johnson's Bar states that you left the Bar at 6.30 pm and that you and Darragh exchanged a few pleasant words with her before leaving the premises. That you were your usual smiling, pleasant self and nothing you said or did was out of the ordinary. You then went back to the family house. Both of your parents were there. At 6.30 pm your mother left in order to go to Omagh leaving you and your father in the house. You tried to build yourself up to shoot your father at this stage but couldn't do it. At 7.00 pm your father left the family home to attend a GAA meeting. Whilst your father was away at the meeting you told the medical experts that you went to Augher and then came back home. You then got the gun and a handful of cartridges. You told them that you waited outside crouched behind your brother Kevin's car. That you felt powerful and that it was good to end it. That you were excited that you were going to do it. You told Dr Pollock that you heard your father's car arriving and heard him getting out of the car and his footsteps. You recounted that your father went to get the key out of the

flowerpot and you stood up and shot him. You fired three times and in order to do this you had to load each bullet individually as there was no magazine. Your father did not die instantly. I consider that he would have known what was happening and his terror is not hard to imagine. The blood trail left by your father establishes that he moved some 26 feet after the first shot was fired. He was unable to avoid your attack and you killed him.

[22] You described to Dr Bownes your feelings as you shot your father in the following terms. You stated:

“before I shot him I was full of nerves ... when I fired the first shot I felt stronger than ever that I had to go on and kill him - so I fired another shot and then another cos I felt I wasn't going to pull out of it - it was a good feeling- I couldn't stop - even if I wanted to ... I had “psyched” myself up to do it - I wasn't going to stop until he was dead ... if he hadn't have died I would have felt that I need another chance to kill him ...”

[23] After you had killed your father you put the gun into the boot of the car and you picked up two of the three cartridge cases. At approximately 11.30 pm you went to the McKenna household at 5 Aghindarragh Road. You told Mrs McKenna that “Daddy's dead”. You were very distressed and white. You initially gave a false account to the police that you had found your father after he had died. You lied about not having the keys of the Peugeot car which you had been driving. You suggested that there had been a burglary which your father had disturbed. Later that evening when the questions continued to build up you told your uncle that you had the keys which the police were looking for and that you were in bother. You were advised to talk to the police. You said “will anybody find out other than the police what happened”. You seemed to your uncle to be in a different place than reality. At 5.10 am you told the police that you “did it” and that you “shot him.” You also told the police that the gun was in the Peugeot car and that you had the keys in your pocket.

[24] Dr Philip Pollock, a consultant forensic clinical psychologist interviewed you on 20 and 22 November 2013. You denied to Dr Pollock any symptoms of a depressive disorder in 2012 but upon probing Dr Pollock considered that you had been suffering from a major depressive disorder of mild severity from September/October 2012 and that you were suffering from that disorder on 4 January 2013 when you killed your father. He described the condition in the following terms:-

“A depressive episode or condition or disorder of mild severity that was having a minor impairment on

general functioning. The cardinal symptoms were depressed mood and loss of interest or pleasure.”

The disorder had resolved by 20 and 22 November 2013. Dr Pollock stated that one of the most important aspects of your case was the connection between the depressive episode and the killing. He said of people with a depressive disorder that “most people do not go on to kill their father.” He said people with depression are more prone to suicide and that it requires some explanation as to why depression may be linked to what you did. He referred to the concept of chronic catathymic homicide. Chronic is longstanding. Catathymic means in accordance with spirit and temper. He said that there are three distinct phases of chronic catathymic disorder and that you met all those phases. Dr Pollock’s conclusion was that (a) there was abnormality of mental functioning; (b) that this was due to a major depressive disorder of mild severity; (c) that this did not substantially impair your self-control; (d) that it did substantially impair your ability to form a rational judgment and (e) that it provides an explanation for the killing. Dr Pollock agreed that you waited until all your siblings were away, that you were waiting for an opportunity when there would be no witnesses and that you practised and rehearsed with the gun. That externally you were acting perfectly normally and that you were able to hide your true intentions. Dr Pollock also agreed that on the day that you killed you were able to make multiple rational decisions but he considered that your ability to make a rational judgment was affected by your two beliefs. The jury unanimously accepted that evidence from Dr Pollock and I sentence you on that basis.

Sentencing guidelines in relation to the offence of manslaughter

[25] The maximum sentence is life imprisonment. The sentencing options include a determinate sentence, a discretionary life sentence, an indeterminate custodial sentence, or an extended custodial sentence. In your case they do not include a hospital order or a hospital order with restrictions as you do not satisfy the conditions set out in Article 44 of the Mental Health (Northern Ireland) Order 1986 for the imposition of those orders.

[26] The offence of manslaughter comes within the provisions of the Criminal Justice (Northern Ireland) Order 2008. It is both a serious offence within schedule 1 paragraph 1 of the Criminal Justice (Northern Ireland) Order 2008 and a specified violent offence within schedule 2 paragraph 1 of that Order. Accordingly under Article 13 (1) (b) of the Criminal Justice (Northern Ireland) Order 2008 I have to consider the predictive risk that is whether there is a significant risk to members of the public of serious harm occasioned by the commission by you, Sean Hackett, of further specified offences.

[27] In relation to the predictive risk I emphasise that a significant risk must be shown in relation to two matters; first, the commission of further specified (but not necessarily serious) offences, and secondly, the causing thereby of serious harm to

members of the public. In assessing whether there is a significant risk in your case I take into account the matters set out in Article 15(2) of the Criminal Justice (Northern Ireland) Order 2008 and seek to apply the approach set out by the Court of Appeal in *R v William Wong* [2012] NICA 54, that is carefully analysing the relevant facts in the case. The enquiry and determination is in relation to future risk and the future protection of the public. However in relation to the predictive test set out in the equivalent statutory provision in England and Wales (section 225(1)(b) of the Criminal Justice Act 2003) which is in the same terms as Article 13(1)(b) of the Criminal Justice (Northern Ireland) Order 2008 and in *R. v Nicholas Smith* [2011] UKSC 37 Lord Phillips said:

“Rather it is implicit that the question posed by section 225(1)(b) must be answered on the premise that the defendant is at large. It is at the moment that he imposes the sentence that the judge must decide whether, on that premise, the defendant poses a significant risk of causing serious harm to members of the public.”

The prediction of risk is at the moment sentence is imposed but on the premise that you are at large.

[28] If there is a predictive risk then in accordance with the provisions of Article 13(2) if, in this case, the condition in Article 13(2) (b) is met, that is 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 a life sentence, then I have to impose such a sentence. In relation to the imposition of a discretionary life sentence I seek to follow the guidance of the Court of Appeal in *R v Crollly* [2011] NICA 58. At paragraph [25] of the judgment Higgins LJ referred to the decision of the Court of Appeal in England and Wales of *R v Wood* [2010] 1 Cr App R(S) 2, which was a case involving the imposition of a life sentence imposed for manslaughter by reason of diminished responsibility. Lord Justice Higgins referred to paragraph 15 of the judgment in *R v Wood* in which Lord Judge LCJ said –

“15. ... where the defendant constituted a danger to the public for an unpredictable time, the right sentence would probably be life imprisonment. However if the defendant's responsibility for his acts was so grossly impaired that his degree of responsibility was minimal, then a lenient course would be open, but the length of any determinate sentence depended on the judge's assessment of the degree of the defendant's responsibility and his assessment of the time for which the accused would continue to represent a danger to the public. At the time when *Chambers* was decided imprisonment for

public protection was not available. Nevertheless *Chambers* remains relevant to our decision. This is because the judge concluded that, notwithstanding the acceptance by the prosecution of manslaughter on the grounds of diminished responsibility, what the judge described as a “very substantial amount of mental responsibility remained”. The Court did not consider that his observation, and the process of proceeding to sentence on the basis of it, provided any grounds for criticism. Indeed the Court decided that the conclusion was right. This approach has not, so far as we are aware, been called into question.”

[29] I also seek to follow the guidance of the Court of Appeal in England and Wales as to the distinction between a life sentence and an indeterminate custodial sentence see *R v Wilkinson* [2009] EWCA Crim 1925. In that case it was stated that:

“In our judgment it is clear that as a matter of principle the discretionary life sentence under section 225 (which is the equivalent to Article 13(2)) 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 the life sentence would have what Lord Bingham observed in *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.”

[30] If the seriousness condition in Article 13(2) (b) is not met then consideration has to be given to an indeterminate custodial sentence (Article 13(3)) and to an extended custodial sentence (Article 13 (3) and Article 14). Under an extended custodial sentence the court would impose a custodial term and an extension period during which the offender would be on licence. The extension period in this case could not exceed 5 years. Under an indeterminate custodial sentence the court would specify a minimum period 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. After the expiry of the minimum period it would then be for the Parole Commissioners to consider your release on licence. Before you could be released they would have to be satisfied that it is no longer necessary for the protection of the public from serious harm that you should be confined.

[31] I consider that where there is a choice between an indeterminate custodial sentence and an extended custodial sentence then the latter should be chosen where it would achieve appropriate protection for the public against the risk posed by the offender, see paragraph [20] of the decision of the Court of Appeal in England and Wales in *Attorney General's Reference (No 55 of 2008) (R v C)* [2009] 2 Cr. App. R. (S) 22. At that paragraph with amendments in brackets to refer to the terminology used in the Criminal Justice (Northern Ireland) Order 2008 Lord Judge CJ stated:

“Dr Thomas identified two particular features of potential importance. The first is the difficult problem of identifying the dividing line between (an indeterminate custodial sentence) and an (extended custodial sentence) for a violent or sexual offence. The short and deceptively simple answer is provided by our earlier reasoning. As we have emphasised, (an indeterminate custodial sentence) is the last but one resort when dealing with a dangerous offender and, subject to the discretionary life sentence, is the most onerous of the protective provisions. In short, therefore, if an (extended custodial sentence), with if required the additional support of other orders, can achieve appropriate public protection against the risk posed by the individual offender, the (extended custodial sentence) rather than (an indeterminate custodial sentence) should be ordered. That is a fact specific decision. ...”

[32] If I impose an indeterminate custodial sentence then as you, Sean Hackett are under 21, it would not be a sentence of imprisonment for an indeterminate period but rather a sentence of detention for an indeterminate period at such place and under such conditions as the Department of Justice may direct, see Article 13(4)(b) of the 2008 Order, the functions of the Secretary of State under the 2008 Order having been transferred to the ‘Department of Justice’ by the operation of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010. Similarly if I imposed an extended custodial sentence then given that you are under 21 the sentence would be of detention at such place and under such conditions as the Department of Justice may direct, see Article 14(5) of the 2008 Order. If I impose a life sentence then I set the minimum term in accordance with the Life Sentence (Northern Ireland) Order 2001 and there is no requirement to specify that the detention be at such place or under such conditions as the Department of Justice may direct. However I note that there is provision under sections 7 and 8 of the Treatment of Offenders Act (Northern Ireland) 1968 for the Department of Justice to transfer a person under 21 years of age to a young offenders centre. As Morgan LCJ stated in *R v Eamonn Coyle* [2010] NICA 48 the purpose is clearly to ensure that young people who must be detained are generally placed in detention in

circumstances where there can be a focus on rehabilitation away from the influences of recidivist offenders.

[33] If I impose either a life sentence or an indeterminate custodial sentence then the tariff or minimum period would be informed by the guidelines contained in the Practice Statement issued by Lord Woolf CJ on 31 May 2002 reported at [2002] 3 All ER 412, see *R v McCandless & Ors* [2004] NICA 1 and *Attorney General's Reference No 6 of 2004 (Connor Gerard Doyle)* [2004] NICA 33. I seek also to apply the guidance of the Court of Appeal in England and Wales in the case of *R v Clive Wood* [2010] 1 Cr. App. R (S) 2. As was stated by Lord Judge CJ at paragraph 21 of his judgment in that case in assessing the seriousness of the offence of manslaughter on the basis of diminished responsibility, there is a plain link with the guidance for sentencing for the offence of murder, subject always to the specific element of reduced culpability inherent in the defence. In that case a minimum term of 18 years for murder was reduced by approximately 1/3 in fixing a 13 year minimum term for manslaughter. I consider that the degree of reduction should be informed by the particular facts of each individual case.

[34] I set out paragraphs 10-19 of the practice statement.

"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 paragraph 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. (a) the fact that the killing was planned; (b) the use of Aggravating factors relating to the offence can include: 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 paragraph 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."

Sentencing guidelines in relation to the offences under Firearms (Northern Ireland) Order 2004

[35] The maximum penalty under Article 58(1) of the Firearms (Northern Ireland) Order 2004 is life imprisonment. The maximum penalty under Article 64(1) of the Firearms (Northern Ireland) Order 2004 is 10 years imprisonment or a fine or both.

[36] The offence of possession of a firearm and ammunition with intent by that means of endangering life, contrary to Article 58(1) of the Firearms (Northern Ireland) Order 2004 comes within the provisions of the Criminal Justice (Northern

Ireland) Order 2008. It is both a serious offence within schedule 1 paragraph 31 of the Criminal Justice (Northern Ireland) Order 2008 and a specified violent offence within schedule 2 paragraph 31 of that Order. Accordingly under Article 13 (1) (b) of the Criminal Justice (Northern Ireland) Order 2008 I have to consider the predictive risk that is whether there is a significant risk to members of the public of serious harm occasioned by the commission by you, Sean Hackett, of further specified offences.

[37] The offence of possessing a firearm and ammunition in suspicious circumstances, contrary to Article 64(1) of the Firearms (Northern Ireland) Order 2004 comes within the provisions of the Criminal Justice (Northern Ireland) Order 2008. It is both a serious offence within schedule 1 paragraph 31 of the Criminal Justice (Northern Ireland) Order 2008 and a specified violent offence within schedule 2 paragraph 31 of that Order. Accordingly under Article 13 (1) (b) of the Criminal Justice (Northern Ireland) Order 2008 I have to consider the predictive risk that is whether there is a significant risk to members of the public of serious harm occasioned by the commission by you, Ronan Mulrine, of further specified offences.

[38] The purpose of firearms legislation is to impose tight and effective control on the use of highly dangerous weapons. The unlawful possession of a firearm is a grave source of danger to individuals. Guns can be used to kill, maim, terrorise and intimidate. Any firearms offence is a serious offence and will almost invariably merit terms of custody even on a plea of guilty and in the case of an offender with no previous record. I was referred by counsel to *R v Avis & Ors* [1998] 1 Cr App R 420. In that case Lord Bingham stated:

“The appropriate level of sentence for a firearms offence, as for any other offence, will depend on all the facts and circumstances relevant to the offence and the offender, and it would be wrong for this court to seek to prescribe unduly restrictive sentencing guidelines. It will, however, usually be appropriate for the sentencing court to ask itself a series of questions:

(1) What sort of weapon is involved? Genuine firearms are more dangerous than imitation firearms. Loaded firearms are more dangerous than unloaded firearms. Unloaded firearms for which ammunition is available are more dangerous than firearms for which no ammunition is available. Possession of a firearm which has no lawful use (such as a sawn-off shotgun) will be viewed even more seriously than possession of a firearm which is capable of lawful use.

(2) What (if any) use has been made of the firearm? It is necessary for the court, as with any other offence, to take account of all circumstances surrounding any use made of the firearm: the more prolonged and premeditated and violent the use, the more serious the offence is likely to be.

(3) With what intention (if any) did the defendant possess or use the firearm? Generally speaking, the most serious offences under the Act are those which require proof of a specific criminal intent (to endanger life, to cause fear of violence, to resist arrest, to commit an indictable offence). The more serious the act intended, the more serious the offence.

(4) What is the defendant's record? The seriousness of any firearm offence is inevitably increased if the offender has an established record of committing firearms offences or crimes of violence."

[39] As appears from that passage it is usually appropriate for the sentencing court to ask itself a series of questions. The answers in this case in respect of you, Sean Hackett, are:

- a) This was a genuine .22 rifle with ammunition.
- b) You used the rifle to kill.
- c) You possessed the rifle with the intention of killing.
- d) You have no criminal record.

[40] The answers in this case in respect of you, Ronan Mulrine, are:

- a) This was a genuine .22 rifle with ammunition.
- b) You provided the firearm in complete ignorance as to its anticipated use and had no reason to anticipate that it would be used in the way it was.
- c) You accept that you provided the rifle to Sean Hackett who did not have a licence for its use and that accordingly you possessed the rifle in circumstances which gave rise to the suspicion that he did not have it for a lawful purpose.

d) You have no criminal record.

[41] In *Attorney General's Reference (No. 3 of 2004)* [2005] NIJB 196 Kerr LCJ stated that the range of sentence for possession of a firearm with intent in a paramilitary context should normally be between 12 and 15 years. This case does not involve any paramilitary context and I do not consider that guideline to be appropriate. In *R v Avis & Ors* the Lord Chief Justice stated that any rigid, formulaic approach to levels of sentence would be productive of injustice in some cases. I have had regard to the actual sentences imposed in that case. If I impose a life sentence then the minimum term is fixed by reference to retribution and deterrence. The risk that you, Sean Hackett, pose is a matter for the Parole Commission it being for that Commission to consider whether, and if so when, you are to be released on licence based on their consideration of risk. Furthermore any minimum term must take account of all the mitigating factors including your mental state at the time that you committed these firearm offences.

[42] In relation to you Ronan Mulrine, section 1 of the Treatment of Offenders Act (NI) 1968 provides that a sentence of imprisonment may not be imposed upon a person aged under 21 unless it is for a term of more than 4 years. Section 5 of the Treatment of Offenders Act (NI) 1968 provides that a period of detention in a Young Offenders Centre of up to 4 years may be imposed on a person aged 16-20. Such a sentence must not exceed four years or the maximum for the offence and if sentenced to more than 6 months the court must state and record its reason. An Order for detention in a Young Offenders Centre can be suspended under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968.

The impact of the killing and the other offences on Aloysius Hackett's family

[43] I have been provided with comprehensive statements from Eilish Hackett, Kevin Hackett, Aileen Hackett and Conor Hackett as to the impact that Aloysius Hackett's death has had on each of them. No one could fail to be moved by their heartfelt loss. All of them state, in their different ways, that in the light of what you did, they knew that something was mentally wrong with you. Accordingly there is no sense of anger or grievance on their part. Their overriding desire is to support you. They are all prepared to change their lives so that they can prioritise your need for help and so that they can help to sort out your welfare.

Character References

[44] I have been provided with some 21 character references in relation to you Sean Hackett. They come from individuals from diverse backgrounds thereby reflecting many aspects of the community. I have read all of them. They are all supportive of you, for instance there is a reference from an individual who taught you in primary school who states that she believes that you have grown up to become a fine and self-assured young man. Also all the references are supportive of

your family who are held in highest regard being well known and respected within their community. I take all of the references into account.

[45] I have been provided with character references in relation to you Ronan Mulrine and these are also supportive of you.

Risk of harm to the public and likelihood of re offending, consideration of a life sentence or of an extended custodial sentence or an indeterminate custodial sentence in relation to counts one, two and three in respect of Sean Hackett.

[46] In relation to you Sean Hackett, I have the benefit of a pre-sentence report dated 1 April 2014 from Terry McLaughlin, probation officer. I also have a number of expert reports including reports from:

- a) Dr Ian Bownes,
- b) Dr Browne,
- c) Dr Helen Harbinson,
- d) Dr Pollock
- e) Gerard Maguire
- f) Michael Coyle

[47] It is the opinion of Dr Bownes and I accept, that your thinking remains abnormal. That you have strong traits of egocentricity, grandiosity and narcissism. That you have difficulty regulating your emotions and structuring and ordering your thoughts. I also consider that the exact diagnosis of your abnormality of mental functioning is unclear. There is a risk that you are developing schizophrenia. I agree with Dr Bownes' assessment that your mental well-being is beginning to slowly deteriorate and that it is possible that disturbances in your conscious world is presently far from being quiescent and may soon become manifest as an episode of overt mental illness.

[48] Dr Browne accepts, as do I, that there are a number of positive factors in your case such as your intelligence, your capacity to work and your sporting talent, the absence of drug misuse or intoxication at the time that you committed these offences and the support that is available to you in the community. However there are other factors such as the very serious nature of the offences, the preceding attempt on your mother's life, the preoccupation with gratifying homicidal thoughts, the careful planning of the offence, the lack of any provocation or external conflict and the lack of remorse or consideration of others. Furthermore your inability to communicate with others and your ability to hide your plans. Dr Browne concludes and I agree that you present a significant risk of serious harm to others in the future.

[49] The report of the probation officer concludes that there is a high likelihood of you re-offending and that you present a significant risk of serious harm to others. I agree with both of those assessments.

[50] Based on my assessment of you, on the reports of the medical experts and on the report of the probation officer I consider that there is a significant risk that you will commit further specified offences and that there is a significant risk of serious harm to members of the public.

[51] I also consider that you will constitute a danger to the public for an unpredictable time. That is that there is a significant risk that you will commit further specified offences and that there is a significant risk of serious harm to members of the public for an unpredictable time.

[52] I also consider that this is not a case where your responsibility for your action was so grossly impaired that your degree of responsibility was minimal. Rather you calculated and planned this killing. You had the ability to exercise self-control. That ability was not impaired. It was your judgment that was impaired. Your overall responsibility was diminished but remains comparatively high.

[53] An extended custodial sentence is not appropriate given that the maximum licence period is 5 years and the unpredictable time involved during which you will constitute a danger to the public. I do not consider that an extended custodial sentence would achieve appropriate protection for the public against the risks posed by you.

[54] Given that you will constitute a danger to the public for an unpredictable time and applying the principles set out in *R v Crollly* and in *R v Wood*, I consider that it is appropriate to impose a life sentence in relation to each count.

[55] Alternatively a life sentence will mean that even when released from prison you will be on licence so that you can be recalled to prison if the circumstances so require. Given the unpredictable nature of your mental state I consider that is also a further reason for imposing a life sentence on each count achieving appropriate protection for the public against the risks posed by you.

[56] Alternatively applying the test in *R v Wilkinson* I consider that the determinate sentence for count one and the associated offences in counts two and three would be very long, measured in very many years. I also consider that these three offences taken together, or alternatively the offence in count one clearly call for denunciation reflective of public abhorrence of them. Accordingly on that basis also I impose a life sentence on all of these counts.

Risk of harm to the public and likelihood of re offending, consideration of an extended custodial sentence or an indeterminate custodial sentence in relation to counts in respect of Ronan Mulrine.

[57] In relation to you Ronan Mulrine, I have the benefit of a pre-sentence report dated 30 December 2013 from Terry McLaughlin, probation officer. You reside with your parents and other family members in the family home. Your family is well

known and respected. They are supportive of you. You are a full time student at the Omagh College of Further Education and are also employed on a part time basis. You are genuinely remorseful. You have been assessed as presenting a low risk of re-offending and as not presenting a significant risk of harm to others. I agree with those assessments. An extended custodial sentence and an indeterminate custodial sentence are not appropriate in your case.

The starting point in relation to setting the appropriate minimum term in respect of count 1 of manslaughter

[58] In a case of murder, which this case is not, the normal starting point of 12 years can be reduced to 8/9 years where “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.” This case is one of diminished responsibility and accordingly it is submitted on your behalf that the starting point should be lower than 8/9 years. In contrast it was submitted on behalf of the prosecution that because your victim was vulnerable I should adopt the higher starting point of 15/16 years. I consider that what is important is to arrive at an overall minimum term which adequately reflects your reduced culpability. This could be achieved either by setting a lower starting point of 7 years and then adequately reflecting the aggravating feature of the vulnerability of your victim by an upward adjustment. In determining the size of that upward adjustment one would take into account that the aggravating feature itself, as are all of the aggravating features in your case, is reduced in significance by virtue of your diminished responsibility. Alternatively one can take a higher starting point of 15 years, make adjustments for aggravating and mitigating factors and then make an overall reduction to the minimum term to reflect your diminished responsibility. I have checked my overall conclusion by adopting both methods.

Aggravating features

[59] Aggravating features in relation to the offences committed by you Sean Hackett:

- a) the fact that the killing was planned;
- b) the use of a firearm and the calibre and nature of that weapon;
- c) the vulnerability of the victim returning alone in his car at night to his isolated country house where there was no one else present apart from you and being completely unaware of the threat that you presented;
- d) the fact that the weapon was obtained on more than one occasion;

- e) practising with the weapon in order to improve your ability to kill one or other of your parents;
- f) the fact that the attack was unprovoked;
- g) the fact that more than one shot was fired to the area of the deceased's head;
- h) the retrieval of two of cartridge cases from the scene of the shooting;
- i) the initial cover up by you.
- j) your indifference.

[60] An aggravating feature in relation to the offences committed by you Ronan Mulrine is the calibre and nature of the firearm that was involved. This weapon even if used for shooting rabbits could in the hands of someone who lacked training or awareness cause fatal or really serious injuries at a considerable distance from where the weapon was fired.

Mitigating features

[61] Mitigating features in relation to you Sean Hackett:

- a) your youth;
- b) your diminished responsibility;
- c) your previous good character;
- d) I have set out and take into account your other personal circumstances but in doing so I bear in mind that in cases of this gravity your personal circumstances are of limited effect in the choice of sentence, see *Attorney General's Reference (No 7 of 2004) (Gary Edward Holmes)* 2004 NICA 42 and *Attorney General's Reference (No. 6 of 2004) (Conor Gerard Doyle)* [2004] NICA 33.
- e) your admission of some of the constituent elements of the firearm offences though you were not prepared to and did not admit all the elements of those offences and you did not plead guilty to those offences. No good reason for not pleading guilty was given to me. I consider that the degree of credit to be afforded in relation to this feature is substantially reduced, see *R v Lee Wilson* [2014] 1 Cr. App. R. (S.) 19

- f) your willingness to plead guilty to the offence of manslaughter if the prosecution did not proceed with the charge in relation to the offence of murder. The prosecution did not accept this proposal and you did not plead guilty to the offence of manslaughter. However your counsel made it clear to the jury that you were in fact guilty of the offence of manslaughter and invited the jury to convict you of that offence. I will afford discount in relation to this feature.

[62] Mitigating features in relation to you Ronan Mulrine:

- a) your youth;
- b) your previous good character;
- c) your remorse;
- d) your admissions at interview that you provided the rifle and ammunition to Sean Hackett;
- e) your plea of guilty. You did not plead guilty on arraignment but it was indicated to the court at that stage that there were on-going discussions between Senior Counsel. I am satisfied that those discussions were necessary given the fact that you were initially interviewed as a witness and questions arose in relation to the admissibility of your responses at interview. However I am satisfied that you did not dispute any of the facts and in any event at arraignment it was arranged to review the case on 6 December when you did in fact plead guilty. In the circumstances I am giving you full discount for that plea.
- f) I have set out and taken into account your other personal circumstances but in doing so I bear in mind that in cases of this gravity your personal circumstances are of limited effect in the choice of sentence, see *Attorney General's Reference (No 7 of 2004) (Gary Edward Holmes)* 2004 NICA 42 and *Attorney General's Reference (No. 6 of 2004) (Conor Gerard Doyle)* [2004] NICA 33.
- g) the degree of awe in which you held Sean Hackett whom you trusted and respected.
- h) your total lack of any knowledge of Sean Hackett's mental state.
- i) the fact that you will forever be associated with the death of Mr Hackett which event which has had a huge impact in the local community.

- j) the fact that you will be prevented from travelling to countries such as Australia or the USA given your convictions.
- k) the effect that disclosing these convictions may have on your employment and other prospects.

Conclusion

[63] Sean Hackett

- a) in relation to the offence of manslaughter on count one I impose a life sentence and set the minimum term of imprisonment that you will be required to serve before the release provisions apply to your case at 10 years. This will include the time spent by you on remand. What if any further period you will spend in prison thereafter will be for the Parole Commission to determine. I direct that it is to receive a copy of these sentencing remarks.
- b) in relation to the two counts of possession of a firearm and ammunition with intent by that means of endangering life, contrary to Article 58(1) of the Firearms (Northern Ireland) Order 2004 I impose a life sentence on each count and set the minimum term of imprisonment on each count at 4 years. These minimum terms will include the time spent by you on remand. Again what if any further period you will spend in prison after the expiry of all the minimum terms will be for the Parole Commission to determine.
- c) All the minimum terms on each count are concurrent.

[64] In relation to you Ronan Mulrine both of these firearm offences were serious offences and for that reason I impose an order of detention in a Young Offenders Centre for a period of one year, concurrent on each of the counts. However I have come to the conclusion that the circumstances of the offences in combination with the mitigating factors which I have listed are wholly exceptional enabling the orders for detention to be suspended. Accordingly the concurrent sentence that I impose on each count is one of detention in a Young Offenders Centre for 1 year suspended for 2 years.

Ancillary orders

[65] Under Article 72 of the Firearms (Northern Ireland) Order 2004 I make an order for the destruction of the rifle and ammunition.