

IN THE CROWN COURT IN NORTHERN IRELAND

SITTING AT BELFAST

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THE QUEEN

v

RICHARD McAULEY

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**WEIR J**

**Introduction**

[1] Mr McAuley, you have pleaded guilty to the murder of Denise Dunlop and I accordingly impose upon you the only sentence permitted by law for that offence, one of life imprisonment.

[2] It is now my responsibility in accordance with Article 5 of the Life Sentences (Northern Ireland) Order 2001, to determine the length of the minimum term that you will be required to serve in prison before you will first become eligible to have your case referred to the Parole Commissioners for consideration by them as to whether, and if so when, you are to be released on licence. I make it clear however that if and when you are released on licence you will for the remainder of your life be liable to be recalled to prison if at any time you do not comply with the terms of that licence.

[3] I wish further to make it clear to you and to the public that a minimum term is not the same as a fixed term of imprisonment. A fixed term of imprisonment may, if the prisoner is of good behaviour, attract remission of 50% of the term imposed by the court. You on the other hand will receive no remission for any part of the minimum term that I am now about to impose regardless of your behaviour in prison and I hope that, should the media report the sentencing remarks, they will be careful to make this important distinction clear to their readers and viewers.

[4] The circumstances surrounding this senseless murder which has taken a life and left your daughter effectively without a parent are almost unbelievable in their triviality. I am afraid that this is yet another example of a pointless killing fuelled by the consumption of drink and drugs and the now all too prevalent recourse to knives.

[5] On the late evening of 14 June 2014 you and the deceased, who was your on and off partner, aged 32, went to her mother's home in Ballymena leaving your young daughter with a neighbour. Both of you had taken drink and drugs. You both then set off in a taxi with the deceased's mother, Mrs Dunlop, back to the deceased's home. There appears to have been some silly altercation between the two of you, both in the taxi and in an off-licence where you stopped, about the nature of drink to be purchased but purchased it was and shortly after 11 pm you arrived back, your daughter was retrieved from the neighbour, and a television football match was turned on. Again there seems to have been another pointless dispute as to whether your providing ice cream from the freezer was a sufficient meal for your daughter and this bickering continued and escalated into some mutual pushing and pulling in the course of which a chain seems to have been pulled from around your neck with a degree of force by the deceased. All this went on in front of Mrs Dunlop and your daughter who had for some reason not been sent to bed although it was by then midnight.

[6] The deceased was at this stage seated on the sofa. You went to the kitchen and returned with a large broad and pointed knife with which you stabbed the deceased three times in full view of your daughter and Mrs Dunlop.

[7] The pathologist, Professor Crane, has described the nature of the injuries you inflicted:

- (i) A stab wound on the front of the right upper arm just below the shoulder which penetrated the front wall of the chest cage between the first and second ribs.
- (ii) A stab wound on the back of the right shoulder where the blade of the knife had passed across the back of the chest through the underlying muscles almost to the spine.
- (iii) A third and the fatal stab wound was to the left side of the front of the chest which passed through the muscular wall of the chest cage and divided the third left rib then passing downwards through the left lung and the left ventricle of the heart before perforating the diaphragm, entering the abdominal cavity until finally the tip of the blade passed through the front and back walls of the stomach.

Professor Crane concluded that the considerable bleeding that would have resulted from the injuries to heart and lungs was responsible for the death.

[8] I cannot find that there was any justification in law or in fact for your actions. True it is that you had been squabbling on this night but that appears to have been over the years the common pattern of your relationship and so far as the court papers indicate there was no history of violence between you. Indeed, you told the police "I never hit Denise in my life". You are a powerfully built man of 6'1" according to your counsel while the deceased was a foot shorter. You had no excuse for bringing a knife into this silly domestic dispute which seems to have been nothing more than all too often happens between those who have taken too much to drink or too many drugs or who have mixed the two. On this evening the deceased was very drunk with a high blood alcohol level of 326mg and Professor Crane considers that the prescription drugs that she had also taken would have made her intoxication worse. She was for all those reasons no threat to you and no match for you, your cowardly and determined attack upon her with this knife when she was unable to try to protect herself by reason of the matters I have mentioned was entirely disproportionate to any insult or minor assault or injury she may have offered you. You could easily have controlled her, if necessary, by pinning her arms to her side or you could equally well have left the house until she calmed down or fell asleep.

[9] After her rapid collapse you began CPR but it was of no avail because of the great loss of blood. When the police came you immediately admitted that you were the assailant but of course you had no other option in the circumstances.

[10] It has been urged upon me by your counsel, Mr Laurence McCrudden QC, who has said everything on your behalf that might conceivably have been said, that I should take the view that your intention was not to kill the deceased but rather to wound her. I cannot accept that submission. There is nothing to support it beyond your own self-serving claim to that effect and against it is the fact that you stabbed the deceased three times in different areas and the fatal blow requiring at least moderate force penetrated several structures and organs of the body.

[11] I do not doubt that you quickly regretted what you had done and it is to your credit that you immediately attempted resuscitation but that is no guide to your intention at the time you fetched the knife and struck the blows. You told the police that you meant to hurt the deceased and were trying to do so but were "trying to put the knife somewhere where it wouldn't kill her". If so you were singularly unsuccessful but I do not accept that claim however much you would now wish it to be true. You told the probation officer that you had lost control, and used a weapon, because your daughter was present and you believed she should not have been a witness to your suffering domestic abuse. The probation officer describes this explanation, correctly in my view, as an indication of your distorted thinking and rationalisation of your behaviour. You further told the probation officer that you stabbed the deceased three times and that the reason why the last two times were more superficial was because you realised at the time that you had committed

significant harm with the first stabbing but proceeded with the second and third stabbings because you were “in a rage”.

[12] I have been provided with helpful reports from Probation Service, from Dr Bownes, Consultant Psychiatrist, and from the Community Addiction Team at Ballymena. From those a picture of your previous life emerges which is anything but positive. According to the probation officer you have never had a job because, according to you, you had a lack of interest linked to your long term drug abuse. You have, like so many others in this province, lived on state benefits all your adult life. I presume those must have been generous enough to support your alcohol and drug habit because over the years you have reportedly abused solvents, amphetamines, ecstasy, heroin and methadone and consumed large amounts of alcohol in binges. You seem to have had no difficulty in obtaining excellent help for your addictions and Dr Bownes details your many attendances at the Addiction Service over the years between 2001 and June 2014. However, despite the best efforts of professionals including your GP you appear to have made no lasting progress whatever and it is clear to me from the history that you never had any real intention of dealing with your addictions.

[13] Similarly, your relationship with the deceased see-sawed constantly throughout its 13 years, characterised by separations and reconciliations. It is difficult to understand exactly what caused these reported breakdowns but they appear to have been largely due to your entrenched drug abuse which nothing and nobody seemed able to induce you to deal with despite all their efforts. It was during one of the reconciliations that you committed this crime.

[14] I have received a Victim Personal Statement by Mr John Dunlop, the deceased’s father, who speaks movingly of the effects of this murder upon him and the entire family. He particularly describes your daughter’s severe and ongoing reaction to what she witnessed and this is confirmed by a recent letter from the senior bereavement practitioner at Barnardo’s Child Bereavement Service who has been assisting her and who describes what has happened to her as “a complex and traumatic experience which will require ongoing and long term therapeutic work at significant stages throughout her life”. You have done enormous and permanent harm.

[15] You have a criminal record of 44 previous convictions although most of the more serious matters occurred 15 years ago or more. Significantly, however, in November 2012 you committed a number of offences described by the probation officer as follows:

“He was convicted again for possession of an offensive weapon in 2013, along with criminal damage and attempted intimidation. PBNi records outline how this relates to him approaching the door of foreign nationals, who lived in the flat below him, with a knife. The victims

detailed how they were woken at midnight to scratching and banging on their door. They report hearing shouts of "Sieg Heil" from the flat above. The female victim noticed a star and "666" carved on their front door. She described feeling frightened. McAuley states that on this night he was heavily intoxicated and approached the victims' property to remonstrate with them about noise from their flat. He states that he had taken a knife with him for his own protection. When the victims did not answer the door he scored a satanic star onto the door as well as the numbers "666". He states that he would have scored this onto the door regardless of the nationality of the occupants."

[16] You were dealt with for these offences in October 2013 when you received an effective sentence of 18 months' imprisonment which the court suspended for three years. You were therefore in the early stages of that period of suspension when you committed the present offence, again using a knife.

[17] I am told that after the stabbings you immediately felt remorse for your actions and continued to do so. I am prepared to accept that you do feel a degree of remorse but the letter that you wrote from prison to Mr John Dunlop in January of this year is by no means generous in its level of acceptance of responsibility for what happened. The Court of Appeal has said in the past that it is often difficult to distinguish between an accused's remorse for what he has done and the remorse that he feels for the position his actions have placed him in and I consider that yours is just such a case.

[18] The Probation Service analyses your offending behaviour in the following terms which I entirely accept:

"The index offence is an escalation in violence that led to the taking of another person's life. Mr McAuley accepts his guilt in the matter, although places this in the context of alleged provocation from the victim. The offence was committed within the context of the defendant's apparently aimless lifestyle, which was characterised by substance abuse. It highlights his potential to lose control and behave in a violent manner. It demonstrates that he can overreact, lose self-control and behave violently if he perceives that he has been challenged or slighted. Through the current and previous offending, Mr McAuley has also demonstrated the potential to use weapons as a means to deal with confrontational situations."

[19] The Probation Service has further assessed you as presenting a high likelihood of re-offending and a significant risk of causing serious harm. Those are conclusions to which the parole commissioners will no doubt have to pay careful attention when at some future point they come to consider whether, and if so when, you are to be released on licence by them.

[20] I now come to determine the minimum period that you will require to serve before the parole commissioners can first begin to look at your case. I approach that task on the basis well settled by the Court of Appeal in R v McCandless. Firstly, it is submitted by both prosecution and defence that this case attracts the normal starting point of 12 years and I propose to adopt that point. I do not propose to reduce that starting point for the reasons already explained.

[21] A number of aggravating features exist which cause me to vary that starting point upwards:

- (i) The deceased was extremely vulnerable because of her size relative to yours, her seated position in her own home and her high degree of intoxication which you must have been well aware of.
- (ii) You launched this attack in front of your daughter and Mrs Dunlop without a thought for them or the consequences for them which I have already described.
- (iii) You were at the time subject to a suspended sentence for another crime involving the use of a knife. These factors cause me to increase the starting point to one of 16 years. I do not treat as an aggravating factor that you armed yourself with a knife because, as I said in R v Stammers, I accept that this attack was not planned or premeditated and that the knife was obtained on impulse from the kitchen a few steps from the living room.

[22] By way of mitigation I give you credit for your immediate if futile efforts at resuscitation, for owning up to police immediately although you had no alternative and for your plea of guilty which has saved the deceased's family the pain of listening to all the details in the course of a trial. Again, of course the credit to be given must be tempered by the fact that a contested trial would have had no prospect of success.

[23] Taking these mitigating matters into account I conclude that the minimum term that you must serve without as I have said any remission is one of 12 years before you can begin to be considered for parole. Finally, I add that, in the light of helpful submissions provided by the prosecution following the hearing of the plea in this case, I have decided not to put into effect the 2003 suspended sentence because, having taken account of it and the circumstances of the offences that led to its imposition as an aggravating feature, it would offend the principal of totality were I to do so.