

IN THE CROWN COURT FOR THE DIVISION OF ANTRIM  
SITTING AT BELFAST

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THE QUEEN

-v-

PAUL JAMES MANOLITO TOLAND

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**WEIR J**

[1] Paul Toland, you have pleaded guilty to the manslaughter of Robert Acheson and not guilty to his murder, which plea has been accepted by the prosecution. You have also pleaded guilty to the robbery of £335 in cash from Sheila Acheson. It is now my responsibility to sentence you for those offences.

[2] At the time of and prior to these offences you were employed by a company that sold and serviced vacuum cleaners. On 19 March 2012 you were detailed by your employer to call at the home of Mr and Mrs Acheson who were existing customers of the company although you personally had not dealt with them previously. The visit ended satisfactorily for the company as the Achesons agreed to purchase a new appliance at a cost of £1,380. Unfortunately Mr Acheson, no doubt lulled by his previously satisfactory relationship with your employer, allowed you to see where he took the cash from to complete the purchase and that there was more money in the same place. He of course did not know, and I presume your employer did not at that time know, that you had previous convictions for dishonesty including burglaries and were the very last person to whom his possession of cash in the house should have been revealed by Mr Acheson.

[3] Obviously you found the chance of helping yourself to this ready money too great to resist and on 30 April 2012, in the middle of the night, you and another individual drove in the company van from your home in Antrim back to the Acheson home in Coleraine. While it is not altogether clear who did what in the course of this joint enterprise and while you have sought to place much of the blame upon this other individual for the events of that night with whose prosecution the PPS ultimately decided not to proceed, it is clear that the following events occurred.

[4] On the previous evening Mr and Mrs Acheson had been visiting their daughter who lives not far away and returned to their home before 10.00 pm. The car was put in the garage and before long they retired to bed, turning out the lights in their home. At or probably somewhat after 1.00 am the couple were rudely awakened by the crash of glass breaking. We now know that that was caused by you or your companion throwing a large piece of concrete block against the window of a bedroom at the rear in order to gain entry to the house. Mr Acheson, a man of 72, bravely got up to investigate. Mrs Acheson, a lady then aged 70 and a sufferer from arthritis, remained in bed. From there she heard a male voice saying either "I owe you money" or, (perhaps more likely) "you owe me money" and heard the male further shout "I want money. I want money." She heard her husband saying "I'll give you the keys to the car, take what you like and go". She heard some form of scuffle. At that point you appeared at her bedroom saying "I want money. I want money" followed by "if you don't get money I'll kill your husband". Mrs Acheson said she would get you money and, leaving her bed with the aid of her walking stick, obtained her purse containing £335 from her handbag which you grabbed from her before leaving the room.

[5] Mrs Acheson was naturally in a state of fright as to what had become of her husband and she shouted for him without response. She also feared that you might still be in the house. From the bedroom she rang her daughter and son-in-law who came round immediately, arriving probably somewhat before 1.50 am. There they found Mr Acheson face down on the floor. The son-in-law sought to attempt resuscitation but Mr Acheson appeared to be dead. His face was bloodied and there was more blood and fluid on the floor where his face had been lying. A "999" call was made to which police and ambulance promptly responded but nothing could be done for Mr Acheson whose death was confirmed.

[6] The post-mortem examination by Dr Bentley found that death was due to coronary artery atheroma in association with pressure on the neck and emotional and physical stress. It appears that Mr Acheson had severe pre-existing heart disease which on its own could have caused his death. However there were injuries found upon his body including a fracture of the thyroid cartilage with associated bruising and tiny pinpoint bruises in the eyes which led Dr Bentley to conclude that pressure had been applied to the neck, perhaps by grasping it with one or both hands or by holding it in the crook of the assailant's elbow or in some other fashion. There was also a bruise on the nose and the lower part of the left cheek. The nose was found to be broken and there were small lacerations to the inner left side of the upper lip. The pathologist considered that these were consistent with blunt trauma to the centre of the face which in turn was consistent with one or more blows such as a punch rather than with the face hitting a hard surface. There were also multiple bruises to both arms which, while non-specific, may have been caused by Mr Acheson trying to defend himself. On his back were bruises consistent with falling or collapsing to the floor or, possibly, direct blows to the back. Undoubtedly Mr

Acheson was, whether he was aware of it or not, in a precarious state of health and therefore a very poor subject for the emotional and physical trauma to which you and your associate subjected him. In effect, he had the coronary equivalent of an "eggshell skull" when you launched this attack upon his home and person.

[7] The consequences of your actions have been catastrophic for Mr Acheson and hardly less so for his widow. She has lost the companionship of her husband and partner of many years at a time when, being retired, they might have expected some happy years together to enjoy the benefits that a lifetime's work had earned them. Not only has Mrs Acheson lost all that but so frightened has she been by your invasion of her home and your violent threats and actions there that she has been quite unable to return to live at her home and now lives permanently with her daughter. As a result her daughter has had to abandon her lifetime's career in the public service so that the independence and material comfort of both has been permanently affected. The damage that you have done to this family by your avaricious and violent attack upon it is far-reaching and can never be repaired.

[8] You Toland are now aged 41. You have a criminal record that began with theft when you were just 15 and you have accumulated a total of 62 previous convictions over the intervening years including 18 for burglary and yet others for other offences of dishonesty. True it is that your last serious offence, also burglary, was in 1996 but it is clear from the circumstances of the present offences that the temptation of the money kept by Mr Acheson quickly revived your past dishonest propensity.

[9] The Probation Service has provided a report for the court which describes your unhappy early family life and points out, in your favour, that you have a good work record over the years. I am afraid however that for crimes of this magnitude your personal circumstances can be of little positive weight. The probation officer observes that you expressed remorse for Mr Acheson's death and that you are adamant that you did not intend to cause death or serious injury to Mr Acheson and, as is plainly the case, that you did not know of Mr Acheson's precarious medical condition at the time. However, as the probation report also records, it is unfortunate that your remorse did not manifest itself in your telling the police what you had done when you learned of Mr Acheson's death instead of causing the family to have to endure the prolonged and painstaking police investigation over a period of months before they connected you with the crime. The report further points up a most serious aspect of this case, that your crimes were a significant breach of trust as a representative of a company with whom the Achesons had previously satisfactorily done business and with which they therefore had reason to feel confident when admitting you to their home.

[10] The Probation Service has assessed you as being at high risk of re-offending but the Multi-Disciplinary Risk Management Meeting between PSNI, PBNI and others has concluded that you do not meet the threshold for the conclusion that you

pose a significant risk of serious harm to members of the public in future for the reasons set out in the report. The prosecution has expressly not sought to go behind that assessment and I do not propose to do so.

[11] These were despicable crimes of a type long especially deprecated by society and by the courts. There is no indication that their frequency is decreasing – rather the reverse. People such as you who prey upon vulnerable elderly people require, whenever apprehended, to receive condign punishment to mark the revulsion with which all right-thinking people regard these crimes and to demonstrate the determination of our judicial system to do all that it can to deter others from similar crimes. As O’Donnell LJ said many years ago in words that have been approved of and re-echoed since:

“The effect of such robberies on the victims can readily be imagined. It is unlikely that they will ever again have a night completely free from apprehension. Such robberies also have a destabilising effect on other people in similar circumstances living in the same community.”

And later:

“It must be brought home to offenders who violate the privacy and security of old people in their homes and expose them to violence that immediate and heavy sentences will follow their detection of conviction.”

[12] I have referred in the narrative above to the various aggravating features of your offences. I summarise them as follows:

- (1) This robbery was planned.
- (2) You must have known that it was distinctly likely that the elderly couple whom you knew lived in the house would be present and in bed and would be no match for you if disturbed.
- (3) The noisy manner of effecting entry to the house was almost guaranteed to ensure that if present they would be disturbed.
- (4) You did not leave the house but rather persisted with your robbery after you knew Mr Acheson had collapsed and made threats to Mrs Acheson that you would kill her husband.

- (5) These crimes represent a serious abuse of the trust reposed in you by the Achesons because of your position with their previous supplier.
- (6) Finally, and importantly, your actions resulted in the death of Mr Acheson and the permanent blighting of what should have been the happy years remaining to this couple.

[13] I have carefully considered all the authorities to which Counsel have helpfully referred me. I take as my starting point in relation both to the manslaughter count and the robbery count a term of 12 years' imprisonment. I give you some credit for your plea of guilty but the indication of your willingness to tender it came at a stage seven months after arraignment and shortly before your trial was to have commenced and therefore that credit cannot be substantial. I also give you credit for your belated offer to assist the prosecution of the person who was your companion on this night notwithstanding that that offer was not in the event taken up and for the early indication that Mrs Acheson would not be required by you to give evidence in any trial.

[14] I sentence you to 9 years' imprisonment on each count, the sentences to run concurrently. I order that you will actually serve 4½ years' imprisonment, the greatest custodial proportion that the law allows me to require, followed by 4½ years on licence under the supervision of the Probation Service. You will receive no remission on the custodial element of sentence apart from credit for any time you have served on remand in custody. In relation to your period on licence, I order in particular that you are to engage in any programme of work directed by your supervising probation officer and to engage with the psychology service of PBNI and Community Mental Health Services as you may further be directed.