

Judicial Communications Office

4 July 2023

COURT SENTENCES FOR MANSLAUGHTER

Summary of Judgment

Mr Justice O'Hara, sitting today in Belfast Crown Court, imposed a minimum period of nine years imprisonment on Barry Donnelly following his plea of guilty to the manslaughter of Aidan Mann on 3 January 2022 in Downpatrick. He also pleaded guilty to the offences of possession of offensive weapons and assault occasioning actual bodily harm relating to a previous attack on a mother and son in June 2021.

The attack on 3 January 2022 was captured on CCTV. Aidan Mann ("the deceased") was seen coming out of the building which housed the flats that he and Barry Donnelly ("the defendant") lived in. The footage showed the defendant following and chasing the deceased who was unable to escape and fell or was knocked to the ground. The defendant straddled him and stabbed him to his legs, torso and chest. The defendant was pulled off the deceased by members of the public who restrained him until the police arrived. Two large black knives were on the ground close by.

The court said that the deceased was an entirely innocent victim who did nothing to provoke or justify the fatal attack by the defendant. The deceased and the defendant had no contact by phone, text or social media although over the previous few days the defendant had complained a number of times to the police about the deceased, but the police entry suggested that the defendant was viewed as "a bit paranoid." The deceased had sent messages to friends that he was afraid to leave his home because of the defendant who, he believed, wanted to start a fight. During police interviews the defendant did not deny what he had done but suggested he was carrying the knives in self-defence and that he had been subject to abuse for more than two years. He admitted that when he was pulled off the deceased he had shouted "let him die." He had also shouted that the stabbing was revenge for his brother but, in fact, nothing at all had happened to his brother.

Sentencing options

Two Consultant Psychiatrists agreed that the defendant was suffering from an abnormality of mental functioning arising from schizophrenia at the time of the attack. That abnormality substantially impaired his ability to form a rational judgment and to exercise self-control. One of the sentencing options open to the court for manslaughter is to make a hospital order but that can only be done where two psychiatrists recommend it. That was not the position in this case with the defendant's treating psychiatrist indicating that he will probably not need to remain for treatment much longer and envisages him moving to prison.

The remaining options are life imprisonment with a minimum term being set before his release can be considered by the Parole Commissioners; an extended custodial sentence; or an indeterminate custodial sentence again with a minimum term before release can be considered by the Parole Commissioners. All of these options depend on whether the defendant is deemed to be "dangerous" within the meaning of Article 15 of the Criminal Justice (Northern Ireland) Order 2008. In *R v EB* [2010] NICA 40, the Court of Appeal observed that "the risk identified must be significant. This was a higher threshold than the mere possibility of occurrence and could be taken to mean "noteworthy, of considerable amount or importance." The court noted that it was also clear that the assessment of

Judicial Communications Office

dangerousness was not some sort of arithmetical or scientific exercise but instead involved the court making an evaluation of all of the risks involved in the circumstances of the case.

The pre-sentence report prepared following a meeting of members of the Probation Board, the treating psychiatrist and the senior investigating police officer, stated that the defendant did not meet the threshold to be assessed as a significant risk of serious harm. That was based on his limited criminal record and the fact that the risk of further violence is “inextricably linked to a return to cannabis use and/or non-compliance with medication.” The team’s view was that as long as he remained substance free and compliant with his treatment the risk of further violence is minimised. The court, however, considered those were “two huge caveats” noting that before killing the deceased the defendant had not received any medical treatment for 10 years, he was using cannabis freely and while there was evidence that he is responding well to treatment the turnaround in his mental health is slow. The court said that while taking account of the pre-sentence report it was not bound by it and would instead follow the approach dictated by the Court of Appeal in *R v EB*.

The court concluded that the defendant is dangerous within the meaning of the 2008 Order. It was satisfied that there is a real risk of him committing further offences and that these may well be serious. It said the defendant appears to be an isolated individual with no strong family ties and no history of employment, either of which might be a stabilising factor. He has also been grossly negligent about taking care of his own health. Having decided that the defendant is dangerous the court then decided which sentencing option was appropriate taking account of the defendant’s limited criminal record, notable for the fact that this was his first appearance before the Crown Court, his expressions of remorse, the extent of his responsibility for his actions and his plea of guilty. The court noted that this did not mean that the defendant did not carry any responsibility for his actions: “In my judgment, the state which this defendant was in, when he was paranoid and hearing voices, was the result in significant measure of his own failure to seek any medical treatment or counselling, his use of cannabis and his failure to do anything with his life other apparently than drift.”

The court did not think a life sentence was appropriate in this case as it is one which is only imposed where the defendant’s culpability is particularly high or the offence itself is particularly grave. It also did not think an extended custodial sentence was appropriate as it has, in effect, an expiry date beyond which there is no oversight of the defendant’s conduct. The court did not consider this to be sufficiently protective in light of the future risks to the public and all of the uncertainties in this case. It said an indeterminate custodial sentence achieves the best possible protection of the public in circumstances such as this case from the risk which may continue to be posed in the future by this defendant:

“It is the heaviest sentence which a court can impose other than a life sentence, but in this case, it is the proper one. In all the circumstances, and allowing specifically for the guilty plea, I consider that the proper tariff is nine years. That is the minimum period which [the defendant] must serve in prison before his release can be considered by the Parole Commissioners. When that time comes the Parole Commissioners should have available to them at the very least these sentencing remarks together with the victim impact statements, the psychiatric reports and the pre-sentence report.”

On the other four charges, the court imposed concurrent sentences of two years for possession of offensive weapons on 3 January 2022; nine months each for the two offences of assault occasioning

Judicial Communications Office

actual bodily harm; and six months for possession of an offensive weapon in the form of the golf club.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Judiciary NI website (<https://judiciaryni.uk>).

ENDS

If you have any further enquiries about this or other court related matters please contact:

Debbie Maclam
Judicial Communications Officer
Lord Chief Justice's Office
Royal Courts of Justice
Chichester Street
BELFAST
BT1 3JF

Telephone: 028 9072 5921
E-mail: Debbie.Maclam@courtsni.gov.uk