

Judicial Communications Office

30 June 2023

COURT SENTENCES FOR MURDER

Summary of Judgment

Her Honour Judge McColgan KC, sitting today in Belfast Crown Court, imposed a minimum period of 20 years imprisonment on a mother for the murder of her eight week old son and the attempted murder of his two year old sister.

The mother (“the defendant”) was convicted by a jury of the offences on 23 March 2023. Having found the defendant guilty to the offence of murder, the court imposed upon her the only sentence permitted by law for that offence, one of life imprisonment. The court today set the tariff period that the defendant must serve in prison before being eligible to have her case referred to the Parole Commissioners for consideration as to whether, and if so, when she is to be released on licence. If and when released, the defendant for the remainder of her life will be liable to be recalled to prison if at any time she does not comply with the terms of that licence. The background to the case and the evidence in the trial were set out in para [5] – [81] of the sentencing remarks.

The Relevant Legal Principles

Article 5(2) of the Life Sentences (Northern Ireland) Order 2001 provides that the minimum term “shall be such part as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or the combination of the offence and one or more offences associated with it”. The court applied the legal principles on fixing the minimum term established in *R v McCandless & Others* and the *Practice Statement*¹. It also referred to the case of *R v Mark Ward (No.2: Tariff)*² in which the court explained that the choice of starting point should not be approached in a mechanistic way but should involve “an evaluative judgment on the part of the judge who has become progressively immersed in the dense details and nuances of the trial from its inception to its conclusion.”

Aggravating and Mitigating Factors

In order to determine the appropriate starting point, the court said it was necessary to consider the aggravating and mitigating circumstances. The aggravating circumstances were listed as:

- The breach of trust involved in the offences by their mother was exceptionally high;
- There are two victims;
- The children were particularly young and vulnerable;
- There was a degree of planning;
- The use of a weapon, namely a knife;
- The impact of the offending on the surviving child both at the time of the offending and the long-term consequences.

¹ See Notes to Editors.

² *R v Mark Ward (No.2: Tariff)* [2019] NICA 18

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The mitigating circumstances were:

- The defendant was suffering from depression of mild to moderate severity at the time of examination by the psychiatrists (10 months after the commission of the offences) and may well have been suffering from the same at the relevant time;
- The absence of a previous criminal history but this was to be viewed as the absence of an aggravating factor as opposed to a mitigating factor.

Minimum Tariff

The court said that having considered all of the circumstances, and in particular, having regard to the aggravating features, it had concluded that this was a very serious case falling within the category of an especially grave case requiring a substantial upward adjustment of the higher starting point in respect of the count of murder of her son. The Practice Statement identifies a starting point in a very grave case involving the murder of a child as around 20 years or more. In addition to the murder, the court was required to sentence the defendant for the attempted murder of her daughter. Attempted murder carries a maximum sentence of life imprisonment in its own right and the court said that having treated the attempted murder charge as an aggravating feature of the murder charge, the sentence imposed in respect of this count would be a concurrent sentence. The court noted that the offence of attempted murder also requires an assessment of dangerousness.

In assessing the seriousness of an offence, the culpability of the defendant and the extent of harm caused are the primary considerations. The court noted that the culpability of the defendant was extremely high. In relation to the harm caused, it referred to expert medical reports on the physical and psychological impact on the defendant's daughter. The report stated that the offence had had a "catastrophic cognitive, developmental, relational and psychological impact" on the child's overall wellbeing which is likely to be lifelong and could affect numerous aspects of her life. It added that the incident served as a "dire contradiction to the expected role of a primary caregiver and has resulted in [the child] feeling unsafe, sad, terrified and anxious."

The court said that having considered this evidence it had concluded that the imposition of a life sentence was justified in respect of the attempted murder of the daughter. Having reached that conclusion, the assessment of dangerousness was of lesser significance than would otherwise have been the case. The pre-sentence report prepared by the probation officer concluded that the defendant was on the medium range in terms of likelihood of re-offending and that she was not assessed as presenting a significant risk of serious harm at this time. The court, however, said the report made no mention of having sight of some important evidence including the body worn footage of the police officers and the psychologist's report which it said would have been of some assistance to the assessment. The court differed in its assessment of dangerousness and concluded that the defendant was a "dangerous offender" within the terms of the Criminal Justice (Northern Ireland) Order 2008 for the following reasons:

- The defendant had just stabbed her eight-week-old baby twice through his heart.
- She then stabbed her daughter in the same general area.
- But for the intervention of police who attended at the scene, the medical staff at the house and the hospital, the court would be dealing with the deaths of two very young children.
- The fact that the defendant made at least four if not five telephone calls before she contacted the emergency services.

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- There was no doubt that the defendant was in an abusive relationship, but her partner had been out of the family home for three days and she knew he was not returning.
- The height of the medical evidence at the relevant time was that she may have been suffering from a level of depression.
- Her mental and emotional state on a non-medical level at the relevant time can perhaps be best assessed from her diary entries on 27 July 2021.
- She has expressed remorse for her offending.

The court concluded that the appropriate starting point was 22 years' imprisonment but reduced the tariff to one of 20 years' imprisonment. This is the period of time that the defendant must serve in custody before she is eligible to apply for release on licence by the Parole Commissioners.

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>).
2. The minimum term is the term that an offender must serve before becoming eligible to have his or her case referred to the Parole Commissioners for them to consider whether, and if so when, he or she can be released on licence. Unlike determinate sentences, the minimum term does not attract remission. If the offender is released on licence they will, for the remainder of their life, be liable to be recalled to prison if at any time they do not comply with the terms of that licence. The guidance is set out in the case of R v McCandless & Others [2004] NI 269.
3. A Practice Statement [2002] 3 All ER 417, sets out the approach to be adopted by the court when fixing the minimum term to be served before a person convicted of murder can be considered for release by the Parole Commissioners. It also sets out two starting points. The lower point is 12 years, and the higher starting point is 15/16 years imprisonment. The Practice Statement also identifies that in very serious cases a minimum term of 20 years and upwards may be appropriate with cases of exceptional gravity attracting a minimum term of 30 years. The minimum term is the period that the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence. This sentencing exercise involves the judge determining the appropriate starting point in accordance with sentencing guidance and then varying 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.

ENDS

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