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30 JULY 2018

COURT SENTENCES FOR KILLING OF LITHUANIAN MAN

Summary of Judgment

Madam Justice McBride, sitting today in Dungannon Crown Court, imposed an extended custodial sentence of 11 years' imprisonment with an extended licence period of four years on Darius Sikorskas for the manslaughter of a fellow Lithuanian.

Darius Sikorskas ("the first defendant") pleaded guilty to the manslaughter of Gediminas Staukas ("the deceased") as an alternative to murder. He also pleaded guilty to grievous bodily harm with intent arising from a vicious attack on Grigorius Sviridoras ("the complainant") and possession of a firearm with intent. Dmitrijus Indrisiunas ("the second defendant") and Marius Dzimisevicius ("the third defendant") both pleaded guilty to a charge of withholding information. The offences took place in Coalisland in October 2015. The background to the offences and the agreed basis of the pleas are set out in paragraphs [5] - [13] of the judgment.

Sentencing of the First Defendant

Madam Justice McBride outlined the sentencing framework that applies to the three offences with which the first defendant was charged. They are all "serious" and "specified" violent offences for the purposes of the Criminal Justice (NI) Order 2008 ("the 2008 Order") and accordingly the question of "dangerousness" arises. The judge noted the pre-sentence report which assessed the first defendant as posing a high likelihood of re-offending and presenting as a serious risk of serious harm to others by virtue of the premeditated nature of the offences, the sustained use of orchestrated violence over a prolonged period, the significant and graphic level of violence and degradation, the use of weapons including firearms, his misuse of alcohol and other substances and his extensive criminal records in this jurisdiction and the Republic of Ireland and Lithuania. Madam Justice McBride concluded that the first defendant is a dangerous offender. She noted that a number of firearms were found at his address after his arrest and he has been charged and pleaded guilty to a number of firearms offences.

As the dangerousness test was passed, the court is required to impose either a life sentence, an indeterminate custodial sentence, or an extended custodial sentence. The judge considered that the nature of the offending did not require that the first defendant should be kept in prison for the rest of his life. She accordingly considered whether an extended custodial sentence would be adequate for the purpose of protecting the public from serious harm occasioned by the commission by the offender of further specified offences. She said that in the event that she found it would not be adequate for that purpose she must then impose an indeterminate custodial sentence.

Madam Justice McBride referred to the reports of two psychologists which set out the first defendant's psychiatric problems and his abuse of alcohol and drugs. One report noted that

Judicial Communications Office

the first defendant has been abstinent from all substances for the 2 ½ years he has been on remand and has undertaken courses in prison to improve his educational level. The court also received a reference from his partner and mother of his daughter. She said they plan to marry as soon as possible and that he has given her undertakings that demonstrate his will and capacity to change. Madam Justice McBride said the first defendant had satisfied her that an extended custodial sentence is adequate to deal with the risk presented by the first defendant. She said that programmes for change can be delivered both within and without the prison and provision can be made for relapse counselling and preparations and precautions can be taken as to his possible mental health problems upon his release.

The judge then determined the term to be served. She said the offence of manslaughter covers a wide spectrum of infinitely varied circumstances and as a consequence there are no rigid sentencing guidelines. She set out the aggravating factors:

- The first defendant administered a blow of “considerable” force which caused the deceased to fall to the floor and strike his head which resulted in a fracture of the skull and bleeding to the brain;
- Although the first defendant rendered some limited assistance by placing tape around the deceased’s head he demonstrated indifference by failing to seek any professional medical assistance for the deceased over a period of 8-12 hours when the deceased remained alive;
- He left the scene and evaded police detection for five days, continuing to show a callous disregard for the plight of the deceased;
- He has a criminal record and is therefore not a person of good character.

By way of mitigation, the judge took into account the first defendant’s guilty plea which was made at the first available opportunity and his abstinence from alcohol and drugs for over two years. She said that the first defendant’s consumption of alcohol and drugs arose due to his addiction but considered that addiction was not a mitigating factor. The judge commented that even if she was wrong in this view she would not have given it any significant weight as the offence of manslaughter called for deterrent sentencing and addiction, which is a personal mitigating factor, would be given limited weight. Madam Justice McBride considered that the appropriate custodial term for the offence of manslaughter is one of five years and four months’ imprisonment.

Madam Justice McBride then considered the appropriate sentences for the offence of GBH with intent and the possession of a firearm with intent. She noted that the complainant suffered physical and psychological problems, has had three operations and is unable to work. He said he lives in constant fear, cannot relax and has even tried to commit suicide. The judge found a number of aggravating factors including:

- The first defendant summoned the complainant to the premises and therefore this was a pre-planned, but entirely unprovoked, attack.
- It took place over a prolonged period and involved extreme violence which included punches, kicks, the use of iron bars and a gun to inflict injury.
- The complainant was subject to degradation as he was made to telephone his former girlfriend and tell her he was being rehabilitated from drugs.

Judicial Communications Office

- He was forced to shoot himself in the leg and the first defendant then failed to seek professional medical help. Instead he attempted to clean and cauterise the leg in an amateurish way which in all likelihood inflicted further pain and injury.

The only mitigating factor was the first defendant's plea which was only made on the first day of the trial and therefore did not attract a significant reduction. Madam Justice McBride considered that the appropriate custodial term for the offence of GBH with intent is one of 11 years' imprisonment. She determined that the sentence which should be imposed in respect of the firearms offence was one of six and a half years' imprisonment. Having regard to the principle of totality she directed that the sentences in respect of manslaughter and the firearms offence should run concurrently with the sentence imposed for GBH with intent and therefore imposed a total term of 11 years' imprisonment.

Madam Justice McBride then turned to consider the duration of the extended period which is for such period as is considered necessary to protect the public from serious harm and to secure the rehabilitation of the offender to prevent his further offending. The 2008 Order provides that after the defendant serves half of his custodial sentence the Secretary of State shall release him if the Parole Commissioners are satisfied it is no longer necessary for the protection of the public that he should be confined. The defendant's licence can be revoked and he can be recalled to prison if he breaches his licence conditions. Madam Justice McBride considered that an extension period of four years is appropriate in this case and therefore the extended custodial sentence imposed on the first defendant was one of 11 years' imprisonment with an extended licence period of four years.

Sentencing of the Second Defendant

The second defendant was charged with withholding information. The agreed basis of plea was that he discovered the deceased's body on 15 October 2015 and made a witness statement that day to the police detailing the movements and activities of the first defendant and the deceased over a number of days. All of that information was accurate, however, the second defendant omitted to mention that he left the garage with the first defendant in a car driven by the third defendant and had gone to a flat in Coalisland. The first defendant left the flat shortly afterwards and it was agreed by the defendant and prosecution that there was no evidence that the second defendant's omission to mention the journey prejudiced the police investigation.

Madam Justice McBride said there is limited guidance in respect of sentences for withholding information which is an offence which does not apply in England and Wales. The case law illustrates that withholding information may occur in infinitely varying circumstances. The offence attracts a custodial sentence primarily because the nature of the offence is serious as it involves interference with the administration of justice. The degree of seriousness is higher in a case where the principal offence is one of gravity, for example, murder or manslaughter. The period of imprisonment in cases where the police investigation was not hampered lies between six months and two years.

The judge noted that the second defendant has three previous convictions which relate to alcohol and drug matters and the pre-sentence report assessed him as posing a medium likelihood of re-offending but not as meeting the criteria which would deem him to be a significant risk of serious harm at this time. Madam Justice McBride imposed a term of

Judicial Communications Office

imprisonment of 12 months. She suspended it for two years as this was a unique offence given that the police investigation was not hampered, the defendant co-operated with the police and there had been a significant delay in the case since the defendant's arrest in November 2015. The judge noted that the second defendant would not be deported automatically under the UK Borders Act 2007 as she had imposed a suspended sentence. No representations were made as to whether she should make a recommendation as to his deportation and the judge made no recommendation in respect of the matter one way or the other.

Sentencing of the Third Defendant

The third defendant was also charged with withholding information and the agreed basis of plea was that he found out about the death in the news and failed to tell police about his knowledge of other Lithuanian nationals' association with the premises in which the deceased was found. He did not in fact give information to the police even when he was arrested and interviewed on 2 November 2015. It was accepted that at the time the third defendant drove the first defendant away from the garage he had no knowledge or suspicions of any offence having been committed.

The pre-sentence report assessed the third defendant as posing a low likelihood of re-offending and not posing any significant risk of serious harm. Madam Justice McBride imposed a sentence of 12 months' imprisonment. She suspended the sentence for two years given the delay in the case, the third defendant's low risk of re-offending, and his expressions of genuine remorse. The third defendant has indicated his intention to return to Lithuania and the judge therefore made no recommendation in respect of deportation.

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 (www.judiciary-ni.gov.uk).

ENDS

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