

Tariff certified by the Secretary of State under Life Sentences (NI) Order 2001 on 27-03-06

**THE QUEEN**

**-v-**

**RONALD TERENCE GRAHAM**

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**DECISION ON TARIFF**

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**Ruling by Kerr LCJ**

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1. At Belfast Crown Court on 2 June 1982 the prisoner, Ronald Terence Graham, was sentenced to life imprisonment, having pleaded guilty to the murder of Julie Anne Cole, a girl aged 5, on 2 July 1981. An appeal against conviction, based on new evidence that the prisoner was suffering from Klinefelter's Syndrome which altered his social and sexual behaviour and impaired his mental responsibility, was abandoned on 5 March 1985. The prisoner has been in custody since 4 July 1981.

2. The purpose of this ruling is to fix the appropriate "tariff" to be served by the prisoner under article 11 of the Life Sentences (NI) Order 2001. The tariff represents the appropriate sentence for retribution and deterrence and is the term that the prisoner will serve before his case is sent to the Life Sentence Review Commissioners who will assess suitability for release on the basis of risk.

*Factual background*

3. In 1981 the prisoner was a single man of 22 who lived with his parents at 27 Portlee Walk, Antrim. He was unemployed. At the beginning of July 1981 he was staying at the home of a close friend, Ivan Vaughan and his wife June. They lived with their children at 12 Mallusk Gardens, Steeple Estate, Antrim.

4. At 11.30pm on Thursday 2 July 1981 Mrs Evelyn Cole, then of 35 Mallusk Gardens, Steeple Estate, Antrim, reported the disappearance of her 5 year old daughter, Julie, to police. Julie had last been seen in the area at sometime between

10.20pm and 10.30pm. A search party was organised consisting of some 20 local people *including* the prisoner.

5. The police called at the Vaughans' house at 2am and June Vaughan told them that Julie had come to the house with another child at around 10.30pm in order to return a coat but had not entered the premises. Later that same morning the police called again with Mrs Vaughan and looked through her house. She told them that the prisoner had been in his bedroom when Julie had visited the previous night and repeated that the child had not entered the house. She also said that her husband had not been present at that time. The police went to the prisoner's parents' home at 27 Portlee Walk and, contrary to the information received from Mrs Vaughan, the prisoner told them that he had been in the hallway of the Vaughans' house when Julie had called to return a coat the previous evening. The officers became suspicious and at around 5.50am they returned to 27 Portlee Walk and asked the prisoner to accompany them to Antrim Police Station to help with inquiries.

6. When first informally interviewed about his movements the previous day the prisoner said that he had been drinking with Ivan Vaughan from 1pm to 7pm. He had consumed around 7 vodkas. He arrived at the Vaughans' home shortly after 9pm and saw Julie both call at and leave the house. He then saw the deceased's mother call at the house looking for her daughter. The prisoner said that he then joined a search party before returning to his parents' home. He denied any involvement in the child's disappearance. The interview was terminated at 7.30am and police returned to the Vaughans' home and conducted another search. They then returned to Antrim Police Station and briefly re-interviewed the prisoner at which point he made his first statement. The prisoner stated that the deceased was outside playing in the Vaughans' garden when he returned to the house, that he gave the Vaughans' daughter money for sweets and later saw the deceased return a coat to the house before leaving. He also outlined how he joined in the search effort.

7. The prisoner was further interviewed at 11.30am at which point he made his first admissions. When asked whether he had indecently assaulted the missing girl his composure was seen to change, he placed his head in hands and seemed almost in tears. He was asked again whether he had assaulted the child and he nodded his head in the affirmative. He told police that he had indecently assaulted and then left the child, alive, beside the Steeple Community Centre. When pressed the prisoner admitted: "I put her up in the loft in the Vaughans". He made no reply when asked if the child was still alive but agreed to accompany officers to the house. The police immediately went to the Vaughans' house where, shortly after 12 midday, the body of the deceased was found in the loft. She was later identified by her uncle.

8. At 4.10pm the prisoner told police that he wanted to "get it out of [his] system and tell the truth from start to finish." He made a number of verbal admissions and enlarged on those in a written statement, the material parts of which are as follows: -

“I saw the wee girl Julie in the back garden at the pigeon shed. I was standing watching this wee girl and something came over me I don’t know what it was but I just wanted to kill somebody no matter who. This window was open and I shouted at her to come round the front of the house. I had made up my mind to kill her.”

He called the child in and she followed him to his bedroom:

“Just as she came in the door of the bedroom I grabbed her with both hands round the neck. I held her for about twenty minutes this way and she gave a few cries and passed out. I then took my hands from round her throat and put her on the bed. When I saw her lying on the bed I had an urge to have sex with her. I then took off Julie’s shoes and socks and pants. I then pulled my own trousers and pants down but didn’t take mine off. I lay on top of her and tried to put my penis into her between her legs. I couldn’t get my penis in. I moved up and down on top of her and my chest was over her face and there wasn’t any sound from her.<sup>[1]</sup> I moved up and down on top of her for about five minutes and I heard footsteps coming up the stairs. I then got off her and hurried and pulled my trousers up. June [Vaughan] then came into the bedroom and I said I’ve done something to the wee girl. June thought she was dead. I wondered what I should do and June said put her up in the loft and cover her. I then lifted the wee girl and got up onto the banister and put her up in the loft...I then threw the socks shoes and pants up after her into the loft. June then went into the wee girl’s room and got like a pink chest of things and got a chair and put it on top of the chest. She got up and covered the wee girl....”

As to his subsequent actions he said:

“I thought if I searched too, nobody would think that I had anything to do with the wee girl. I searched all round the bushes and the factories and Parkhall with this fella. I saw other people out searching and I told several of them that we didn’t find her.”<sup>[2]</sup>

The prisoner made a further statement on 7 July 1981 in which he said that both Ivan and June Vaughan helped conceal the deceased’s body in the loft.

9. On 13 August 1981 the prisoner made another statement in which he claimed that he had not killed the child but had caused her to pass out. He placed the blame for her death on Ivan Vaughan. He said that the deceased had been in the house playing with the Vaughans' daughter when he had called her into his bedroom. He had strangled her until she passed out. He does not mention any sexual assault. He continued:

"Ivan and June came flying up the stairs and asked me what I did. I said something came over me. Ivan said well let's get the child up into the loft. I said she wasn't dead. Ivan then got up in the loft with a brown pillow and I handed the child up to him and told him when I was putting her up that she wasn't dead. Ivan was in the loft with her and about 5 minutes later Ivan said she's not alive now, she's dead. Then he came down again with the pillow and put it back in my bedroom, the back bedroom. June then went up into the loft and I saw June covering the girl with out' teddy bears and clothes..."

10. A post mortem examination was carried out by Dr Thomas Marshall, State Pathologist, on 4 July 1981. He concluded that the cause of death was manual strangulation. Some bruising and abrasions could have been caused in a brief struggle. Although it was noted that the deceased was not wearing underwear there was no post mortem evidence of sexual interference.

11. The prisoner was examined by Dr Curran, consultant psychiatrist, in 1982. He told Dr Curran that the deceased was not dead when he passed her to Mr Vaughan in the loft and implied that Mr Vaughan suffocated the child. According to Dr Curran's report the prisoner had an IQ of 80, had achieved little at school and had an employment history punctuated by imprisonment. His first referral to a psychiatrist was at age 10 due to school difficulties. Dr Curran summarises the medical notes of this referral saying: "...it was thought that he could probably cope in special school. He was reputedly then interested in cruel acts, especially on pigeons. This propensity is seen by many to be characteristic of aggressive psychopaths and sometimes of murderers." The prisoner remained in contact with a clinical psychologist throughout his adolescence. He was seen by a number of psychiatrists. In 1977 Dr King, a consultant psychiatrist based at Holywell Hospital, concluded that the prisoner was "decidedly psychopathic with a very poor prognosis for same", basing his opinion on the prisoner's abusive attitudes and difficult, violent and antisocial behaviour. Neither hospital nor medication would offer any solution.

12. Dr Curran's report concluded:

"My opinion is that it is totally immaterial whether this man is labelled a psychopath or not ... My opinion is that this young man is highly dangerous and will remain

highly dangerous for society for many years to come. There is no question of him or society gaining anything from his being confined to a Special Hospital or any other psychiatric facility.”

**13.** In a report dated 10 September 1981 Dr Lyons, consultant psychiatrist, reported on yet a further version of events given by the prisoner. He told Dr Lyons that he had returned intoxicated to the Vaughans’ home on the evening of the murder. He and the Vaughans had seen the deceased in the garden of the house and asked her in to play with the Vaughans’ daughter. When the deceased came upstairs the prisoner called her into his room and immediately strangled her. There was no sexual assault. He said that he did not know that the child was dead at that time. The Vaughans took her to the loft. Dr Lyons gave the following opinion on the prisoner:

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“He showed a complete lack of remorse for his action and showed no evidence of emotional disturbance during my lengthy interview. He was a very tall young man and obviously would be physically strong. He showed no real evidence of psychiatric abnormality during my interview apart from his emotional indifference to the child and although he talked about suicide at some length, there was no very strong conviction in his statements. Although his education level would be very much below average, I do not consider he was intellectually sub-normal ...

The diagnosis in this case would seem to be of a severe psychopathic personality. Since the age of ten, he has been constantly in trouble with anti-social behaviour....I consider him to be a very dangerous man ...”

**14.** In a follow up report dated 2 November 1981 Dr Lyons reviewed the prisoner’s past psychiatric interventions and concluded:

“My opinion of the notes would suggest a long-standing personality disorder ... there were obviously many warning signs that he was dangerous and an anti-social person but there have been many of these cases and it has been found generally that psychiatric treatment is not of much avail. The cruelty to animals would be the most definite predictor of serious potential for violence in the future. In my experience, one sees many petty criminals but most of them have a feeling for animals and this type of cruelty usually suggests that there is an element of

sadism and is a predictor of violence towards others at a later stage.”

#### *Antecedents*

15. The prisoner has a short but relevant record consisting of 5 separate appearances before the criminal courts between July 1976 and April 1980. He has convictions for offences including theft, burglary, malicious damage and forgery, but perhaps the most significant convictions are two for indecent assaults both of which led to immediate custodial sentences. The first, an indecent assault on a 13 year old girl, was dealt with by Newtownabbey Petty Sessions in July 1976 and the prisoner was sentenced to 8 months’ imprisonment. In a medical interview with Dr Curran he denied involvement in this offence, saying that he “just owned up for it although I didn’t do it.” In a subsequent interview, however, he told the same doctor: “In 1976 I was having trouble having sex with girls in general and had been experimenting a bit about sex. I didn’t know what to do so I tried it out on a 13 year old girl but couldn’t even perform with her.” The second offence, which involved an indecent assault on a young boy, was dealt with at North Antrim Crown Court in April 1980 and resulted in the prisoner being sentenced to 15 months’ imprisonment. Again the prisoner later denied involvement only to subsequently admit it to the same psychiatrist who recorded: “In my second interview with him he readily confessed that he had indecently assaulted a young boy and that he attempted buggery. This child apparently only lived two doors away from your client then and it was inevitable that he be detected. Again this declaration of guilt was given to me on the second interview and again he had forgotten that he had vigorously protested his innocence to me on the first visit.”

#### *Judge’s sentencing remarks*

16. The judge sentenced the prisoner to life imprisonment saying: -

“...everyone who knew of Julie Cole’s tragic death must have been deeply shocked, especially her family, who must have been grievously hurt. Everyone must wonder how any person could kill a little child for no apparent reason. By your plea, you have probably accepted that you did kill her. Exactly why you did so may never be entirely clear...”

#### *The NIO papers*

17. The deceased’s mother, Evelyn Cole, has submitted a written representation in which she said that the prisoner destroyed her family’s life forever. Her daughter’s disappearance and the events that followed were traumatic. Mrs Cole says that the family was plunged into a “living hell” until her body was discovered. She particularly recalled that the prisoner joined the search party that looked for Julie

Anne and that he even appeared at her back door, ruffled her other daughter's hair, and said "don't worry, we'll find her".

**18.** Mrs Cole's physical and mental health suffered immediately after the murder. She lost her unborn baby at 12 weeks, spent 3 weeks in hospital and says that she wanted to die but had 2 other children who needed her. Mr Cole gave up his job as he could not cope with the murder.

**19.** In her submission Mrs Cole continued that the prisoner also took away the family's home of 12 years as it was situated just yards away from the murder scene. They moved, but Mrs Cole's mental health continued to deteriorate. She stated that their lives never returned to normal. Her health never fully recovered and she had no will to live and no purpose in life. She said: -

"I exist solely day to day trying to come to terms as to why Ronald Graham would murder my daughter. To this day I have to live with constant reminders of what happened to my daughter, my love for her and feelings only a mother has, which will never die. So how does anyone expect a family to come to terms with the murder of her daughter by a convicted paedophile?"

**20.** The prisoner's solicitor, John J McNally & Co, submitted a written representation in which the following points were made:

1. The prisoner was aged 23 at the date of his conviction for murder;
2. The prisoner admitted causing the death of the deceased in the course of his interviews by police;
3. The prisoner pleaded guilty to the offence of murder;
4. The prisoner displayed remorse for having committed the murder;
5. The prisoner suffers from Klinefelter's Syndrome which, while not affording a defence of diminished responsibility, is a relevant mitigating factor;
6. The prisoner's criminal record does not reveal a course of violent behaviour or a violent predisposition;
7. At the conclusion of one of the police interviews the prisoner stated, "I need treatment". This represented an acknowledgment of his wrongdoing and an earnest request for medical treatment or other intervention to deal with the source or cause of his offending.

*Practice Statement*

21. In *R v McCandless & others* [2004] NICA 1 the Court of Appeal held that the practice statement issued by Lord Woolf CJ and reported at [2002] 3 All ER 412 should be applied by sentencers in this jurisdiction who were required to fix tariffs under the 2001 Order. The relevant parts of the practice statement for the purpose of this case are as follows: -

*"The normal starting point of 12 years*

10. Cases falling within this starting point will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para 12. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph.

11. The normal starting point can be reduced because the murder is one where the offender's culpability is significantly reduced, for example, because: (a) the case came close to the borderline between murder and manslaughter; or (b) the offender suffered from mental disorder, or from a mental disability which lowered the degree of his criminal responsibility for the killing, although not affording a defence of diminished responsibility; or (c) the offender was provoked (in a non-technical sense), such as by prolonged and eventually unsupportable stress; or (d) the case involved an overreaction in self-defence; or (e) the offence was a mercy killing. These factors could justify a reduction to eight/nine years (equivalent to 16/18 years).

*The higher starting point of 15/16 years*

12. The higher starting point will apply to cases where the offender's culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases will be characterised by a feature which makes the crime especially serious, such as: (a) the killing was 'professional' or a contract killing; (b) the killing was politically motivated; (c) the killing was done for gain (in the course of a burglary, robbery etc.); (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness); (e) the victim was providing a public service; (f) the victim was a child or was otherwise vulnerable; (g) the killing was racially



aggravated; (h) the victim was deliberately targeted because of his or her religion or sexual orientation; (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing; (j) extensive and/or multiple injuries were inflicted on the victim before death; (k) the offender committed multiple murders.

*Variation of the starting point*

13. Whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary 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.

14. Aggravating factors relating to the offence can include: (a) the fact that the killing was planned; (b) the use of a firearm; (c) arming with a weapon in advance; (d) concealment of the body, destruction of the crime scene and/or dismemberment of the body; (e) particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time.

15. Aggravating factors relating to the offender will include the offender's previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than to risk.

16. Mitigating factors relating to the offence will include: (a) an intention to cause grievous bodily harm, rather than to kill; (b) spontaneity and lack of pre-meditation.

17. Mitigating factors relating to the offender may include: (a) the offender's age; (b) clear evidence of remorse or contrition; (c) a timely plea of guilty.

*Very serious cases*

18. A substantial upward adjustment may be appropriate in the most serious cases, for example, those involving a substantial number of murders, or if there are several factors identified as attracting the higher starting point present. In suitable cases, the result might even be a

minimum term of 30 years (equivalent to 60 years) which would offer little or no hope of the offender's eventual release. In cases of exceptional gravity, the judge, rather than setting a whole life minimum term, can state that there is no minimum period which could properly be set in that particular case."

### *Conclusions*

**22.** I do not consider that the fact that the prisoner suffers from Klinefelter's syndrome is relevant to the exercise that I have to carry out. There is no reason to suppose that this reduced his culpability. No medical evidence has been proffered to support such a theory. Klinefelter's Syndrome involves a chromosomal variation but unlike Down's syndrome and even Fragile X syndrome there are often no very obvious physical or psychological effects.

**23.** The "very serious cases" category identified in Lord Woolf's practice statement is reserved for those cases where there have been a substantial number of murders or there are several factors present, each of which would attract the higher starting point. Neither situation arises here. The victim was certainly vulnerable since she was a child, aged just five years. This consideration warrants a higher starting point but I do not consider that any of the other factors outlined in this section of the practice statement is present. I have reflected on whether the sexual assault of the child would justify the view that more than one of the higher starting point factors was present. I have concluded that it does not. The evidence of sexual interference is equivocal. There is certainly no evidence that the child was conscious when it took place or that it was a serious sexual assault. There are factors present which may properly be regarded as aggravating and which justify an increase in the higher starting point tariff but these do not qualify as a basis for assigning this case to the very serious cases category.

**24.** The callous abduction of this child, the concealment of her body, the probable sexual assault, the participation in the search for her and (despite the prisoner's solicitors' claim) the documented lack of remorse are all substantial aggravating factors. The single mitigating factor is the fact that the prisoner pleaded guilty to the murder. In this instance, however, his plea of guilty cannot be viewed as warranting a significant reduction in the tariff that would otherwise be appropriate. His apprehension for this crime and his conviction of the child's murder were inevitable. Moreover, the inconsistent versions of what happened and his attempts to blame others significantly offset any credit that might be due for his plea of guilty.

**25.** Paragraph 4 (2) (b) of Schedule 1 to the Criminal Justice Act 2003 provides that the murder of a child if it involves the child's abduction or a sexual or sadistic motivation will *prima facie* warrant a whole life sentence. This provision does not apply to Northern Ireland but it is an indication of how seriously Parliament regards this type of offence and I consider that I am entitled to take this factor into account in

fixing the tariff in this case. I also keep in mind that in this jurisdiction a whole life tariff may be imposed if the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no minimum term should be applied. I do not consider, however, that a whole life tariff is appropriate to this case. I fix the minimum term that the prisoner must serve at twenty-five years. This will include the time spent on remand.

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<sup>[1]</sup> In the interview notes the prisoner is said to have commented: "She was making windy noises when I put her up in the loft."

<sup>[2]</sup> The prisoner later told Dr Curran, consultant psychiatrist, that the first statement had been altered by police.