

# Judicial Communications Office

3 February 2020

## COURT SENTENCES FOR MANSLAUGHTER OF EUGENIUSZ SINKO

### Summary of Judgment

Mr Justice Colton, sitting today in Belfast Crown Court, sentenced Marek Sinko to a determinate custodial sentence of eight years' imprisonment following his plea of guilty to the offence of manslaughter of his uncle, Eugeniusz Sinko.

#### **Factual Background**

Eugeniusz Sinko ("the deceased") was the uncle of Marek Sinko ("the defendant"). They lived in the same property in Rasharkin, Ballymena. On 22 October 2017, the defendant telephoned the police and said he had just found his uncle dead at the property. When the police arrived they discovered the deceased lying on his back outside on a pathway near to the rear door. An outside tap had been left on. The post mortem examination determined that the deceased died from a traumatic injury to the head. He was also found to have bruises and abrasions to his head, body, and legs; five fractured ribs; and fractured vertebrae. The pathologist concluded that the injuries to the deceased's face were consistent with repeated punching or kicking and that the injuries to his legs were consistent with him having been moved across a roughened surface while unconscious. The defendant was examined by a doctor and found to have injuries to his knuckles but nowhere else.

The defendant's initial account to the police was that he and his uncle had been drinking when a fight developed. He admitted punching his uncle in the face several times and had then gone to bed. The defendant said that when he awoke he found his uncle was dead and attempted CPR. Police enquiries revealed that during the period between contacting the police and their arrival, the defendant had telephoned a work colleague and told him that he and his uncle had a fight saying "I think I've killed him". The police obtained statements from family and friends of the defendant and the deceased which indicated that they both had significant alcohol problems and a history of physical violence between them both.

When the defendant was interviewed by the police he said that he and the deceased had become involved in an argument over a bottle of vodka and some missing money. This developed into a "brutal fight" with the defendant admitting hitting the deceased five times in the face "with hard, powerful punches" and knocking him over. The defendant said he left the deceased on the ground and went for a smoke. When he returned the deceased was outside at a tap washing his face. The defendant cleaned up the blood from the kitchen and went to bed. When he woke up he found the deceased lying outside. The defendant said he had not realised the deceased's injuries were so serious and that he did not intend to kill him.

Several days before he was due to be tried for murder, the defendant notified the prosecution that he was willing to enter a plea to the offence of manslaughter. This plea was accepted by the prosecution and the defendant formally pleaded guilty on 6 December 2019.

#### **Personal Circumstances**

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Mr Justice Colton noted that the defendant's personal circumstances and the background to the relationship with the deceased are important to understand the context of this case. The defendant moved to Northern Ireland from Poland in 2004 and has been fully employed since then. The Court received references which spoke of his excellent work record which it said was an overwhelmingly positive aspect of his character.

The other side of the defendant's character, however, was his "undoubted abuse of alcohol". The Court was told that when the defendant was not working his life revolved around drinking. Despite his excellent work record, the defendant was unable to leave behind his alcoholism and continued and increased his alcohol consumption to the time of the offence. Two expert medical reports were of the opinion that the defendant suffered from Alcohol Dependence Syndrome. The Court also heard that the deceased was a heavy drinker but was unable to maintain his employment. As a result he fell into debt and the defendant moved in with him to help pay off the rent and other household expenses. Both the defendant and deceased were known to argue and engage in physical altercations when drinking and on the day in question were both heavily intoxicated.

Mr Justice Colton referred to statements from the deceased's son and the defendant's brother which illuminated their heavy drinking and "toxic and volatile" relationship. He said this was the context in which the fatal assault took place which resulted in the "untimely, unnecessary and unjustified death". He said the defendant was someone who was prone to violence under the influence of alcohol but that he had no doubt that the offence has had a significant impact. The judge noted the offence has had a very detrimental effect on relationships between the defendant and his family. The probation report stated that he has struggled to cope with having caused the death of his uncle but that he has attended at Alcoholics Anonymous and remained sober since his arrest for the offence. The Court received statements from the deceased's son, the defendant's brother and his cousin which conveyed the devastating effect including divisions in the family and a gap that can never be replaced.

## **Sentencing Principles in relation to Manslaughter**

Offences of manslaughter cover a wide factual spectrum. The guideline case in this jurisdiction for cases of manslaughter involving substantial violence to the victim is *R v Magee* [2007] NICA 21. This case was primarily concerned with offences of wanton violence among young males typically committed when the perpetrator was under the influence of drink or drugs or both. In this case the Court of Appeal said that where the charge of manslaughter has been preferred or a plea has been accepted on the basis that it cannot be proved that the offender intended to kill or cause really serious harm to the victim and where deliberate, substantial injury has been inflicted, the range of sentence after a not guilty plea should be between eight and fifteen years' imprisonment. The Court of Appeal recognised that some deviation from this range may be required given the potentially limitless variety of factual situations where manslaughter is committed. It added that aggravating and mitigating features will be instrumental in fixing the chosen sentence within this range.

## **Aggravating and Mitigating Features**

Mr Justice Colton considered the following aggravating features were present: The assault involved substantial violence; it appeared that the assault was prolonged with multiple injuries inflicted on the deceased; the victim was no physical match for the defendant who suffered no injuries other than bruised knuckles; there was evidence that the defendant kicked or stamped on the deceased when he

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was on the ground and he showed a callous indifference to the fate of the victim when he left him outside when the assault was over.

The judge said that normally the fact that alcohol played a role would be an aggravating feature but that he need not treat it in this way. He said it was clear that the defendant suffered from a recognised medical condition in the form of Alcohol Dependence Syndrome and the assault occurred when he was drinking with the victim. This was therefore not a case where the defendant chose to become intoxicated and then engage in fights.

## The Appropriate Sentence

Mr Justice Colton considered the most compelling factor in this case to be the degree of violence which the defendant inflicted on his uncle over the prolonged assault. He said this would place the case in the range of between 8-15 years' imprisonment. As manslaughter is both a "serious" offence and a "specified violence offence" under the Criminal Justice (Northern Ireland) Order 2008 ("the 2008 Order"), the court is obliged to consider whether the defendant meets the test of dangerousness. Mr Justice Colton said he did not consider the defendant met the test because of his lack of criminal convictions; his acceptance of responsibility for the offence; his insight and remorse into his actions; his excellent work record; and the lifestyle changes he has made including his abstinence from alcohol.

The judge considered that if the defendant had been found guilty after a trial the appropriate sentence would be one of 10 ½ years. The defendant was, however, entitled to substantial credit for his plea of guilty. The judge noted that the defendant accepted during police interview that he had assaulted the deceased causing his death. He considered the appropriate sentence is one of eight years' imprisonment. Under Article 8(3) of the 2008 Order, the custodial period shall not exceed one half of the term of the sentence and Mr Justice Colton therefore specified that the custodial period of the sentence will be four years followed by a licence period of four years.

## 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

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