

# Judicial Communications Office

28 January 2020

## COURT SENTENCES FOR MANSLAUGHTER OF PADRAIG FOX

### Summary of Judgment

Mr Justice Colton, sitting today in Belfast Crown Court, sentenced Donach Rice to a determinate custodial sentence of six years' imprisonment for the "single-punch" manslaughter of Padraig Fox on 8 December 2018<sup>1</sup>. He also sentenced Nathan Rice and Paul Magennis for offences committed on the same date.

#### **Factual Background**

Padraig Fox ("the deceased") was a vulnerable adult who lived alone in a flat in Newcastle, Co Down. Although he lived independently at his own request his family were concerned about him. He had some learning difficulties in his youth and in the past had succumbed to the excessive use of alcohol and illicit drugs. Paul Magennis had been friendly with the deceased and lived in the same apartment block. Donach and Nathan Rice are cousins and on the date in question were at the apartment block at the invitation of Magennis. There were two other men present – the deceased and a friend of Magennis, Jim Crilly. The five men consumed alcohol, "acid" and cannabis throughout the evening. The Rices and Magennis left the flat about 08:00 on the morning of 8 December 2018 to buy vodka. They returned to the flat and a short time later there was an altercation between Donach Rice and the deceased. Donach Rice punched the deceased once to the head causing him to fall to the kitchen floor which caused a bleed to his brain and fractured skull.

The body of the deceased was discovered later that day by a man who went to the apartment block to look for an electric bike that he suspected Magennis had stolen from him. A solicitor for the Rices then contacted the police on their behalf to say they had been in the flat with the deceased and wanted to assist the police. They gave statements in which they alleged that the fatal blow was administered by Magennis after a dispute. Donach Rice claimed to have tried to pull Magennis and the deceased apart and that Magennis brought a knife down from the top of the cupboards and inflicted a knife cut to his forearm. In his statement, Nathan Rice alleged that he saw Magennis punch the deceased once in the face and that the deceased fell. Both said they panicked and left the scene.

In the course of the police investigation, CCTV footage revealed that the deceased, Donach and Nathan Rice walked to the Slieve Donard Hotel at about 05:00 on 8 December. The cousins burgled the premises, stealing three bottles of alcohol. The deceased did not enter the hotel. The police were able to establish that after the deceased was struck, Nathan Rice and Jim Crilly left the flat at around 09:00. Donach Rice and Magennis did not leave until 13 minutes later. It was during this time that Donach Rice and Magennis cut their arms and placed a machete under the arm of the deceased, in effect staging a self-defence scenario. The offence of assault arose from an attack by

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<sup>1</sup> Article 8(3) of the Criminal Justice (Northern Ireland) Order 2008 provides that the custodial period shall not exceed one half of the term of the sentence.

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Donach Rice and Magennis on an elderly man who was using an ATM machine at about 09:25. At approximately 09:50 on the same morning, Donach Rice cashed in a betting slip belonging to the deceased and this formed the basis of the offence of fraud by false representations.

## **Victim Impact Statements**

Mr Justice Colton referred to victim impact statements from the deceased's mother, step-father, sisters and brother. He said the deceased was clearly loved by them and that his death had had a devastating impact. The judge noted the concern his family had about his well-being and the fact he was living independently. He said the value of the deceased's life could not be measured in terms of the length of the prison sentences but that he had taken account of the impact on his loved ones in determining the appropriate sentence.

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

Offences of manslaughter cover a wide factual spectrum. The guideline case in this jurisdiction for "single punch" cases is *R v Quinn* [2006] NICA 27. In this case the Court of Appeal in Northern Ireland decided not to follow the English guideline cases, which proposed a starting point of one years' imprisonment, deciding that a more suitable starting point in this jurisdiction for this type of offence was two years' imprisonment, rising to six years where there were significant aggravating factors. In deciding not to follow the English guidelines, the Court of Appeal said it was "a common experience that serious assaults involving young men leading to grave injury and, far too often, death occur after offenders and victims have been drinking heavily. The courts must respond to this experience by the imposition of penalties not only for the purpose of deterrence but also to mark our society's abhorrence and rejection of this phenomenon."

## **Donach Rice**

Donach Rice pleaded guilty to the following counts in advance of commencement of the trial: manslaughter; perverting the course of justice; fraud by false representation; burglary at the Slieve Donard Hotel (jointly charged with Nathan Rice); perverting the course of justice (jointly charged with Paul Magennis); and common assault.

Mr Justice Colton noted the following aggravating features in this case: the evidence pointed to a moderate to severe blow; the deceased was vulnerable in the sense that this appears to have been an unprovoked and unexpected blow which immediately caused him to lose consciousness and fall to the floor; the deceased had been assaulted earlier in the evening; the offence was committed after sustained consumption of drugs and alcohol; and the conduct of Donach Rice in the aftermath of the assault. Mr Justice Colton said he proposed to look at the totality of Donach Rice's criminality on the 8 December and impose an appropriate overall sentence:

"In the immediate aftermath of this assault your first reaction was to seek to set up a false self-defence scenario. This took considerable effort on your part including the infliction of a wound to your arm and the placing of the machete under the deceased's hand. This demonstrated a shocking indifference to the plight of the deceased. No effort was made to contact the emergency services to see if any assistance could be rendered to the deceased. After preparing this self-defence scenario you left the property, engaged in an assault on an elderly man and as a further and final insult to the deceased sought to cash in a betting slip belonging to him to the value of £7.60. All of this was compounded by the fact that after [the deceased's] body was discovered

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you along with your cousin went to the police and made an entirely false statement accusing Paul Magennis of inflicting the fatal blow.”

Mr Justice Colton noted that Donach Rice was interviewed on 10 and 11 December and admitted his role on the second day. He said the self-defence scenario was never really taken seriously by the police. The judge referred to Donach Rice’s “very significant criminal record” with a total of 69 convictions. He said that whilst the offending does not demonstrate the level of violence which gave rise to the deceased’s death, his record was an aggravating feature. The judge also referred to Rice’s “difficult and chaotic childhood” including his alcohol and drug use which commenced in early adolescence and persisted until the present date (Rice has been in custody since his arrest for these offences).

In terms of mitigation, the judge noted Donach Rice’s expression of remorse which was recognised by the police officers carrying out the interviews and repeated in the probation and medical reports. Mr Justice Colton said that whilst it can be difficult to assess whether or not remorse is genuine in circumstances such as this he was satisfied that Rice had remorse for his actions although that must be tempered by his conduct in the aftermath of the incident: “In any event remorse is of relatively little value by way of mitigation in a serious case such as this, but I do take it into account in your favour.”

Mr Justice Colton also commented that Donach Rice was entitled to substantial credit for his plea of guilty. While the plea was not at the first opportunity, it was made immediately after he received the medical evidence sought by his lawyers. The judge noted that the plea was of value to the prosecution, had saved a lengthy trial and spared the family of the deceased from the potential trauma of attending a protracted hearing. The plea had also brought certainty and finality to the matter and reinforced the remorse Rice had expressed.

The offence of manslaughter is both a “serious offence” and a “specified violent offence” under the Criminal Justice (Northern Ireland) Order 2008 (“the 2008 Order”). The court is therefore obliged to consider whether there is a “significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences”. This analysis is likely to be highly fact sensitive. The judge said that anxious consideration had been given by the Probation Service as to whether Donach Rice presented as someone who is a significant risk of serious harm and a medical report had outlined definite concerns about his behaviour. Notwithstanding these concerns, Mr Justice Colton said he had come to the conclusion that Donach Rice did not meet the threshold for dangerousness within the 2008 Order and that his case could be dealt with by way of a determinate custodial sentence. A key factor in this determination was the availability of strict licencing conditions when Rice has completed the custodial element of his sentence and the judge agreed that “comprehensive, stringent and robust” licencing conditions are required.

Mr Justice Colton said he would have imposed a total sentence of eight years’ imprisonment if Donach Rice contested the charges. He considered, however, that Rice was entitled to in effect full credit for his plea and said he proposed to reduce the sentence to six years in custody. Under Article 8(3) of the 2008 Order, the custodial period shall not exceed one half of the term of the sentence and the judge specified that the custodial period in this case is to be one of three years with a licence period of three years. The sentences imposed in respect of the other offences are to run concurrently. The judge said this reflects the totality of Donach Rice’s offending.

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## Nathan Rice

Nathan Rice pleaded guilty before commencement of the trial to one count, jointly with Donach Rice, of burglary at the Slieve Donard Hotel and one count of perverting the course of justice. The perverting the course of justice count relates to the false statement he made to the police implicating Paul Magennis as the person who inflicted the fatal punch. As a result, Magennis was arrested and interviewed by the police as a murder suspect between 9 and 11 December, when Donach Rice finally admitted his guilt. Nathan Rice was arrested on 12 December and in the course of his police interviews made full admissions as to his role on the night in question and accepted that his initial account was false.

Mr Justice Colton said that perverting the course of justice is a serious offence. The sentencing court needs to take into account the following factors: the nature of the principal offence; the degree of persistence of the action contributing to the offence; and the impact on the police investigation. In this case, the police were investigating a manslaughter which was a very serious offence. The judge noted, however, that Nathan Rice did not persist with his false account beyond his initial statement and made full admissions when interviewed. The police investigation was therefore not unduly hampered or obstructed by the statement, nor was it frustrated in any meaningful way. He said it seemed clear that Nathan Rice's actions were motivated by a "misguided loyalty to [his] cousin and desire to protect him".

The judge referred to a number of health issues that Nathan Rice has dealt with including diagnoses for autism and ADHD. He said these issues had resulted in misuse of drugs and alcohol and led to criminal offending. Nathan Rice has 19 previous convictions. He is currently subject to a Probation Order which is due to end on 27 February 2020 a Community Service Order of 100 hours (to date he has completed 60 hours) Nathan Rice's probation officer advised the court that there have been no issues with his engagement and that he been participating in offence focussed work. The judge said it seemed that the Probation Order and Community Service Order are achieving their objectives and that Rice is addressing the issues which had given rise to his involvement in the criminal courts.

Mr Justice Colton said that Nathan Rice was entitled to substantial credit for his plea of guilty as he made full admissions at interview. He said the court would ordinarily impose a custodial sentence given the serious nature of the offences and Rice's criminal record, however, in this case he considered it should take an alternative course as Nathan Rice was engaging fully with probation and in community service:

"In my view it would be futile and wrong in principle having regard to your personal background and the circumstances of this offence to interfere with that work and impose a custodial sentence on you. In my view the appropriate course is to impose a Combination Order ... so that you can make some reparation to the community for your offending but also because you need to continue probation supervision to reduce the risk of reoffending in the future. Such an Order is in the interests of securing your rehabilitation and protecting the public from harm from you or preventing the commission by you of further offences."

The judge imposed a Probation Order of one year combined with a Community Service Order of 40 hours.

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## Paul Magennis

Paul Magennis pleaded guilty to: perverting the course of justice (jointly charged with Donach Rice); perverting the course of justice; and common assault. The issues which gave rise to the perverting course of justice charges were the dishonest account he gave of events and the preparation, in conjunction with Donach Rice, of a self-defence scenario at the scene. The judge said that Magennis, like Donach Rice, showed a callous disregard for the deceased's plight:

"You made no effort to seek medical attention or assistance for [the deceased] but rather set about leaving a false trail with a view to protecting you and [Donach] Rice wrongly seeking to implicate [the deceased]."

Mr Justice Colton noted that Magennis did not attempt to persist with the self-defence scenario and whilst his actions may have caused some initial confusion to the police, there was no significant delay and ultimately the investigation was not frustrated.

The judge noted that Magennis had an unsettled childhood and started drinking at the age of 14 when his parents separated. He also consumed drugs to excess and has been diagnosed with a number of mental health disorders. After a difficult start in prison, Magennis is now attending education courses and has completed a number of qualifications. The pre-sentence report noted that Magennis presented as remorseful and deeply regretted his involvement in the offences and particularly the death of the deceased who he considered to be a friend. Magennis was noted as having 20 previous convictions starting in 2010. In 2019 he acquired 10 convictions for offences including theft and possession of Class B drugs. He was sentenced to a variety of suspended sentences and conditional discharges for these offences as he was in custody on remand in relation to these charges.

Mr Justice Colton said that Magennis might feel "somewhat unfortunate" in comparison with the sentence imposed on Nathan Rice, however Rice was not involved in the most serious aspect of the attempt to pervert the course of justice namely the creation of a potential self-defence scenario and also that his personal circumstances are very different. The judge commented that Magennis is entitled to significant credit for his guilty plea. He said that if Magennis had been convicted following trial on the perverting the course of justice offence with Donach Rice he would have imposed a custodial sentence of three and half years to reflect the totality of his offending. Because of the plea of guilty, the judge imposed a sentence of two and a half years in custody and, in accordance with Article 8(3) of the 2008 Order specified that the custodial period is to be one of one year and three months with a licence period of one year and three months. The sentences for the other offences are to run concurrently to reflect the totality principle and the broad circumstances of the case.

## 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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