

Judicial Communications Office

7 November 2019

COURT SENTENCES DECLAN O'NEILL FOR MURDER OF HIS MOTHER

Summary of Judgment

Mr Justice Colton, sitting today in Belfast Crown Court, imposed a tariff of eight years' imprisonment on Declan Kevin O'Neill for the murder of his mother Anne O'Neill on 21 October 2017. This is the minimum term that he must serve in prison before he will become eligible to have his case referred to the Parole Commissioners for consideration as to whether, and if so when, he is to be released on licence.

Factual Background

Sometime between 6.30 am and 7.00 am on Saturday 21 October 2017, the police were called by neighbours to the house of the parents of Anne O'Neill ("the deceased") where she was living at the time. The neighbours had been awakened by banging noises from the rear garden and a "hysterical" female voice shouting "leave me alone Declan". The police found the deceased lying face down on some steps in the garden. CPR was commenced but the deceased was pronounced dead at 7.59 am.

The pathologist found that the deceased died as a result of injuries sustained in an assault. She had been "struck repeatedly on the head with a heavy blunt object, the back of her head had been pummelled against the edge of the tiled steps and her face had been thrust against a hard uneven surface such as the concrete path or patio".

Police called at the home of Declan O'Neill ("the defendant") at 8.33 am. A search to the rear of his flat located a bloodstained bag containing shoes, woollen gloves, a metal chisel type tool, black hat, a roll of black tape and a black rubber face mask. Forensic examination identified the deceased's blood on the bag and the items. CCTV recording from a property close to the murder scene depicted a male similar in build and appearance to the defendant arriving in the vicinity at 5.56 am and then running from the property at 7.03 am. The police seized a mobile phone from the defendant's flat which was found to have the deceased's blood on it. An examination of the phone revealed the defendant had contacted the deceased at 6.10 am and 6.23 am on the day of the murder. Analysis of his car revealed the presence of the deceased's blood on the steering wheel, gear stick and driver's door handle.

The defendant was interviewed on 19 separate occasions. He denied involvement in the murder until interview number 14 when he accepted killing his mother and said he was sorry for doing it. The remaining five interviews were largely "no comment". The defendant's trial was due to commence on 7 October 2019 but on 23 September he was re-arraigned and entered a plea of guilty to the single count of murder.

The appropriate tariff

Having pleaded guilty, the court imposed upon the defendant the only sentence permitted by law for that offence, one of life imprisonment. The court then proceeded to determine the length of the

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minimum term¹ the defendant is required to serve in prison before he will first become eligible to have his case referred to the Parole Commissioners for consideration by them as to whether, and if so, when he is to be released on licence. Mr Justice Colton commented that selecting a starting point for a tariff is not a mechanistic or formulaic exercise. The guidelines are there to assist the Court to proceed to, what, in the circumstances of the case, it considers is a just and proportionate sentence having regard to the guidelines. The judge said the particular circumstances of this case may not easily fall into the specific categories identified in the guidelines. He commented:

“If ever a case demonstrated the merit of this approach, it is surely this case. All murders are tragic, but there is something particularly troubling about the murder of a mother by a son. It runs against the natural order of things. On hearing of such an event, the natural reaction is that something has gone badly wrong. The murder becomes stranger when one learns that the defendant is in fact a qualified medical doctor, a profession devoted to the care of others and the protection of life.”

Mr Justice Colton referred to reports prepared for the court by four consultant psychiatrists, a pre-sentence report prepared by the Probation Board for Northern Ireland, a summary of police interviews with the defendant’s sister and victim statements from the deceased’s sister and his grandmother (mother of the deceased). The reports described a most unhappy relationship between the defendant and his mother. The defendant said his mother was very controlling and extremely abusive of him. He believed his mother hated him intensely throughout his life.

All of consultant psychiatrists agreed that the defendant suffers from a mild to moderate depressive disorder and three supported a defence or partial defence of diminished responsibility if the case had gone to trial. There was also support by two of the psychiatrists for the defendant meeting the criteria for the defence of loss of control. These opinions were, however, disputed by the psychiatrist instructed by the prosecution who felt there were significant inconsistencies in the defendant’s account of how the murder occurred. In particular he felt the actions of the defendant in preparing for the attack and disposing of the bag of items, having a shower and putting on the washing machine were “purposeful”.

The pre-sentence report assessed the likelihood of the defendant re-offending as being low and concluded that he does not meet the PBNI’s criteria for significant risk of serious harm to others. It noted that the defendant presented with a high level of regret and is “clearly struggling to come to terms with the consequences of his actions and repeatedly stated how much he missed his mother”.

Mr Justice Colton then referred to the victim personal statements provided by the defendant’s sister and grandmother. He said they are a unique and compelling aspect of the case in that both are extremely supportive of the defendant and both make a compelling and moving plea for clemency on the defendant’s behalf. The statements refer to the support provided to them by the defendant both before and after the killing. The judge, however, commented that it was essential to remember that a person had been killed as a result of the defendant’s actions:

“The law must satisfy the requirements of retribution and deterrence. Anne O’Neill’s death was brutal, senseless and unnecessary. Much has been said about her in the course of these remarks but nothing that has been said should take away from this fundamental point.”

¹ See Notes to Editors

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Mr Justice Colton considered this was a case where the higher starting point was appropriate because of the extent of the multiple injuries which were inflicted on the deceased who was vulnerable because of her disability. He also agreed that the offence was aggravated by the element of pre-planning involved. Taking all this into account he concluded that the appropriate starting point before mitigation is one of 16 years.

Turning to mitigation, the judge considered there is very substantial mitigation in this case which he felt clearly comes close to the borderline between murder and manslaughter. He said three of the consultant psychiatrists were prepared to support a partial defence of manslaughter and that ultimately this would have been a matter for the jury to decide had the case gone to trial. The judge felt there was at the very least a realistic prospect of a successful defence to the charge of murder. He said that even if this was not the case, the evidence overwhelmingly supported the submission that the defendant suffered from a mental disorder at the time of the killing which lowered the degree of his criminal responsibility even if it did not afford a defence of diminished responsibility:

“The key feature of this case however was the fact that at the very least the defendant was provoked (in a non-technical sense) by the prolonged and unsupportable stress he endured as a result of the controlling behaviour exerted by the deceased. There is an increased understanding and acceptance by the courts that such conduct can drive people who would otherwise never be before a court to the point of unlawful killing which may not amount to murder. That is not to justify or excuse such actions. As indicated the defendant faces a life sentence and will spend a significant period in prison before he can be considered for release. Nonetheless the evidence in this case overwhelmingly points to coercive control by the deceased as the major contributing factor to the defendant’s unlawful conduct.”

Mr Justice Colton accepted that there is genuine and well-evidence remorse on behalf of the defendant, and that this is particularly significant given the relationship between the defendant and the deceased. Taking all the mitigating factors into account he considered the appropriate tariff should be one of 10 years’ imprisonment.

The judge then considered what the appropriate reduction for the guilty plea should be. It is a long and firmly established practice in sentencing law in this jurisdiction that where an accused pleads guilty the sentencer should recognise that fact by imposing a lesser sentence than would otherwise be appropriate. Mr Justice Colton referred to a decision in the Court of Appeal² which stated that where a discount of greater than one-sixth has been given for a plea in a murder case the judge should carefully set out all the factors which justify it. He said this was a case in which a discount of greater than one-sixth should be given for the following reasons:

“The defendant has accepted his role in the deceased’s death at interview stage. At first arraignment it was clear that he accepted that he had caused the deceased’s death but the only issue that arose related to the issue of manslaughter and the necessity of the defence to obtain psychiatric evidence on this point. Notwithstanding the fact that the psychiatric evidence supported the defence of diminished responsibility the defendant instructed his lawyers to plead guilty. Although his plea was not at the earliest opportunity it can in these circumstance be described as a timely plea. More

² *R v Turner and Turner* [2017] NICA 52

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importantly it must have been of significant assistance to the prosecution given the state of the medical evidence in this case.”

Mr Justice Colton concluded, in these circumstances, that the appropriate discount is one of two years reducing the appropriate tariff to eight 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>).
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 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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