

**THE QUEEN v WILLIAM GEORGE LONG**

**DECISION ON TARIFF**

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**Before Kerr LCJ and McLaughlin J**

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**KERR LCJ**

*Introduction*

1. On 14 March 2000 Mc Laughlin J sentenced the prisoner to life imprisonment at Belfast Crown Court after he had been found guilty of the murder of his 41 year old girlfriend, Anne Jane Mason on 1 March 1998. N appeal against conviction was dismissed in June 2001 and the prisoner has therefore been in custody since 2 March 1998.

2. On 24 May 2004 McLaughlin J and I sat to hear oral submissions on the tariff to be set under Article 11 of the Life Sentences (NI) Order 2001. The tariff represents the appropriate sentence for retribution and deterrence and is the length of time 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. At around 2.30am on Sunday 1 March 1998 the prisoner arrived at his sister's house at 6 Robina Street, Belfast in an agitated state. He told Miss Long and her boyfriend, Gareth Glenn, that he had had a fight with the deceased, his girlfriend, saying: "We had a fight and she pushed the wrong button...I hit her, she's not coming back...I tried to help her." Mr Glenn recalled the prisoner saying: "I think I've killed her." The prisoner called an ambulance and the three walked the few yards to his house at 182 Limestone Road where they waited for it to arrive. The emergency services arrived and on investigation of the front bedroom they found the deceased lying face down on the floor which was covered with blood. There was a wound to the

rear of the head. A wooden shafted hatchet with a metal head was a few feet from the body.

4. Police spoke to the prisoner at the scene and he is reported to have said: "There's no point in going on. I did it. I killed her." He was cautioned and said: "I done it yeah, we had a row at about half two. There's nothing else to say." The prisoner was arrested and conveyed to Grosvenor Road Police Station. While waiting in the station the prisoner entered into conversation with the arresting officer. He told him that he had been drinking with his girlfriend when an argument had developed regarding her son. She went upstairs and called for him to join her. He lifted a hatchet that he kept on the landing. The argument again developed and he struck her with the hatchet.

5. In police interview the prisoner said that he and the deceased had spent the evening drinking vodka. An argument developed over the prisoner's reluctance to visit the deceased in Bangor because he was afraid of being mistaken for her son whom he believed to be involved in crime. The prisoner said that the argument reignited when he joined the deceased upstairs in the bedroom. He said: "She was narkin' narkin' away and the next thing she was lying there." He recalled her walking round to him and pointing her finger. He claimed to be unable to remember hitting her. He maintained that he and the deceased did not have a violent relationship. The hatchet, he said, was kept on the landing for security reasons. He concluded by saying: "I've been under a lot of strain and just the row was more or less ... crossed the line and went over."

6. When he arrived at the police station the prisoner claimed that he had consumed a bottle of vodka on the evening of the murder. The custody sergeant detected a faint smell of alcohol on the prisoner's breath. During subsequent medical examinations the prisoner told a number of doctors that his drinking had increased after his father's death in January 1998. He told Professor Fenton that he and Ms Mason had consumed a bottle of vodka between them between 9pm and 1am on the night of the murder. He reported to others that it was usual for him to drink a bottle of vodka and 3-4 pints of beer in a day.

7. Dr Derek Carson, Deputy State Pathologist, carried out a post mortem examination of the deceased's body on the morning of the murder. He concluded that the cause of death was laceration, bruising and oedema of the brain associated with depressed comminuted fractures of the skull due to blows on the head. His report stated:

"She had been struck at least three blows with a blunt instrument. One blow had landed on the right side of the lower forehead, involving the right eyebrow. It had caused a small, depressed

fracture of the skull, linked with extensive skull fractures at the back of the head. Overlying these was a complex inter-connected scalp laceration and it seemed that at least two heavy blows, and possibly more, had been delivered to this part of the head. Pieces of skull had been driven inwards and there was extensive laceration of the underlying brain with bleeding over the brain surface and swelling of its substance. It was the brain damage which caused her unconsciousness and death.”

8. Dr Carson thought it likely that the deceased’s assailant struck her a faint blow to the forehead after which she fell face down and then more blows were struck to the back of her head. The deceased was at least moderately intoxicated at the time of death. The injuries could have been inflicted with the blunt edge of the hatchet found at the scene.

9. In a psychiatric report prepared for the Crown and dated 11 January 2000 Dr Fred Browne concluded that ongoing difficulties in his relationship with the deceased (over visits to Bangor), his unresolved grief reaction to the death of his parents<sup>1</sup> and his abuse of alcohol were all contributing factors to the killing. Dr Browne noted that the prisoner had been drinking heavily during the period leading up to the offence and that this alcohol abuse would be expected to increase feelings of depression and irritability and may also have had a disinhibiting effect at the time of the offence. In Dr Browne’s view there was nothing to indicate that the prisoner had carried out the killing while in a state of epileptic automatism or in a state of insanity. Neither was there evidence of a specific personality disorder. In a follow up report in which he examined the prisoner’s medical history while on remand Dr Browne commented:

“...there is no record of Mr Long appearing depressed or suffering from major depressive disorder either at the time of his committal to prison or at any subsequent time ... if Mr Long was suffering from a major depressive episode at the time of the offence it is possible that his depression was not picked up by the prison medical service. I would, however, have expected that either Dr Kennedy or Dr Thampi would have detected the condition if it was present...”

10. In a report dated 1 November 1999 Professor George Fenton, consultant in neuropsychiatry and neurophysiology, stated that the most likely explanation

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<sup>1</sup> The prisoner’s mother died in October 1997 and his father died in January 1998.

for the prisoner's amnesia was that it was of psychogenic origin and that it had developed following an emotionally traumatic event as a coping mechanism. Professor Fenton was of the opinion that the prisoner suffered from an abnormal grief reaction since his mother's death and had coped through heavy drinking. Following his mother's death the prisoner, according to Professor Fenton, suffered from 'a major depressive disorder' which is likely to have increased his capacity for irritability and reduced impulse control:

“...the major depressive disorder will have impaired his ability to control the anger and aggression aroused by the quarrels with Ms Mason. This abnormality of mind is likely to have substantially impaired his responsibility for his actions.”

**11.** Mr McClelland, educational psychologist, gave evidence at trial that the prisoner's IQ placed him in the bottom 7% of the population.

#### *Personal background*

**12.** At the time of the murder the prisoner was a 32-year-old single man, living on the Limestone Road, Belfast, near his family home. He was the only boy in a family of 6 children. He had been a slow learner at school and attended Rathgael Training School as a result of disruptive behaviour. He had occasional labouring jobs but was on sickness benefit at the time of the offence due to Crohn's disease. He had been romantically involved with the deceased for over a year at the time of her death. His parents died shortly before the offence. He had been close to his mother but not to his father but had lived with his father for a time after his mother's death. It is claimed that the deceased was the only person with whom the prisoner had had a significant romantic relationship.

#### *Antecedents*

**13.** The prisoner has a lengthy criminal record consisting of twenty-four separate court appearances between 1979 and 1991. All but four of the appearances were in the petty sessions. There are a number of convictions for violence, including: robbery (1991 - 3 years' imprisonment); attempted robbery (1991 - 6 months' imprisonment suspended for 2 years); common assault (x2 - 1986 - 3 months' imprisonment); common assault (x5), assault occasioning actual bodily harm (x2) and conspiring to assault occasioning actual bodily harm (1986 - total 30 months' imprisonment); common assault and possession of weapon (1985 - 3 months' imprisonment); assault occasioning actual bodily harm (1983 - bound over); and making and throwing petrol bombs (1980 - probation). He also has convictions for

disorderly behaviour, criminal damage, burglary, theft and motoring offences.

*Sentencing remarks*

14. Passing sentence the judge said: -

“...it is clear that you perpetrated a savage and pitiless attack...using a large hammer-headed axe. You struck [Ms Mason] at least twice on the head with it, causing her massive injuries. The violence involved in doing such a thing to another human being must have been sickening to behold. Jean Mason was utterly defenceless, and it is clear from the verdict of the jury that she gave you no provocation of any kind, and any suggestion that you suffered mental impairment has also been rejected by them. The verdict of the jury can mean only that you killed her and intended to do so, or that at least you intended to cause her really serious injury.”

15. The judge did not recommend a minimum term but he stated that it would be desirable that before the prisoner was released he should have completed programmes in alcohol management and anger control and should have cooperated with the prison psychiatric service.

*The NIO papers*

16. The deceased's brother, Walter Mason, has submitted a written representation in which he emphasised her importance as a daughter, mother, grandmother, niece, aunt, sister-in-law, sister and friend. He described her as “irreplaceable”. He is of the view that the stress of the murder contributed to his mother's death from cancer within two years. Mr Mason has said that his family has become fragmented since his sister's death and that her children do not even appreciate that they need help coping with the situation. Mr Mason stated that he feels a large void. He concluded by saying that his sister was a wonderful person who would always be there to support him. He said that he had never known pain to last so long.

*Practice Statement*

17. 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 unupportable 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."

*Conclusions*

**18.** This is another case that does not fit comfortably into either the normal or the higher starting point category. At least part of the difficulty in locating it in either category arises from the avowed inability of the prisoner to

remember the events that immediately preceded the fatal blows. On his behalf Ms MacDermott QC urged us to accept that the prisoner was genuinely amnesiac for this crucial period. It is true that Professor Fenton suggested that this was so and that the medical evidence called on behalf of the Crown did not challenge this claim. But in the immediate aftermath of the killing the prisoner did not maintain that he was amnesiac. He told his sister that the deceased had pressed the wrong button. And he told police that she had been nagging him to come to Bangor. We are not prepared, therefore, to accept uncritically his claim to be unable to remember what happened immediately before the killing took place.

**19.** It is also significant that the deceased called the prisoner to come upstairs. One account that he gave to the police implied that he collected the hatchet on his way upstairs. That would suggest a measure of deliberation on his part. Ultimately, however, we are unable to be sure that the prisoner set about the killing in a premeditated way and we will not deal with the case on that basis. Equally, it is impossible to say that the killing was due to a sudden loss of control. We are not prepared to treat this case as one which is on the borderline of manslaughter, therefore. Ms MacDermott suggested to us that since Professor Fenton had given evidence that the deceased was probably operating under the influence of his lower resistance to anger and that Dr Browne had not disagreed with this, we should accept that this was so. The difficulty with that submission is that we do not have an account from the prisoner as to what actually moved him to attack his victim and we consider that it would require us to speculate in order to accept Professor Fenton's theory.

**20.** Taking all these factors into account and having due regard to all that has been said on his behalf we have concluded that the appropriate tariff is 14 years. This will include the time spent by the offender in custody on remand.