Neutral Citation No. [2007] NILST 6 | *Ref:* **2007NILST6**

Tariff certified by the Secretary of State under Life Sentences (NI) Order 2001 on 12-03-07

THE QUEEN v BERNARD ANTHONY NOEL WIGGINS

DECISION ON TARIFF

Ruling by Kerr LCJ

Introduction

1. On 29 June 1992 the prisoner was sentenced to life imprisonment by Blofield J at the Central Criminal Court in London for the murder on 3 September 1991 of two men, Andrew Thomas and Martin Riley. The prisoner had initially contested the charges but changed his plea to guilty four days after the trial had begun. His co-accused, Vincent Mark Helder, was convicted of the manslaughter of one of the deceased and sentenced to four years' imprisonment. The prisoner has been in custody since 9 September 1991. At the end of 1994 he was transferred to Northern Ireland and has since then been in custody in HMP Maghaberry.

2. In this case the Secretary of State for the Home Department fixed the prisoner's tariff at fifteen years. The transfer to Northern Ireland became permanent on 2 October 1996, however, and since that time his release is to be governed by section 26 of the Criminal Justice Act 1961. In effect this means that the prisoner must be treated in a way which was comparable with that in which he would have been treated if sentenced in Northern Ireland – see, for instance, *Re Kavanagh's application* [1998] NI 368.

3. The purpose of this ruling is to set the tariff 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

4. The prisoner lived as a squatter in a block of flats in East London, 41 Aylesford House, Staple Street, with his girlfriend Lisa Smith. His friend Victor Helder, who was 18, lived with his parents. They spent a good deal of time together. Their lives centred on alcohol with Wiggins also taking drugs such as valium.

5. The two victims lived in the same block of flats as Wiggins. Andrew Thomas was aged 54 and Martin Riley was aged 32. Thomas was an alcoholic; he was partially crippled and mentally subnormal. He was homosexual. Riley was also partially crippled and had suffered some brain- damage. He too was an alcoholic. Wiggins and Helder were friendly with the victims; they often visited them and borrowed money from them.

6. While evidence on the background to the killings varied, the general picture which emerged was as follows. On the morning of 3 September 1991 the prisoner told Nina Oatway, (who was also a squatter in the same flat as Wiggins) that he intended to break into the victims' flat to steal a television, stereo, video and £800 cheque. He said that he believed that there was £2000 cash in the flat. Later that day Wiggins told Oatway that he had removed an iron bar from Thomas' window and showed her the iron bar.

7. On the afternoon of the same day Wiggins, Helder, Lisa Smith, Oatway and her boyfriend, John Flaherty, were drinking in Wiggins' squat. Wiggins had been drinking heavily and taking valium. At around 8pm he asked Helder to ask Thomas for a can of beer. Helder left and returned a short time later without the beer and said that Thomas had refused to give him any. Wiggins sent Helder down a second time to Thomas' flat, but again to no avail. Wiggins lost his temper and went down to the flat himself. Wiggins was absent for about 45 minutes. Wiggins' account to police, and later to a probation officer was that he had gone to Thomas' flat to get more drink but while he was there he went to the lavatory and on coming out he found that Mr Thomas had dropped his trousers and was making sexual advances to him . He said that his reaction was to feel terrified and threatened and that he picked up an iron bar that happened to be nearby and violently attacked Mr Thomas with it. When interviewed by probation he explained that he had completely "freaked out" and that he had been indecently assaulted in a foster home in 1986.

8. On his return to his own flat Wiggins' hands were covered in blood and his arms, face and clothes were bloodstained. He sought out Helder and both went to the victims' flat. Wiggins kicked down Riley's bedroom door and demanded that he hand over his money. When Riley failed to do this Wiggins attacked him while he lay in his bed hitting him repeatedly about the head with the same iron bar as he had earlier shown to Nina Oatway. Encouraged by Wiggins, Helder punched Riley in the stomach several times and attacked his legs with a hammer. Wiggins then seized a TV which was in the bedroom and threw it at Riley's head.

9. John Flaherty, in the meantime, had been sent by Smith to look for Wiggins. He eventually found both him and Helder in the victims' flat. He saw Mr Thomas lying on his bed covered in blood. The walls and bedding were also bloodstained. Wiggins and Helder were searching the room.

10. On entering Riley's bedroom Flaherty found him to be in a similar state to Thomas. It would appear that at this point Riley was still alive. Flaherty tried to force Wiggins to leave the flat but he refused. He and Helder continued to ransack the flat. As Flaherty left the flat he noticed that a television, two video players and a stereo had been piled up in the hallway.

11. Wiggins and Helder then took the stolen property to Wiggins' flat. Shortly thereafter Wiggins tried to sell the stolen video recorder to one Ellie Mannion who lived at number 24. He left it with her overnight and he and Helder then drove off in a stolen Chrysler motor vehicle. Helder was dropped off at home sometime that evening. Some time later Wiggins was arrested for a drink/driving offence. He was conveyed to Guys Hospital where he faked epilepsy and refused to be treated. He was then conveyed to Southwark police station. At the station when asked who could verify his address he gave the victims' address but then added "they won't be there now".

12. Early in the evening of 4 September, at about 7-7.30 pm Wiggins attended St Botolph's Church, Aldgate for the treatment of his injuries. This is a refuge for homeless persons. He also called on Andrew Bennett and left the stolen stereo at his house. He then went to the home of John Isenberg, who was living with Stephen Wiseman, and enlisted their help in removing the stolen property from his flat, number 41, to take it back to Isenberg's flat. On the way there Wiggins stopped off at Bennett's flat and

retrieved the stereo. Wiggins confessed to Thomas' murder to Isenberg and Wiseman.

13. On 5 September, in the morning, Wiggins visited Christine Longworth, his brother, Kevin's wife, and admitted the killings saying "Me and Mark (Helder) went to number 10 and hit two lads over the head with a metal bar".

14. The bodies of the victims were discovered by police at about 6pm on 5 September. On Friday 6 September Helder was arrested at his parents' house. He was interviewed three times and admitted to being involved in the attack on Riley, saying that he hit him a few times with his fists on the lower part of his body and that he hit him on the legs with a hammer. He denied any involvement in Thomas' murder. On Saturday 7 September Wiggins was arrested; on arrest he admitted killing Thomas but said that Helder killed Riley; he maintained this position during police interviews. During interview he said that he attacked Thomas because he "cracked" when Thomas made sexual advances to him.

Post mortem reports

15. Post mortem examinations of the bodies of the victims were carried out on Friday 6 September 1991. Martin Riley's death was found to be due to multiple head injuries (21 approximately); the skull had been fractured and the brain had haemorrhaged. There were a number of defensive injuries as well as multiple abrasions to the face, neck, front of chest and abdomen, multiple wounds to the legs and two small contusions to the abdomen.

16. In the case of Andrew Thomas, death was due to multiple head injuries (17 approximately). The skull had been fractured and the brain had haemorrhaged. There were several defensive injuries; nine wounds to the lower limbs and bruising of the neck.

Personal Background of Prisoner

17. A Social Inquiry Report of 20 March 1992 disclosed that the prisoner was the second youngest of a family of seven children. The family was well known to the Social Services Department in Northern Ireland. In 1973 all the children were made the subject of Fit Persons Orders. This was because of the parents drinking habits and general inability to provide acceptable levels of care for their children. Apart from these difficulties the

prisoner was of limited educational ability. He received special educational supervision and was assessed as educationally sub-normal.

18. At the age of fifteen the prisoner was placed with foster parents. His relationship with them deteriorated when it was discovered that he was taking small amounts of money. He returned to live at home one year later and quickly became further involved in offending. Ultimately, he was sentenced to a training school order in September 1986. In training school his behaviour fluctuated and he engaged in criminal activity while on home leave. He returned to live at the family home in 1987 and again had to deal with problems arising from his parents' abuse of alcohol. The family was stigmatised in the local community and it is suggested that this led to Mr Wiggins' involvement in criminal activity.

19. The prisoner left school in 1986 and immediately took up employment under the youth training programme. He failed to settle there and left after a few days. Since that time he failed to maintain regular employment. Before moving to London in April 1991, the prisoner moved between various forms of accommodation. In April 1988 he moved in with his sister. During this time the combination of secure accommodation and temporary employment appears to have had a positive effect on him. This did not last long, however, and he re-established contact with a delinquent peer group and this led to further offending. Following several months on remand in custody, he finally received an 18 month custodial sentence in May 1990.

20. On a number of occasions the prisoner has inflicted injuries on himself. These do not appear to have been serious attempts to take his life, however. Whilst in Belfast Young Offenders institution in February 1991 Dr Harbinson, a consultant psychiatrist, concluded that the prisoner's disturbed behaviour was the product of a pathological family background. She reported: -

> "He appears to respond to feelings of anger and distress by offending, knowing he will be caught. Alternatively, he imposes self inflicted injuries, and he is almost pathetic in his eagerness for help."

21. The trial judge ordered a psychiatric report. This report stated that the prisoner was not mentally ill in the clinical sense but that he was a man of

inadequate personality who had difficulties in coping with the demands of life. It contained the following passage: -

> "His inadequacies could be regarded to some extent as attributable to his low intellectual powers and also to his unsettled early life caused by his parents' alcoholism. His problems were accentuated by his abuse of cannabis and alcohol over the years".

Antecedents

22. The prisoner has an extensive criminal record dating from 1985, when he was 15, to 6 December 1991 when he was convicted of taking and driving away a motor vehicle, driving with excess alcohol, driving without insurance, and without a valid driving licence. These offences occurred on the same day as the murder of the two victims. In the six years from 1985 to 1991 there was not a single year that he was not in court. The convictions were mainly for burglary (37 convictions), attempted burglary (2) and theft (9). He has five convictions for taking a conveyance. He has a conviction for assault against police and two convictions for unlawful sexual intercourse, when he was 19, for which he was bound over; this provides some indication of the absence of any serious aspects to those particular convictions.

The views of the sentencing judge

23. In sentencing the prisoner to life imprisonment the judge said: -

> "Bernard Anthony Wiggins and Vincent Mark Helder, the events of that terrible evening will remain etched on the minds of all of those who have had the misfortune to have to sit in court and listen to it. There were two grown men who were getting on with their lives, Mr Thomas and Mr Riley, who appear to have befriended you, Wiggins, on earlier occasions, and it may be that there had been some mild sexual overture of no great significance, but no doubt because of your personality, and partly because of the consumption of drink and drugs, you go down there and you

launch into a terrifying and sustained attack on Thomas, and you kill him.

You come back to the flat, Helder follows you downstairs, and you go back in again. The reason for that, it is said in the probation report is not clear in your mind, but the reason which comes across to me was it was that clear that unless you killed Riley you would be caught for the murder of the first man, Thomas; so, you go back and you kill him, and Helder plays his part, and a lesser part.

For those offences, Wiggins, the law in this country knows only one sentence, and it is my duty to pass that sentence on you; it is a sentence of life imprisonment on each of the two counts to which you have pleaded guilty. I take account in passing that sentence the fact that you have changed your pleas to pleas of guilty, and in writing my report, I shall give the other factors that Mr Elias urged on your behalf.

Helder …You, like your co-defendant, both went to schools for people who were educationally sub-normal . . . I take the view that you were very substantially under the dominant influence of your co-defendant Wiggins.

. . . you were attracted to him (Wiggins) partly because of fear of some physical violence, and partly as a boost to your self-esteem because of the attention you received from Wiggins, a more powerful person of some greater intelligence than yourself …"

24. In his report to the Home Secretary (11.8.92), in relation to the degree of dangerousness presented by the prisoner, likelihood of future re-offending and factors to be taken into account by the Home Secretary when considering release, the trial judge commented: -

> "The defendant was described by different witnesses as a compulsive liar. He boasted of earlier violence and murder while living in Northern Ireland but there is no evidence of the truth of these assertions. After the murder he told his friends and the police that he killed the first man because he made a tentative homosexual advance to him. As he denied the murder of the second man until his change of plea he gave no reason for killing him. But I formed the view that he killed him because he was a witness to the first murder and had to be killed to prevent him telling anyone about the first murder.
>
> I assess the defendant as potentially dangerous. He appeared to have little concern for the usual standards of behaviour and, in my view, might well re-offend causing either death or serious injury."

25. As to the length of detention necessary to meet the requirements of retribution and deterrence the trial judge's view (which was endorsed by the Lord Chief Justice) was expressed in this way: -

> "In view of my assessment of this defendant as potentially dangerous and because there were two deliberate and brutal murders I consider he should serve a period of 15 years."

Representations from prisoner's legal representatives

26. The prisoner's solicitors submitted written representations on his behalf which, in summary, made the following points: -

- The prisoner stated that he went into Thomas' flat to get alcohol and denies any allegation of going to steal or that he had a weapon. He alleged that Thomas made a sexual advance to him by touching him in the groin. The prisoner had previously been subjected to sexual abuse whilst in foster care around the age of 12 or 13. He claimed that when the sexual overture was made to him, he then lifted an iron bar that was already in the flat, and assaulted Mr Thomas, killing him.

- In relation to the murder of Riley, the prisoner said that he just "lost it". He recalled hitting Riley and hitting him with a television. He then took a video from the flat and tried to give it to a number of Irish girls that he met on the stairs. Mr Wiggins has suggested that this shows how bad his mental state was at the time, as he was covered in blood when he did this.

- The prisoner claimed that the reason he contested the charge of murder of Mr Riley was that his own recollection of events was confused. And while on remand he was told that another person "had finished off" Riley; it was only on hearing the evidence that he changed his plea to guilty.

- The prisoner's solicitors have suggested that this is a difficult case to categorise as to whether it should start at 12 years or 15 to 16 years. They accepted, however, that there were a number of features of the case which indicated that the higher starting point was appropriate. One of the victims was vulnerable, being crippled and mentally sub-normal; that there were extensive injuries; and that there were two murders. However, they made the point that "this is a case which involves the killing of an adult victim arising from a loss of temper between two people known to each other which would tend to make it fall into the normal starting point case". They submitted, "On balance, it would appear that this case would fall somewhere in between the two starting points, although we would accept that it tends to fall on the higher range rather than the lower range."

- The solicitors claimed that the starting point should be reduced because the prisoner was provoked, in a non technical sense, in that the prisoner himself had been the subject of sexual abuse as a younger boy and was then approached by the first victim in a sexual manner which led him to lose his temper. In support of this contention they rely on the report of Mr Browne where he stated he is "of the opinion that alcohol coupled with real and imaginative provocation was primarily responsible for his crime."

- It was asserted that none of the aggravating factors referred to in paragraph 14 of the Practice Statement were in place in this case. The killing was unplanned, no firearm was used, there was no arming of a weapon in advance, the body was not destroyed and there was no criminal or violent behaviour over a period of time. They maintain that the prisoner's record is largely irrelevant when it comes to offences of violence. In relation to his conviction for unlawful sexual intercourse they explain that this related to a relationship he had with a girl who was underage and this was reflected in the sentence imposed.

- In mitigation the solicitors submitted that both murders lacked pre-meditation and were carried out spontaneously; and the prisoner was provoked by the sexual advances made by the first victim given his history of being sexually abused. They referred to the fact that the prisoner had a substantial amount to drink and valium taken are a factor, although they accepted that that does not exculpate him in any way.

- In their submissions the solicitors highlighted the following aspects of the prisoner's personal circumstances:-

    1. He was 21 at the time of the offence.

    2. He comes from a tragic background which involved drink and familial violence. He never obtained any formal education and was fostered at an early age. During his time in foster care he was sexually abused.

    3. His previous convictions involved non-violent offences such as burglary and theft. He has no convictions for violence save for one conviction of assault on police when he was 15 years old.

    4. He initially contested the second murder charge but after some evidence being heard he agreed that he had been involved in the murder and therefore pleaded guilty to both matters and is entitled to some credit for his timely plea of guilty, particularly in relation to the first offence.

- The solicitors concluded their submissions with the argument that the Court must take into account the fact that the prisoner previously had a tariff set by the trial judge in England of 15 years. They suggested that it would be unfair to impose a more substantial tariff on the prisoner given his reasonable expectation that he would serve 15 years before being considered suitable for consideration for release. They suggested that the Court could be satisfied that it is appropriate to concur with the English trial judge in setting a tariff of 15 years and emphasised that the English trial judge, in imposing the tariff, was fully aware of the facts of the case and the circumstances at that time.

27. The applicant's solicitors, in submissions to the Life Sentence Review Commissioners referred to a number of reports on the prisoner; a report dated 13 December 2005 from Paul Quinn, consultant clinical psychologist, a report from Governor Caulfield and one from Paul Sheppard from the Probation Board. Messrs McCann &McCann made the following submissions on these reports: -

"Governor Caulfield records a very positive progression made by Mr Wiggins while in prison and reflects that Mr Wiggins is a very highly motivated prisoner who presents no control problems for staff. … he points out that Mr Wiggins has moved to Martin House, which is a new low security accommodation within Maghaberry and he appears to be progressing well there. Governor Caulfield also reflects upon the good external support Mr Wiggins has. The governor, in dealing with the suitability for release, believes that as he has no tariff set as yet, and therefore he cannot recommend release. He believes that the best way forward is to commence a structured programme of release beginning with unaccompanied temporary release leading to overnight temporary release. He then believes that on his last year of tariff he should be placed on a pre-release scheme.

Paul Sheppard . . states . . "most professionals who have worked with Mr Wiggins discover little in his manner or presentation to indicate him capable of such a level of serious violence as that which caused the death of the two men in 1991". We would concur with this finding and believe that all of the reports indicate that Mr Wiggins' actions were completely out of character.

Mr Sheppard carried out a risk assessment in November 2002 and recorded that the likelihood of him re-offending within a 2 year period is low and that the risk of commission by him of a serious act of harm is not viewed as high…. Mr Sheppard finds it difficult to make a definitive judgment, as no tariff has been set in Northern Ireland but believes he should move to the pre-release unit until such times as released on life licence. .

> Mr Quinn in his final sentence states "in Mr Wiggins' case . . . I would recommend that his risk has reduced sufficiently to consider his phased and controlled release from prison"

Prisoner's representations

28. In a letter dated 28 May 2005 the prisoner expresses "deeply felt sorrow at the actions which led me to commit such a brutal crime and how over these many years I have had to rightly live with the consequences of those actions". The letter continues: -

> "I have striven to demonstrate in every discipline how deeply sorry I am for what I have done and to further demonstrate how very far I have come in changing from the confused and angry young man I was then to the positive and hopefully reformed character that I am today.
>
> I now believe that this has been recognised by professional prison staff, which has resulted in a series of home leave and escorted parole opportunities being made available to me in recent months. …
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> You may perhaps be aware that my fiancée who lived in England and was to have married me in prison this year was herself the victim of a cruel murder some months ago. I mention this to establish that I am now in the position of understanding how the victims left behind after such a tragedy actually feel, as well as knowing the emotions of the guilty party.
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> This has helped me to recognise the issues I need to address and reminded me that I must carry my guilt every day for the rest of my life, but also forced me to recognise that I must move on positively in the knowledge that such a horror must never happen again…."

Practice Statement

29. 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*
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> 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.
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> 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).
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> *The higher starting point of 15/16 years*
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> 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

30. This is obviously not a lower starting point case. I do not accept that these killings bore the hallmarks of a quarrel or loss of temper between two people known to each other. I have grave reservations about the veracity of the claim that Thomas made a sexual advance to the prisoner. There is ample evidence that he intended to rob the victims' home and that he had gone to the flat in an angry state. That he would have gone to the lavatory while there and be confronted by Thomas in a state of undress when he emerged from the bathroom seems to me to be highly implausible.

31. Many of the factors outlined in paragraph 12 of the *Practice Statement* are present here. The victims were obviously extremely vulnerable. It appears to be more likely than not that at least one of the murders was committed because the prisoner wished to obtain money or goods from the victims or because he was frustrated by Thomas' refusal to hand over goods or money. The other murder (in the estimation of the trial

judge) was carried out to pervert the course of justice by eliminating a witness to the earlier killing. More than one murder was committed. Extensive multiple injuries were inflicted on both victims.

32. Several aggravating factors are present. Contrary to the claims made by his solicitors, there is evidence that there was at least a degree of planning and that the prisoner armed himself in advance with an iron bar. Although this is not mentioned in the *Practice Statement* I also regard it as an aggravating factor that the prisoner put pressure on his younger and less mentally robust co-defendant, Helder.

33. The prisoner pleaded guilty but not at the first opportunity. The Court of Appeal has made clear (in *Attorney General's reference No 1 of 2006)* [2006] NICA 4) that full discount for a guilty plea cannot be obtained unless the defendant makes a clean breast of his involvement from the outset. This the prisoner conspicuously failed to do. Although it is claimed that he suffers genuinely from remorse I have some reservations about this. As the Court of Appeal said in *R v Ryan Quinn* [2006] NICA 27 it is frequently difficult to distinguish authentic regret for one's actions from unhappiness and distress for one's plight as a result of those actions.

34. The prisoner undoubtedly came from an unfortunate background but I have some difficulty in relating this to the horrific attacks that he launched on both these weak and defenceless men. Nevertheless I take that into account and his relative youth at the time of the murders, together with his plea of guilty. I also bear in mind the claim that he was provoked in the non-technical sense. As I have said, I have considerable misgivings about the truth of this claim but I cannot leave it entirely out of account.

35. It appears to me that this is a case to which paragraph 18 of the *Practice Statement* applies since, as I have said, several of the factors discussed in paragraph 12 are present.

36. The fact that the prisoner's tariff was set at fifteen years by the Home Secretary on the recommendation of the trial judge and the Lord Chief Justice of England and Wales does not bind me to fix the minimum period at that level but I must give due weight to the fact that the prisoner considered that this was the period that he would be required to serve to satisfy the requirements of retribution and deterrence. The tariff was fixed at a time before the *Practice Statement* was promulgated and while the

prisoner's legitimate expectation must be taken into account, regard must also be had to the requirements of that statement.

37. Giving due weight to all these factors, I consider that the appropriate minimum period in this case is twenty years. This will include the period spent by the prisoner on remand.