

**Neutral Citation No: [2020] NICC 1**

*Judgment: approved by the Court for handing down  
(subject to editorial corrections)\**

**Ref: COL11151**

**Delivered: 16/01/2020**

**IN THE CROWN COURT SITTING AT BELFAST**

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**R**

**-v-**

**CAOLAN LAVERTY, LEE SMYTH, STEPHEN McCANN, AARON STILGES,  
GARY LEWIS, DANIEL McGRATH, DANIEL McMANUS  
and SHANNON McILWAINE**

**COLTON J**

[1] Each of the defendants has pleaded guilty to various offences arising from the death of Christopher Meli on 11 December 2015 and from assaults on Ryan Morris and Steven Woods on the same date.

[2] Before dealing with each of you individually it is necessary to set out some of the background to the offences. In doing so I acknowledge that the nature of the evidence is such that it is not possible to set out with clarity and certainty what actually happened on the night in question. Many of those directly involved in the incident were under the influence of drink and drugs. Witnesses interviewed by the police in the course of the investigation were attempting to describe chaotic and fast moving scenarios with many participants. Statements setting out what occurred are contradictory and in many cases self-serving. The prosecution accept, and indeed the court, is aware from various reviews, that it was encountering difficulties with regard to witnesses in the case.

[3] In very broad terms the events centred on altercations and fights between two groups of young men and women which culminated in Christopher Meli's death.

[4] On 11 December 2015 Christopher Meli who was born on 6 July 1995 and who was therefore aged 20 was spending an evening with his friends Ryan Morris, Steven Woods and Ryan Morris's sister Sarah. They were drinking at Sarah Morris's house in Glasvey Rise, Twinbrook. Shortly after midnight they went out to buy more drinks at the off licence at Laurel Glen. For the purposes of these remarks I shall refer to this group as Group 1.

[5] It then appears that an altercation took place in an area known as “Doc’s Path”. There is no clear account of who precisely was involved in this altercation or what its cause was. At least two members of what I refer to as Group 2 namely Nicole Curran and the defendant Daniel McGrath were involved in this dispute. There is evidence from Steven Woods that a male who matched the description of McGrath hit Ryan Morris at which stage he punched that male to the ground before the people he encountered ran away.

[6] The next incident took place at the Surma Indian takeaway at Laurel Glen, a short distance from Doc’s Path. The owner of the premises, Ali Uddin was counting cash in a back room when he heard a bang. He went to the front of the shop where he saw three males kicking a fourth male on the floor of the shop. They stopped kicking after about a minute and left the shop. Two females came to help the male on the floor, who was bleeding from the nose and angry. He declined an offer to call the police or ambulance and left the takeaway. It is the prosecution case and indeed the evidence points towards the male on the floor as being Daniel McGrath. What happened next and which has given rise to these offences was in revenge for that attack. A group of between 15 to 20 males and females gathered in the Stewartstown Road area. I shall refer to this group as Group 2. This group ran towards Christopher Meli, Steven Woods, Ryan Morris and Sarah Morris when they were returning from the Laurel Glen off licence. Group 2 included all of the defendants. Again what precisely took place thereafter is not clear. Sarah Morris alleges that Lee Smyth led Group 2 which attacked Group 1. She alleges that he was the first person to arrive at where Christopher Meli was and the last to leave. In the course of the attack Christopher Meli was knocked to the ground and he was surrounded by a crowd which repeatedly kicked him. Sarah Morris alleges that Lee Smyth was one of the group and that she saw him kick Meli at least four times after he fell to the ground.

[7] Ryan Morris and Steven Woods also describe being assaulted at this stage. Other witnesses also describe Lee Smyth as being part of the fight involving Christopher Meli because of the distinctive red jacket he was wearing. The group eventually left Christopher Meli lying on the ground and a number of those in Group 2 then proceeded to chase Woods and Morris and further assaults were inflicted on Woods and Morris in the vicinity of St Luke’s Church. This was a confused and chaotic series of assaults and the precise locations of each incident are not always clear or easy to make out.

[8] Ryan Morris says that he was attacked from all angles when the group first caught him on Doc’s Path.

[9] As he ran away he recognised Smyth, Lewis and Stilges in the attacking group. As he approached Pine Tree Manor someone kicked his feet from behind and he fell dislocating his knee. He says at this stage Lewis kicked him in the face causing a black eye and split lip. He says that the attack continued when he reached St Luke’s Church before he managed to escape.

[10] Woods alleged that in the course of the attacks he was knocked to the ground and winded and kicked whilst on the ground. Other witnesses describe the assaults at St Luke's Church. It seems clear from the evidence that McGrath believed that Woods had been responsible for the assault on him earlier and there was evidence that he had a bleeding nose at the time of the incident. It is also clear that some members of Group 2 believed that Woods had been armed with a knife at some stage and that he had caused an injury to Aaron Stilges.

[11] Returning to Christopher Meli, it is accepted that after he was left lying on the ground and was receiving assistance from members of the public the defendant Laverty came towards him and kicked him once to the right side of his chest or stomach before leaving the scene.

[12] At this stage Christopher Meli was still alive and making gargling sounds. Members of the public assisted him, phoned the emergency services and put a blanket over him whilst awaiting the arrival of the paramedics. When paramedics arrived at the scene some 8 to 10 minutes later after a 999 call had been made at 00:52 they examined Christopher Meli and noted no signs of life. Police arrived shortly thereafter and secured the scene. At 04:30 Dr Michael Ruddle, forensic medical examiner, attended and formally pronounced life extinct.

[13] Dr Peter Ingram carried out a post mortem. He found that the cause of death was upper airways obstruction and inhalation of blood caused by facial injuries as a result of blows to the head, probably a number of kicks which had caused bleeding in his nose and mouth.

[14] The deceased also suffered a subarachnoid haemorrhage and cerebral oedema in association with alcohol intoxication. These injuries were not fatal, but they would have caused unconsciousness which in turn contributed to the choking and inhalation of blood.

[15] There were other injuries on his body and hands consistent with being struck or with punching other people, possibly in self-defence, before his death.

[16] On behalf of Lee Smyth, Professor Jack Crane produced a report served on 4 November 2019. In it he agreed with Dr Ingram's findings but added that the blow that led to the deceased's death was likely a punch to the nasal bones causing a fracture and bleeding, but that the blow need not have been of more than moderate force. This opinion is accepted by the prosecution.

[17] In relation to Ryan Morris he was examined by Dr Philip McClelland on the following morning at 7.35 am when he attended A&E at the Royal Victoria Hospital. He had left sided periorbital bruising and decreased sensation over his intraorbital nerve distribution. He had pain on the left side of his femur and the back of his

head. His right knee was swollen and he was unable to extend it, with pain at the medial joint line and over his medial co-lateral ligament.

[18] Steven Woods was never medically examined and so there is no independent evidence of his injuries. He says that he suffered cuts and bruises including to his upper left arm and scrapes all over. He had lumps on his head and a bloodied nose. He suffered from headaches after the attack.

[19] The defendants Laverty, Smyth and McCann were charged with the murder of Christopher Meli. They pleaded not guilty at arraignment on 11 January 2019. Because of multiple applications and various issues that arose in relation to the management of the case, including disclosure and additional evidence the trial was ultimately listed to commence on 15 November 2019.

[20] On 15 November 2019, you, Caolan Laverty pleaded guilty to the manslaughter of Christopher Meli as an alternative to murder. This count was accepted by the prosecution. The murder count was therefore left "on the books" not to be proceeded with without the leave of this court or the Court of Appeal. You also pleaded guilty to assault occasioning actual bodily harm in relation to the assault on Steven Woods.

[21] On the same date, you, Lee Smyth, also pleaded guilty to the manslaughter of Christopher Meli as an alternative to murder. This plea was accepted by the prosecution and the murder count was left "on the books" not to be proceeded with without the leave of this court or the Court of Appeal. You also pleaded guilty to an affray which relates to fighting involving the attacks on Ryan Morris and Steven Woods; assault occasioning actual bodily harm in relation to the attack on Ryan Morris and also assault occasioning actual bodily harm in relation to the assault on Steven Woods.

[22] On the same date, you, Stephen McCann pleaded guilty to an affray which was based on the fighting and the attack on Christopher Meli. This plea was accepted by the prosecution and the murder count was left "on the books" not to be proceeded with without the leave of this court or the Court of Appeal.

[23] Each of you have agreed bases of plea with the prosecution and it is essential that these are set out in full.

[24] In relation to Caolan Laverty the agreed basis of plea between the prosecution and the defence is as follows in which Laverty is referred to throughout as D1:

"88. Laverty's agreed basis of plea is as follows:

1. This case arises from a series of incidents involving two groups of young persons which occurred in the early hours of Saturday 12<sup>th</sup> December

2015. The first group (*Group 1*) was comprised of Christopher Meli (the deceased), Steven Woods, Ryan Morris and Sarah Morris. This Defendant (D1) and many others were in the second group (*Group 2*), which was considerably larger than Group 1. Following an earlier altercation at the Surma, Group 2 went to an area known as "Doc's Lane," in search of Group 1. In the ensuing escalating incident at "Doc's Lane," (*Incident 1*) the groups clashed and the deceased was fatally assaulted. His death was caused by upper airways obstruction & blood inhalation due to head / facial injuries which were in turn due to blows to the head. Ryan Morris & Steven Woods were also assaulted at "Doc's Lane" by other members of Group 2, but not by D1. In the aftermath of Incident 1, some members of Group 2 then pursued Steven Woods & Ryan Morris to the nearby church, when Steven Woods & Ryan Morris were assaulted (*Incident 2*). In the aftermath of Incident 2, D1 and others travelled back through "Doc's Lane," passing the deceased who was lying on the ground. (*Incident 3*).

2. D1 has pleaded guilty to manslaughter of the deceased in Incident 1 on the basis that:-

- a. D1 was part of Group 2 which went to "Doc's Lane" seeking Group 1 in the aftermath of the earlier Surma altercation;
- b. D1 was present at "Doc's Lane" as part of Group 2 during Incident 1, during which the violence unexpectedly escalated and the deceased was fatally assaulted;
- c. on *actus reus*, D1 did not personally assault the deceased in any way during Incident 1. He did not punch or kick the deceased. He had no actual physical contact with the deceased. However, his presence there, as part of Group 2, encouraged others within Group 2 to act as they did when they assaulted the deceased. The deceased was not in possession of a knife or any other weapon. Accordingly, D1's plea is on the basis of secondary participation in a joint enterprise, based upon presence alone.

- d. on *mens rea*, D1 did not intend, by his presence, to encourage or assist the intentional infliction of serious bodily injury or death on anyone within Group 1 by anyone within Group 2. Accordingly, his plea is on the basis that he *conditionally* intended to encourage or assist the infliction of *some* harm (falling short of serious bodily harm) by someone within Group 2 upon members of Group 1, *if necessary*.
  - e. D1 accepts that he kicked the deceased once to his chest or stomach in Incident 3, but this did not cause or contribute to the death of the deceased.
3. D1 has pleaded guilty to assaulting Steven Woods (occasioning actual bodily harm), during Incident 2, on the following basis:
- a. D1 was present at the area beside the Church during Incident 2 when Steven Woods was assaulted;
  - b. D1 punched Steven Woods once to the head at the outset of this incident when Steven Woods was still on his feet and armed with a knife, before D1 then disengaged and walked away. This single punch has been referred to as “the Superman punch” in the papers. D1 was not further involved in what occurred thereafter.

***Lee Smyth***

89. Smyth’s agreed basis of plea is as follows:

1. Lee Smyth has pleaded guilty to manslaughter (as an alternative to count 1) on the basis that he joined in the attack on the deceased and delivered punches and kicks himself as part of a group but none of them were with more than moderate force and he did not intend really serious harm. He later returned to punch Christopher Meli several times on the ground as described by witnesses.

2. Lee Smyth then joined in assaults on Ryan Morris and Steven Woods. He has pleaded guilty to assault occasioning actual bodily harm against Ryan Morris (count 6) and Steven Woods (count 10).

3. He has pleaded guilty to affray (count 5) on the basis that this covers the events surrounding the assault on Ryan Morris and Steven Woods."

### *Stephen McCann*

90. McCann's agreed basis of plea is: "Stephen McCann was one of the group that ran across the Stewartstown Road in the direction of Doc's Path. His presence encouraged the others in his group to fight and make an affray with the members of the deceased's group. He did not personally assault the deceased or anyone else."

### **Victim impact reports**

[25] Before determining the appropriate sentences for each of you I want to highlight and acknowledge the victim impact statements I have received in this case. The statements of evidence include statements describing the initial impact of Christopher Meli's death on his parents - his mother Vanessa Burke and Christopher Meli Senior. The papers also contain a statement from his girlfriend Lois Murray. They vividly convey the anguish and distress of their discovery of Christopher's death on the night/morning in question. These reports have been augmented by a report from Dr D C Michael Patterson, consultant clinical psychiatrist dated 5 December 2019 in respect of Vanessa Burke and further statements following the pleas in mitigation from Christopher's father and Christopher's brother Ryan both dated 20 December 2019. The statements convey the utter despair that Christopher's death has caused to his family. His death has impacted on every aspect of their lives and they will live with the grief and consequences of Christopher's death for the rest of their lives. These statements bring home to me the enormous and devastating impact Christopher's death has caused to his family. I take these statements fully into account in determining the appropriate sentence.

[26] I recognise too that this trial process has been difficult for Christopher's loved ones. The investigation into his death was complex and involved detailed and comprehensive police work. As a result this matter did not come before the Crown Court until 11 January 2019. I am also conscious that the evidence in this case was insufficient to establish a charge of murder against any of the defendants and that this has come as a disappointment to them.

[27] At the end of the day there is no sentence that I can impose that will cure the tragic loss suffered by Christopher's family. His death cannot be measured in terms of the years of any prison sentence I impose. It is also essential to understand that the defendants must be sentenced on the basis of their role in the incident as established by the evidence in this case and the agreed basis of pleas which I have rehearsed already.

### **Count 1 - Manslaughter of Christopher Meli**

[28] It is somewhat of a cliché to point out that offences of manslaughter cover a wide factual spectrum. In the course of the hearing counsel with their customary diligence referred me to reported cases involving manslaughter to assist in pointing the court to the appropriate sentence. The cases to which I have been referred are very much fact specific but I have taken them into account in coming to the appropriate sentence in this case. The two key pieces of material for the purposes of sentencing in manslaughter cases in this jurisdiction are the paper presented to the Judicial Studies Board for Northern Ireland by Sir Anthony Hart on 13 December 2013 which deals with sentencing in cases of manslaughter and the guideline case of **R v Magee** [2007] NICA 21.

[29] Whilst acknowledging the authority of **Magee** Sir Anthony Hart in his paper puts forward a number of sub-categories of offences which can be identified that are readily encountered in practice. In my view the relevant sub-category for this case is sub-category (i) in respect of which Sir Anthony says:

*"Cases involving substantial violence to the victim. Whilst sentences range from 6 years on a plea to 14 years on a contest pleas in cases at the upper end of the spectrum attract sentences of 10 to 12 years with sentences of 12 years being common. Sentences of 6 to 8 years tend to be reserved for cases where there are strong mitigating personal factors, or the defendant was not a principal offender."*

[30] The case of **Magee** is repeatedly referred to in all the reported decisions on sentencing in manslaughter cases and remains the leading authority on this issue and it is worth setting out the key paragraphs of the judgment in full. The relevant guidelines are set out in paragraphs [22] to [27]:

*"[22] It is not surprising that there are relatively few decisions in this jurisdiction which could properly be described as guideline cases for sentencing for manslaughter. Offences of manslaughter typically cover a very wide factual spectrum. It is not easy in these circumstances to prescribe a sentencing range that will be meaningful. Certain common characteristics of many*



*offences of violence committed by young men on other young men are readily detectable, however, and, for reasons that we will discuss, these call for a consistent sentencing approach.*

[23] *It is the experience of this court that offences of wanton violence among young males (while by no means a new problem in our society) are becoming even more prevalent in recent years. Unfortunately, the use of a weapon – often a knife, sometimes a bottle or baseball bat – is all too frequently a feature of these cases. Shocking instances of gratuitous violence by kicking defenceless victims while they are on the ground are also common in the criminal courts. These offences are typically committed when the perpetrator is under the influence of drink or drugs or both. The level of violence meted out goes well beyond that which might have been prompted by the initial dispute. Those who inflict the violence display a chilling indifference to the severity of the injury that their victims will suffer. Typically, great regret is expressed when the offender has to confront the consequences of his behaviour but, as this court observed 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’.*

[24] *The courts must react to these circumstances by the imposition of sentences that sufficiently mark society’s utter rejection of such offences and send a clear signal to those who might engage in this type of violence that the consequence of conviction of these crimes will be condign punishment. We put it thus in **Ryan Quinn**: -*

*‘... it is now, sadly, 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 the phenomenon. Those sentences must also reflect the devastation wrought by the death of a young man ...’*

.....

[26] *We consider that the time has now arrived where, in the case of manslaughter where the charge 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. This is, perforce, the most general of guidelines. Because of the potentially limitless variety of factual situations where manslaughter is committed, it is necessary to recognise that some deviation from this range may be required. Indeed, in some cases an indeterminate sentence will be appropriate. Notwithstanding the difficulty in arriving at a precise range for sentencing in this area, we have concluded that some guidance is now required for sentencers and, particularly because of the prevalence of this type of offence, a more substantial range of penalty than was perhaps hitherto applied is now required.*

[27] *Aggravating and mitigating features will be instrumental in fixing the chosen sentence within or – in exceptional cases – beyond this range. Aggravating factors may include (i) the use of a weapon; (ii) that the attack was unprovoked; (iii) that the offender evinced an indifference to the seriousness of the likely injury; (iv) that there is a substantial criminal record for offences of violence; and (v) more than one blow or stabbing has occurred."*

[31] The earlier authority of **R v Quinn** [2006] NICA 27 at paragraph [22] sets out other potential aggravating factors in manslaughter cases where an intention to cause really serious harm is absent:

- (i) Lack of provocation;
- (ii) Attacks that occur in circumstances where the victim is wholly unprepared;
- (iii) Planned attacks as opposed to spontaneous attacks;
- (iv) Mendacious accounts given by defendants to excuse their behaviour;
- (v) The influence of alcohol;
- (vi) Attacks that occur in public places.

## Lee Smyth

[32] I turn to the case of Lee Smyth. There is no doubt that you played a leading role in the attack of Christopher Meli and were directly involved in the group violence against him. The comments of Kerr LCJ at paragraph [23] of **Magee** are particularly apt. This was a case involving gratuitous violence by kicking and punching a defenceless man whilst he was on the ground. The offence was committed when you were under the influence of drink. The level of violence meted out by the group went well beyond that which might have been prompted by the initial dispute. In my view the offence is aggravated by the fact that you evinced an indifference to the seriousness of the likely injury to Christopher Meli and that you inflicted and the group inflicted sustained blows to him. The account that you gave during interview to the effect that Christopher Meli had been armed with a knife and had used it to attack you is an example of the type of mendacious account referred to in **Quinn**. It was only withdrawn by your counsel in the course of his eloquent plea on your behalf.

[33] In addition you joined in subsequent assaults on Ryan Morris and Steven Woods.

[34] In terms of your personal background I have received a pre-sentence report from the Probation Board for Northern Ireland, some City and Guild Certificates and reports from a Professor R J Davison, consultant clinical psychologist and Oliver Wilkinson, registered intermediary.

[35] You were born on 11 April 1997 and you are now aged 22 years. You were 18 years and 8 months at the time of the offence.

[36] There is nothing remarkable in your personal history. You were raised in the Poleglass area of west Belfast by both parents and you were the third oldest of your siblings. Your parents separated when you were 14 years of age but you have retained good relationships with your parents and you were living with your mother at the time of the offences.

[37] You have been drinking alcohol from the age of 15 and spent most weekends drinking and socialising with a large group of likeminded peers from the same area.

[38] It does appear that this incident has had an effect on your mental health and that you have difficulty coming to terms with your involvement in the offences, to the extent that you have developed issues with drug use. Since the commission of the offences you have spent much of the time in custody where it appears that you misuse non-prescribed medications.

[39] You have only one minor conviction prior to the commission of this offence and there is nothing in your record that suggests a tendency to violence. Subsequent to the commission of this offence you have been convicted of a number of offences.

The pre-sentence report assesses you as someone at a medium likelihood of re-offending. The report concludes that you are not someone who presents as a significant risk of serious harm occasioned by you committing further specified offences.

[40] I agree with both assessments.

[41] The probation report and in particular the report from Dr Davison expressed concerns about a deterioration in your mental health since you have committed these offences. You have clearly struggled to come to terms with your involvement in these offences and you clearly would benefit from some assistance and counselling in the future.

[42] A particular feature of the reports is your expressed remorse at your conduct and your insight as to the impact of that conduct on both the Meli family and your own family. The probation report records:

*“During the pre-sentence report interview Mr Smyth presented with remorse and stated he deeply regrets his involvement in these offences and particularly the death of a young man. In discussing the fatal consequences his statements and demeanour evidence remorse and he repeatedly expressed concern for the victim’s family. Mr Smyth remembers hearing the news of Mr Meli’s death the following morning and states he felt extremely shocked and ashamed. ... Having had the opportunity to reflect on his actions at the time of the offences Mr Smyth was clear in terms of actions contributing to Mr Meli’s death and states if faced with a similar situation now he would not involve himself and would remove himself immediately. His level of victim awareness appears to have increased since the time of the offences and he was clear in terms of both the short and longer term impact on the victim’s family and friends. He also presents with an understanding of the impact of his offending on his own family.”*

[43] I have read a letter that you have sent from prison to the Meli family. It contains in my view an authentic expression of remorse which reinforces what you told the Probation Service and which I accept is genuine.

[44] In terms of mitigation you were relatively young at the time of the offence, there has been delay in bringing the matter to trial and you have demonstrated remorse which is accepted as genuine by the Probation Board and Dr Davison and which I also accept. However, any mitigation allowed in the sentence for these factors must be relatively small.

[45] I have no doubt that when you set out drinking on the night in question you never imagined that you would end up in a fight that would result in such a tragic death. I accept as is the basis of your plea that when you involved yourself in this unjustified attack on Mr Meli you did not intend to cause him really serious harm. Of course this is why you face a charge of manslaughter and not murder.

[46] I have no doubt that in accordance with the principles set out in **Magee** that your case can only be dealt with by way of a determinate custodial sentence. You have pleaded guilty to a serious offence within Article 12(2) Schedule 1 of the Criminal Justice (Northern Ireland) Order 2008 but I have come to the conclusion that there is not a significant risk of serious harm being occasioned by you committing further specified offences.

[47] You are entitled to a discount because of your plea. This is by no means an early plea having been entered just prior to the trial commencing. Nonetheless, it is clear that there were discussions between your counsel and the prosecution and that the plea was entered at a time when it was made clear that this plea would be acceptable to the prosecution.

[48] It is a long and firmly established practice in sentencing law in this jurisdiction that when an accused pleads guilty the sentence should recognise that fact by imposing a lesser sentence than would otherwise be appropriate.

[49] In determining the lesser sentence the court should look at all the circumstances in which the plea was entered. Because of the late stage in the proceedings in which you pleaded guilty you are not entitled to maximum credit for your plea. However, the plea of guilty is welcome in this case. By accepting the plea to the lesser offence the prosecution recognise that it could not sustain the original count on the indictment. The plea has brought certainty and finality to the matter and reinforces the remorse you have expressed. It has led to a significant saving of time and public expense which is in the public interest. It has inconvenienced witnesses who would otherwise have to attend court, some of whom were vulnerable.

[50] Taking account of the aggravating and mitigating factors to which I have referred, before any allowance for your plea of guilty, which I will deal with shortly I consider that the appropriate sentence would be one of 11 years custody. That is the sentence I would have imposed had this matter been contested and you were convicted of manslaughter. I propose to reduce the sentence of one of 11 years custody to one of 9 years custody to reflect your plea which is marginally short of a 20% reduction.

[51] Standing back I consider that a 9 year custodial sentence is the commensurate sentence in this case.

[52] Under the provisions of Article 8(2) of the 2008 Order I am obliged to specify a period referred to as the custodial period at the end of which you are to be released under Article 7 of the Order. Under Article 8(3), the custodial period shall not exceed one half of the term of the sentence. I therefore specify that the custodial period of the sentence is to be one of 4 years and 6 months with a licence period being one of 4 years and 6 months.

[53] In relation to Count 5 to which you have pleaded guilty namely affray I impose a sentence of 6 months in custody; in respect of Count 6 namely assault occasioning actual bodily harm on Ryan Morris I impose a sentence of 6 months custody and in respect of Count 9 assault occasioning bodily harm on Steven Woods I also impose a sentence of 6 months custody. All of these sentences are to run concurrently with the 9 year custodial sentence imposed for manslaughter.

### **Caolan Laverty**

[54] I consider that your role in the manslaughter of Christopher Meli can be distinguished from that of your co-accused Lee Smyth. You have pleaded guilty to manslaughter on the agreed basis that you were a secondary participant in a joint enterprise. You did not punch or kick the deceased in the incident which gave rise to his death. Rather by your presence and your conduct you encouraged or assisted others to inflict some harm short of serious bodily harm upon Mr Meli.

[55] That said, many of the aggravating features to which I have referred in terms of this attack are also applicable to you. You clearly evinced an indifference to the seriousness of the likely injuries sustained by Mr Meli, more than one blow was directed at the deceased and you were under the influence of alcohol when you participated in the group. You too made an initial allegation that Mr Meli had used a knife although you volunteered at an early stage that this was not true. Particularly shameful was your conduct when you kicked the deceased when he lay on the ground after he had been attacked, although it is accepted that this did not cause or contribute to his death, nor does it technically form the basis of an actual offence. Nonetheless it clearly demonstrates your indifference to Mr Meli's plight at the time of this incident.

[56] The role your presence played in the attack should not be underestimated. The mob or pack mentality that takes over in such situations is all too often fuelled and sustained by the support given to the actual attackers by supporters who stand by or join in.

[57] In terms of personal mitigation there is much to be said on your behalf. At the time of the incident you were aged 16 years and 9 months, the second youngest of the defendants in the dock today. I accept that your participation to an extent was as a result of peer pressure and immaturity which caused you to run with the group who attacked Mr Meli. Your youth does, in my view, impact on your culpability.

[58] In terms of your background you have no previous convictions other than a caution. I am particularly impressed by the fact that you appear to have changed your life around in the intervening period. The pre-sentence report obtained from the Probation Board for Northern Ireland assesses you at a low risk of re-offending and as someone who does not present as a risk of serious harm. I agree with these assessments.

[59] It is clear that you are deeply loved by your mother and grandmother and immediate family circle. You reside with your grandmother for whom you are a main carer. You have developed a steady relationship with a partner and you now have a two year old son and it appears that you accept your responsibilities as a father seriously.

[60] You have also obtained full-time employment and I have received a very valuable reference from your employer who has been impressed by your attitude to work and to the people with whom you work. I have also read references from family and neighbours who attest to your changed character. I accept that your lifestyle and attitudes have changed considerably from the period when you were involved in these offences. At that time your focus was socialising with your peer group with accompanying substance misuse. I have also considered a report from an educational psychologist in which you have been described as a young man with a growing maturity and sense of responsibility for your young family and yourself.

[61] The reports are replete with your assertions that you are ashamed and greatly regret your conduct on the night in question. The probation report expressly records your regret and remorse for your involvement in the incident that led to the death of one young man and injuries to others. You told the Probation Service that you think about this every day and wish you could go back and change what had occurred. The report also acknowledges your awareness of the severe impact upon the family of Christopher Meli, particularly now that you are a father yourself. I accept this remorse is genuine.

[62] These offences were committed four years ago. In the intervening period you have been on strict bail conditions including a curfew and I acknowledge that this has been a significant restriction on you. The impact of delay is in my view particularly significant for someone who was so young and you have had this matter hanging over you during your very important late teenage years at a crucial time for your development.

[63] I acknowledge that a custodial sentence will have a significant impact on you and your immediate family. I also recognise that any custodial sentence will have an impact on your employment and your ability to support your family. I am very slow to send young people to prison in circumstances such as yours where they have obtained full-time employment and are valued by their employer. I acknowledge that there is much good in you and that you have the potential to live a good and productive life in the future. Nonetheless, as the authorities make clear I am

compelled to impose a custodial sentence because of the matters referred to by Lord Chief Justice Kerr. The consequences of your actions require in the words of Lord Chief Justice Kerr “condign punishment”. Those like you who take part in such cowardly and dangerous attacks even as a secondary participant must expect to be severely punished as a result even though you did not inflict any injuries.

[64] However, I do take the view that your situation both in terms of your culpability and your personal circumstances are significantly different from that of your co-accused in relation to the manslaughter charge and that as a result I can take a much more lenient course.

[65] You are also entitled to a discount for your plea of guilty in this case. It did come late in the day but as I have said in relation to the case of Lee Smyth there had been engagement between your counsel and prosecution counsel and you pleaded at the first time when it was indicated that a plea of manslaughter would be acceptable to the prosecution, although it was always open to you to plead to manslaughter at arraignment. I also accept that the plea was of significant benefit to the prosecution in terms of the saving of court time, public expense and the relief to the potential witnesses in this case, many of whom were vulnerable.

[66] Had you been convicted after a contest taking into account your culpability and the aggravating and mitigating factors to which I have referred I would have imposed a prison sentence of 6 years. Because of your plea I propose to reduce that to a sentence of 5 years imprisonment. This represents a discount of close to 20%. Standing back I consider this to be the commensurate sentence in your case.

[67] As I indicated earlier I am satisfied that there is not a significant risk of serious harm being occasioned by you committing further specified offences and therefore no question of dangerousness arises under the Criminal Justice (Northern Ireland) Order 2008.

[68] Under the provisions of Article 8(2) of the 2008 Order I am obliged to specify a period referred to as the custodial period at the end of which you are to be released under Article 17. Under Article 8(3) a custodial period shall not exceed one half of the term of the sentence. I therefore specify the custodial period of the sentence to be 2½ years with the licence period being one of 2½ years.

[69] In relation to Count 9 namely assault occasioning actual bodily harm on Steven Woods I impose a sentence of 6 months imprisonment. This sentence is to run concurrently with the sentence imposed for the first count of manslaughter.

### **Stephen McCann**

[70] Stephen McCann you have pleaded guilty to a count of affray. You were initially charged with Mr Meli’s murder but the prosecution accepted a plea to an



affray on 15 November 2019. There is an agreed basis for that plea in the following terms:

*“Stephen McCann was one of the group that ran across the Stewartstown Road in the direction of Doc’s path. His presence encouraged the others in his group to fight and make an affray with the members of the deceased’s group. He did not personally assault the deceased or anyone else.”*

[71] After the incident you voluntarily attended at the police station with your mother because you knew you had been involved in the incident. You were prepared to speak to the police without a solicitor but on the advice of the custody officer you sought the services of one. Because of a lack of disclosure you were advised not to answer questions during the first two interviews but by the time of the third interview you provided a statement setting out your involvement in the matter.

[72] There is nothing in the evidence outlined by the prosecution which contradicts your account. You had gone to the area with a number of people you knew with a view to socialising and taking some drink. You made your way to where the fight had broken out between a number of youths in response to an earlier assault on Daniel McGrath. Your involvement was to attempt to break the fight up in the course of which you fell to the ground and were kicked and dragged away. You were not involved in any further incidents or the following attack or assaults on Morris and Woods. You accept that by being present and running across the road towards the fight others derived encouragement for what they were doing.

[73] In relation to sentencing for counts of affray the facts constituting that offence and the possible degrees of participation are so variable and cover such a wide area of behaviour that it is very difficult to formulate any helpful sentencing framework. As was said by Lord Kerr LCJ as he then was in the case of the **Attorney General’s Reference (No: 1 of 2006)** at paragraph [25]:

*“Because of the infinitely varying circumstances in which affray may occur and the wide diversity of possible participation of those engaged in it, comprehensive rules as to the level of sentencing are impossible to devise. Certain general principles can be recognised, however. Active, central participation will normally attract more condign punishment than peripheral or passive support for the affray. The use of weapons will generally merit the imposition of greater penalties. The extent to which members of the public have been put in fear will also be a factor that will influence the level of sentence and a distinction should be drawn between an affray that has ignited spontaneously and one which has been planned – see R v Anderson and others [1985] 7 Cr App R (S) 210.*

*Heavier sentences should in general be passed where, as in this case, the affray consists of a number of incidents rather than a single self-contained episode."*

[74] I assess your role in the affray to which you have pleaded guilty as somewhere between peripheral and central. You were not personally involved in the infliction of any violence. You did not encourage others nor did you assist in the infliction of harm on the deceased but nonetheless your presence did encourage the fight to take place and you were involved in serious public disorder. That said, I accept that this was something that ignited spontaneously. This was not a case of pre-planned violence or something which was organised between gangs. Many of the people involved in this incident knew each other and the matter escalated quickly. This was not a case in which weapons were used and you were only involved in a single incident and not in the subsequent affray and assaults.

[75] In terms of your personal circumstances you were born on 23 May 1997 and were aged 18 at the time of the commission of this offence. Apart from a restorative caution you had no criminal convictions either before the night in question or since. As a result of public reaction to your perceived involvement in the offence you received threats and were obliged to move from your well established home at that time. Since then you and your family have moved to the Lisburn area.

[76] I have received a pre-sentence report from the Probation Board for Northern Ireland which records good levels of victim awareness which the Probation Service accept as genuine. Throughout the interview you demonstrated insight and a high level of victim awareness and you reported that you often think about the victim and what the victim's parents must be going through. You say this is a subject that you and your parents have discussed on many occasions. You also are aware of the impact your involvement has had on your own family and the contribution it has made to your mother's ill-health. I accept your expressions of remorse as genuine.

[77] The Probation Service assesses you as someone who presents as a low level of re-offending and as someone who does not pose a significant risk of serious harm. I agree with both of these assessments.

[78] These offences were committed four years ago. Since that time you have enrolled in college and have achieved Level 1 and Level 2 in joinery. Whilst you are keen to obtain employment you have been unable to secure a work placement because of the notoriety following your involvement in this offence.

[79] There is nothing in your background or in the contents of the Probation Report which suggest that you are in need of supervision or assistance. Undoubtedly, it would be highly desirable if you could obtain employment, something which you are desperate to obtain. There is clear stability and family support in your lifestyle.

[80] You are entitled to significant credit for your plea of guilty. It was undoubtedly late in the day but you initially co-operated with the police at interview and the acceptance by the prosecution of your plea is consistent with the account you gave to the police at that time. It was only when it was clear that the prosecution were in a position to accept a plea to an affray as opposed to murder that your plea was entered.

[81] I consider the nature of the public disorder in which you were engaged in this case was of a sufficient degree that I must consider imposing an immediate custodial sentence by way of punishment. However, I have come to the conclusion that there would be no merit in imposing a short custodial sentence given your personal circumstances and your degree of culpability. I consider that you are a suitable candidate for a community based sentence and I therefore propose to impose a Community Service Order. I understand from the contents of the probation report that you would consent to such an order, is that correct?

[82] In the circumstances therefore on Count 2 I propose to impose a community service Order of 150 hours by way of disposal in this case. The Probation Service will contact you to make the necessary arrangements for implementing that order. In the event that you do obtain employment then the order should be tailored to accommodate any such employment.

### **Aaron Stilges**

[83] Aaron Stilges you have pleaded guilty to two counts. The first, Count 5 relates to an affray and concerns fighting and the attack on Ryan Morris and Steven Woods. The second relates to Count 9 where you have pleaded guilty to assault occasioning actual bodily harm on Steven Woods.

[84] As is the case with much of the evidence it is difficult if not impossible to have a clear understanding of your role in relation to these counts. It should be understood that you were not involved in any of the initial altercations and in particular you were not involved in any offence relating to the death of Christopher Meli. Rather you were involved in the subsequent attacks on Morris and Woods and to the extent that you assaulted Steven Woods.

[85] In relation to the assaults and attacks on Morris and Woods it is clear that they were both subjected to a sustained attack over the course of a lengthy pursuit through the streets. No serious injuries were sustained by either of them although this was fortuitous. In his report Dr Farnan reports that the injuries sustained by Steven Woods "*consist of fairly minor bruising and abrasion injuries*". His opinion was that these would heal completely in a matter of days without treatment and with no sequelae. The incident involved major public disorder in a residential area by a group of young people fueled by alcohol and drugs. You have admitted that in the

course of the assault to Steven Woods you punched him once in the face and kicked him in the face as well.

[86] It does appear that you sustained an injury as a result of a knife being used. The evidence points to Steven Woods as the person who used the knife. You sustained lacerations to your hand and ankle. In a report obtained from Dr Farnan on your behalf he suggests that the injury to your left hand would be consistent with a "defence injury" and the wound to the right lower leg could be consistent with a puncture wound from a stab with a knife.

[87] You were born on 1 December 1997 so at the time of this incident you had just turned 18 years of age.

[88] In terms of your personal circumstances the background is troubling and problematic. You faced adversity in childhood including the death of your father when you were aged two and you have been the victim of bullying including serious assaults whilst you were in primary school. You have had a history of involvement with child psychiatry services from nine years of age. You have had involvement with the Child and Family Clinic at the Royal Hospital and services from Beechcroft Child and Adolescent Psychiatry which continued right into your teenage years. You were the victim of a paramilitary style shooting and were also involved in a tragic road traffic accident when your friend was killed. I have received medical reports, one from Dr Helen Harbinson, consultant psychiatrist and one from Professor Robin Davison, consultant clinical psychologist which confirm your mental health issues.

[89] These issues have resulted in a chaotic lifestyle and you have history of substance misuse and have been involved in offending behaviour since your late teens. Of particular concern is the fact that as of now you have 25 previous convictions and prior to your involvement in this offence you had a conviction for possessing an offensive weapon for which you received a probation order which was not completed. Since the commission of this offence you have been involved in offences involving burglary, theft of motor vehicles and aggravated vehicle taking for which you have received short periods of detention. Your last conviction related to offences committed on 14 August 2018. You are the father to three young children with whom you have regular contact and there is no suggestion of any concern by Social Services in this regard.

[90] Referring to the Probation Service report you are assessed as being of a medium likelihood of re-offending and as a person who does not present as a significant risk of serious harm. I agree with both these assessments.

[91] In terms of disposal given the nature of the disorder and the nature of the assault on Steven Woods, notwithstanding a lack of any serious injury the court clearly has to consider a custodial sentence. This is particularly so having regard to your record. The Probation Service raise the possibility of a probation disposal. It is

argued that this could be beneficial at this stage of your life and assist you to maintain your current stability and motivate you to engage in services to enhance employability skills through training and education. It is suggested that since 2018 you have abstained from drug misuse and are experiencing a period of stability in your life. In her detailed report Dr Harbinson in her conclusion states as follows:

*“Mr Stilges should continue to attend mental health services. A sleep EEG and neurophysiological assessment would merit consideration in the light of his episode of delirium at the age of ten, his subsequent behavioural problems and his seizures. Medication has eased his post-traumatic symptoms and insomnia. He would benefit from EMDR (Eye Movement Desensitisation and Reprocessing Therapy) for PTSD. He was offered therapy in 2010 but did not engage. I spent some time discussing this with him, he told me he feels stronger now and better able to cope with therapy. He would also benefit from a period of probation and from attendance at a drug and alcohol course. He needs steering for employment. I have stressed the importance of that to him. He impressed me at interview as insightful, reflective and motivated.”*

[92] Determining the appropriate disposal is not easy in your case. There is an abundance of evidence that you suffer from significant mental health issues and that you do require supervision and assistance if you are to recover from those and have a positive life.

[93] The concern is however that in the past you have failed to engage with probation and indeed with mental health services when these were available to you. However, on balance I have come to the conclusion that rather than impose a custodial sentence the appropriate course of action to take in your case is to impose a probation order with strict conditions. This should not be seen as an easy option but rather as an opportunity for you to work to deal with the issues that have given rise to your offending and in particular this offence over four years ago. The Probation Service will place significant demands on you to facilitate your rehabilitation and it is essential that you comply with the conditions imposed on your probation order. Any breach of those will result on you being returned to this court and a custodial sentence will almost certainly follow.

[94] I understand from the probation report that you are prepared to consent to a probation order - is this correct?

[95] That being so I impose a probation order for 2 years.

[96] During this time you must participate at any psychology/mental health assessment and/or treatment, if deemed appropriate by your supervising officer. In

addition you must actively participate in any programmes of work recommended by the supervising officer designed to reduce any risk you may present and to attend and co-operate with assessments by PBNI as to your suitability for programmes and other offence focused work.

[97] I impose the probation order in respect of both Counts 5 and 9 to run concurrently.

### **Gary Lewis**

[98] Gary Lewis you have pleaded guilty to two counts on the indictment. On count 5 you have pleaded guilty to affray which relates to your involvement in the fighting which led to the attacks on Ryan Morris and Steven Woods. On count 6 you have pleaded guilty to assault occasioning actual bodily harm which relates to the assault on Ryan Morris.

[99] It is important to note that you were not involved in any assault or affray which resulted in the death of Christopher Meli. Your involvement relates to the subsequent attacks on Ryan Morris and Steven Woods. As I have said previously it is not possible to establish with any certainty a clear picture of what took place in relation to the attacks on Morris and Woods. What is clear is that you were a part of the group involved in those events and that you were involved in assaulting Ryan Morris. In his statement Ryan Morris alleges that as he ran away from the scene his feet were clipped from behind and that he fell. He says at this stage he dislocated his knee. In any event he says he looked up and that you kicked him in the face causing him a black eye and split lip. It does not appear that either Morris or Woods sustained any significant injury, but this was as much due to good fortune as to the conduct of those involved in the offence that took place. The affray and the assaults involved serious public disorder, in a residential area and involved a number of fights. You were clearly involved in that disorder as acknowledged by your pleas of guilty.

[100] In terms of your personal circumstances you were born on 20 August 1998 so you were only aged 17 years and 4 months at the time of this incident. Your personal background gives me great cause for concern. Prior to this offence you had already been convicted of riotous behavior on two previous occasions which were dealt with by way of Youth Conference Orders, the second of which was revoked. Subsequent to the commission of this offence you have been convicted of two offences of disorderly behaviour and the offence of causing death by dangerous driving. One of those disorderly behaviours was on 31 December 2015 a matter of weeks after this incident. The second disorderly behaviour committed on 6 February 2016 resulted in a YOC detention for three months.

[101] You were also convicted of causing death by dangerous driving on 27 March 2017 arising from an incident on 19 July 2016 when a member of the public was killed in the course of your dangerous driving of a scrambler motorbike. It appears

you received a determinate custodial sentence of 18 months with 9 months detention and 9 months on licence. You have not come to the attention of the police since that incident on 19 July 2016.

[102] Whilst there can be no justification for the conduct giving rise to those convictions and indeed to this offence an explanation may well lie in your personal background from which it is clear you have experienced severe adverse traumatic episodes. When you were 8 years of age you discovered the body of your father who had committed suicide. It is clear from your medical notes and records which have been forensically considered by Dr Maria O’Kane, Consultant Psychiatrist, who has provided a report dated 21 October 2019 that this had a negative impact on your emotional and psychological well-being. Prior to this you had been diagnosed with ADHD and dyslexia. You had a Statement of Special Educational Needs whilst at school due to social, emotional and behavioural difficulties. As long ago as 8 January 2010 when you were 11 psychometric assessment indicated that you fell within the significantly impaired range, something to which I will return. Your adolescence has been characterized by the misuse of alcohol and substances which led to the criminal behaviour to which I have referred. It is also clear from the reports I have received that the conviction for dangerous driving causing death had a profound effect on you. The Probation Service confirm that you worked well during a licence period imposed after your release from custody in relation to that offence and it is significant that you have not come to the attention of the court since that time.

[103] I have received a report from Dr O’Kane, Consultant Psychiatrist, and also a report from Dr Mark Davis, Consultant Clinical Psychologist, who carried out a preliminary assessment of you at Musgrave Street Police Station on 17 December 2015 and carried out detailed assessments on 15 January 2016 and 25 January 2016.

[104] These reports demonstrate that you are an extremely vulnerable individual. You have a history of low IQ, full score 62 and the intellectual and reading abilities of a 7-8 year old child.

[105] According to Dr Davis you fulfil the criteria for “mental handicap” as defined by the Mental Health (Northern Ireland) Order 1986 that is you suffer from a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning.

[106] The pre-sentence report assesses you as being of a medium likelihood of re-offending but not as someone who poses a significant risk of serious harm. I agree with both these assessments.

[107] It is now over four years since you were involved in these offences. As I have indicated earlier a four year delay can have a significant impact on a young person such as yourself. Many people suffer significant traumas in life and suffer from intellectual impairment but do not involve themselves in criminal offending. The

courts must mark criminal conduct with punishment when appropriate and must ensure that the public is protected.

[108] The nature of your offending on the night in question is such that I must consider imposing a custodial sentence. However, I must also have regard to your personal circumstances and the very detailed and helpful history I have obtained from the medical reports and the pre-sentence report. I consider that there is evidence of significant improvement and maturity subsequent to your period on licence in 2018. I note Dr O’Kane’s comments in her report to the effect that:

*“I am concerned about Mr Lewis being imprisoned. When last incarcerated this was within the juvenile justice system with higher well trained staff ratios and less access to drugs than prison. Although this experience was challenging it was also supportive. In Hydebank he is likely to be exposed to drugs, bullying and intimidation because of his IQ and will struggle to cope with this because of his severe mental health problems. It is for the court to decide but his mental health will benefit most from being supported to attend therapeutic and vocational services by probation.”*

[109] The probation report does suggest that probation supervision would be of value to you. The report states that:

*“Should the court be minded to consider community based sentences, the defendant would benefit from a period of supervision during which he would be expected to engage with counselling services in relation to alcohol misuse as relapse remains an issue particularly when he suffers low mood or is faced emotionally challenged situations.”*

The probation report also assesses you as being suitable for community service and that both the option of probation and community service is available by way of a combination order.

[110] I have decided that the appropriate disposal of your case is the imposition of a combination order under Article 15 of the Criminal Justice Order 1996. I consider this is appropriate so that you can make some reparation to the community for your offending but also because you need probation supervision to reduce the risk of re-offending 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. I emphasise that this is not an easy option and will require significant work for you to undertake in accordance with the conditions I propose to impose. Any failure to comply with the order will result in you being returned to court in which case it is highly likely that you will be sent to prison.



[111] I understand that you are willing to consent to a combination order – is that so? That being so I propose to deal with your case by way of a combination order. The probation order element shall be for two years. I attach the following additional requirements:

- (i) You must engage in an alcohol/drug counselling and/or treatment programme.
- (ii) You shall present yourself in accordance with the instructions given by the Probation Officer to attend the Probation Service to participate actively in alcohol/drug counselling and/or treatment programme during the probation period and to comply with the instructions given by or under the authority of the person in charge.
- (iii) In addition you must actively participate in any programme of work recommended by your supervising probation officer which is designed to reduce any risks you may present and attend and co-operate in assessments by PBNI as to your suitability for programmes or other offence focused work.

I order that you must complete 40 hours of community service. The combination order is in respect of both Counts 5 and 6 to run concurrently.

### **Daniel McGrath**

[112] Daniel McGrath on Count 5 you have pleaded guilty to the offence of affray. This is based on the fact that you were involved in the fighting which resulted in an attack on Ryan Morris and Steven Woods. You are not charged with assaulting either of these men or of encouraging others to do so. You are not charged in relation to the death of Christopher Meli. It is clear from the evidence that you yourself were the victim of an assault when you were attacked at the Indian Takeaway at Laurel Glen. It appears from the statement of the owner of the restaurant that the assault was a relatively serious one and that you were kicked on the ground in the course of the assault. You sustained an injury to your nose.

[113] Tragically it was this assault which triggered the subsequent events which led to the death of Christopher Meli and your involvement in the affray involving the assaults on Ryan Morris and Steven Woods. It is clear that a group of people gathered and chased Christopher Meli, Steven Woods and Ryan Morris in revenge for the attack on you. The assaults on Ryan Morris and Steven Woods were part of the serious disorder on the night in question which has led to your conviction for affray.

[114] In terms of your culpability I take the view that in terms of the offence of affray it is at the lower end of the possible degrees of participation in this offence. You did not use any actual violence and the display of force necessary to establish

the affray offence relates to your participation in a group of people engaged in serious disorder, some of whom were involved in assaults on Ryan Morris and Steven Woods.

[115] In terms of your personal circumstances you were born on 15 August 1998. At the time of this offence you were still a minor aged 17 years and 4 months. At that stage you had one previous conviction for an assault occasioning actual bodily harm which took place on 18 April 2015 and was dealt with by way of a Youth Conference Order.

[116] As a result of the understandable public disquiet at the death of Christopher Meli you were subjected to unjustified intimidation because of your perceived role in the events that took place. As a result you and your family had to move from your home address to a different area where you have now lived for 4 years.

[117] In the interim it is clear that you have used the time productively. You completed an apprenticeship as a technician with Charles Hurst motors. On the back of that apprenticeship you were able to obtain employment as a vehicle technician and also with a HGV haulage company. You are now fully qualified, although you were recently made redundant through no fault of your own but due to a lack of work.

[118] I have received two references, one from a senior manager in Charles Hurst Group and another who has leased tools to you for your work as a mechanic. Both were aware of the charges you face and the background to the case. They have provided excellent references. In addition, I have also received a personal reference from a local priest who has confirmed that he has known you and your family for many years. He also confirms that you have carried out work for the church on a voluntary basis, helping to clear out buildings and paint fencing connected to the church building. Again, a very positive picture is presented in the reference.

[119] I have also received a pre-sentence report from Probation Board for Northern Ireland which confirms much of the detail to which I have referred. The report assesses that you are at a low likelihood of re-offending and you do not pose a significant risk of serious harm and I agree with both of these assessments.

[120] It is clear that in the intervening period since the commission of this offence you have used the time purposefully and I would expect that you will obtain employment in the near future and on the basis of your valuable qualifications you should be in a position to maintain employment.

[121] In summary therefore I take the view that in relative terms your culpability is low and there is very strong personal mitigation in terms of your youth and the efforts you have made since the commission of this offence to become a useful member of society. You are also entitled to credit for your plea of guilty. You were

very young when you committed this offence and it has meant a significant upheaval for you and your family. There is nothing in your personal circumstances which suggest the need for statutory supervision.

[122] Nonetheless, you were involved in very serious public disorder. Disorder of this type will normally require the imposition of a custodial sentence. I take the view that the appropriate sentence for you is a Community Service Order. I do not consider that there would be any merit in imposing a custodial sentence given your personal circumstances. A Community Service Order will give you an opportunity to engage in reparation for your misconduct on the night in question. Your circumstances and qualifications suggest that the Probation Service should find productive work for you to do. I understand from the report that you would consent to a Community Service Order, is that correct?

[123] Therefore, I impose a Community Service Order of 100 hours in respect of Count 5. You will therefore need to liaise with Probation Service in relation to the appropriate arrangements. In the event of you obtaining employment then the order should be tailored to meet your work commitments.

### **Daniel McManus**

[124] Mr McManus on Count 8 you have pleaded guilty to affray. This is on the basis that you were a part of the group which initially chased the group which included Christopher Meli. There is absolutely no evidence that you engaged in any violence and I accept that you were on the periphery of events. You were in fact originally interviewed as a witness to this matter and were charged on the basis of admissions you made in the course of that interview when you accepted that you were part of the initial group. In the course of the interview you made the case that Ryan Morris was a cousin of yours and you actually sought to intervene on his behalf, something which Morris himself acknowledges in his statement. As I have said already the facts constituting an affray and the possible degrees of participation are extremely wide. I take the view that in terms of the offence of affray your culpability was very much at the lower end.

[125] In terms of your personal circumstances you were born on 21 August 1999 so you were only 16 years of age when you were involved in this serious public disorder. At that time you had no previous convictions. It is clear from the pre-sentence report which I have obtained from the Probation Board for Northern Ireland that not long after the sudden death of your father you began misusing alcohol and drugs. On the night in question you were in the company of a crowd of young people who were drinking alcohol and you became involved after the larger group to which I have referred chased Christopher Meli and his friends, one of whom who was your cousin. Regrettably after this incident you continued with your chaotic lifestyle which was linked with alcohol and drug misuse. This resulted in subsequent offending behaviour, primarily involving road traffic offences

which were dealt with in the Youth Courts. Ultimately a probation order was imposed on you in the adult court in 2018, which you completed successfully.

[126] Since then you appear to have changed your lifestyle. You report that you no longer use drugs and you are about to become a father in the context of a longstanding relationship. Most importantly you are now in full-time employment and have not come to the attention of the courts in the last 2 years.

[127] The probation report assesses you as someone who presents with a low likelihood of re-offending and not someone who presents as a risk of serious harm. I agree with these assessments. I accept that you have matured significantly since the time of the commission of these offences.

[128] You were the first to plead guilty in this trial having done so on 13 September 2019 and you are entitled to significant credit for that.

[129] In view of your low level of culpability and your personal circumstances I have come to the conclusion that a custodial sentence is not appropriate in your case.

[130] I am attracted to the suggestion in the probation report that you might benefit from some further probation supervision, the purpose of which would be to support you to maintain your current stable lifestyle and to ensure that this truly will be your last appearance in court.

[131] I understand from the probation report that you are prepared to consent to a probation order and I therefore impose a sentence of one year's probation in respect of Count 8 to which you have pleaded guilty.

### **Shannon McIlwaine**

[132] Shannon McIlwaine on Count 7 you have pleaded guilty to the offence of affray.

[133] The offence of affray can constitute a wide variety of conduct. As was said by Kerr LCJ in the case of **Attorney General's Reference (No: 1 of 2006)** [2006] NICA 4 when he quoted with approval the comments of Lord Lane CJ to the effect that:

*"The facts constituting affray and the possible degrees of participation are so variable and cover such a wide area of behaviour that it is very difficult to formulate any helpful sentencing framework."*

[134] In your case it is not alleged that you engaged in any violence. Nor is there any evidence to establish encouragement of the attack on the victims of the assaults including Christopher Meli. In short you accept that you were a member of the larger group which initially went to confront the group of which Christopher Meli

was a part. That group was moving and acting in a fashion which amounted to a display of force and therefore constituted the offence of affray. You were not involved in the subsequent assaults on Steven Woods and Ryan Morris and you separated yourself from the group prior to that phase of events. Indeed the evidence against you is based on admissions you made after you had attended the police station voluntarily as a witness rather than a suspect.

[135] In terms of your culpability I am satisfied that it is very much at the lower end of the scale and very much at the lower end of what constitutes an affray.

[136] In terms of your personal circumstances I have received a pre-sentence report from the Probation Board for Northern Ireland and medical reports from Dr Carol Weir dated 25 February 2019 and 7 July 2019, a report from Dr Ciara Totten, Educational Psychologist dated 25 September 2019 and a report from a registered intermediary Ms Tara Thompson. These reports are supplemented by a report from your General Practitioner dated 8 November 2019 and your General Practitioner's notes and records. I have also received a statement from your mother. Other than a restorative caution subsequent to the commission of this offence you had no criminal record. You are entitled to credit for your plea of guilty.

[137] Your date of birth is 10 November 1998 so you were just past your 17<sup>th</sup> birthday at the time of the commission of these offences.

[138] Since these offences were committed you have given birth to two young children who are now aged 22 months and 8 months respectively. You are a single parent responsible for these children but you are greatly assisted by your mother in this regard.

[139] You have a history of mental health problems which have been significant since the commission of these offences. The medical evidence that I have received clearly points to the fact that you are a vulnerable young woman with significant health issues and moderate learning difficulties. These reports of ill health are by no means fanciful and are fully supported by your medical notes and records and the medical evidence I have received which I have considered fully. I do not propose to go into these in any detail but they are clearly significant. The Probation Service regard the likelihood of your re-offending as low and you are not considered a risk of serious harm. I fully agree with these assessments.

[140] I do not consider that your culpability or your personal circumstances would justify the imposition of a custodial sentence in your case.

[141] I have given serious consideration to the possibility of the imposition of a community based order such as a probation order or a community service order or a combination of both but I consider that your personal circumstances are such that this would not be appropriate and that you should continue to care for your children

with the assistance of your mother. I do not consider that it would be proportionate to impose a fine on you given your personal circumstances.

[142] Accordingly, on Count 7 I propose to impose a sentence of a conditional discharge. This will place the onus on you to avoid any further offending and I am satisfied that such offending is unlikely in your personal circumstances. I therefore propose to deal with you by way of a conditional discharge for one year. What that means is that if during the period of that year you commit a further offence you will be liable to be sentenced for this offence as well as the subsequent offence. This will place the onus on you to avoid any further offending and I am satisfied that such offending is unlikely in your personal circumstances.