

Neutral Citation No: [2022] NICC 22

Ref: OHA11883

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

ICOS No: 20/085042

Delivered: 23/06/2022

**IN THE CROWN COURT OF NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE**

THE QUEEN

v

JORDAN KENNEDY

**Mr G Duffy QC with Ms K McKay BL (instructed by the Public Prosecution Service) for
the Crown**

**Mr R Weir QC with Mr J O'Connor BL (instructed by Trevor Smyth & Co Solicitors) for
the defendant**

SENTENCING REMARKS

O'HARA J

Introduction

[1] The defendant has pleaded guilty to the murder of Emma Jane McParland, his own mother. That murder was committed on 22 April 2020. She was 39 years old at the time. The defendant was 21 and is now 23 years old.

[2] On 19 November 2021 when the defendant pleaded guilty to the murder I sentenced him, as required by law, to life imprisonment. In addition, however, Article 5(1) of the Life Sentences (NI) Order 2001 ("the 2001 Order") requires me to decide the minimum period which the defendant must serve in prison before he can be considered for release. Article 5(2) states:

"The part of a sentence specified in an order under paragraph (1) shall be such part as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence,

or of the combination of the offence and one or more offences associated with it.”

[3] Two points should be understood. The first is that the period which I set must be served in full before the defendant’s release can be considered. The second point is that when that period has expired the decision as to whether he can be released is made by the Parole Commissioners. They will consider all of the information which is available to them and form a view about whether it is still necessary for the protection of the public from serious harm that the defendant should be confined in prison – see Article 6(4) of the 2001 Order.

[4] The release of the defendant will not therefore be automatic. Furthermore, if and when he is released he will remain subject to licence conditions for the rest of his life. If he breaches them he faces the prospect of being returned to prison for a further period.

The murder

[5] In the early hours of 22 April 2020 Ms McParland was in the bedroom of her first floor flat in the Ormeau Road area of Belfast. Her friend and her friend’s partner were asleep on a sofa in the living room. The friend was woken at about 1:45am by loud noises coming from the kitchen and the hall. She heard Ms McParland shouting “what are you doing Jordan?” and “stop.” When she opened the door she saw the defendant (who she knew) standing in the hallway. He fled when he saw her. As he did so she saw a knife in his hand.

[6] This friend’s attention turned to Ms McParland who had fallen to the ground. She phoned an ambulance and then tried to help Ms McParland but was unable to do so in any real way. The police arrived followed closely by ambulance personnel but despite their efforts Ms McParland was pronounced dead at 2am.

[7] The pathologist’s report shows that Ms McParland sustained five stab wounds. One of them, in the area of her left breast, was fatal in that it caused the extensive bleeding which led speedily to her death.

[8] The defendant was arrested by the police at 2:10am, about a mile away from his mother’s address. The kitchen knife which he had used to kill her was found at 2:38am in a bin during a search of the area behind her home. It was 32cm long with a blade length of 20cm.

[9] When interviewed by the police the defendant admitted that he had killed his mother. A story emerged that he believed that she was involved in a relationship with one or more of his friends and that he was both angry and humiliated about that because he was being taunted about it in text messages. He said that having taken some cocaine he went to his mother’s flat to confront her. When he arrived he went

into the kitchen and armed himself with a knife. In part this was to harm her but it was also to harm anyone else who he found in her bedroom.

[10] When he saw and confronted his mother in her underwear something snapped in his head, he said. He then stabbed her though he was vague about the details of his attack.

[11] When the defendant was initially arraigned he pleaded not guilty to murder. This plea was entered on advice from his legal representatives for the entirely legitimate reason (in this case) that psychiatric reports were required because of the defendant's significant limitations and issues which will be described further below. Ultimately, when those reports were received and considered the plea of guilty to murder was entered.

Ms McParland

[12] Ms McParland was 39 years old when she died. She was the eldest of five children. It is clear from the heart felt victim impact statements from her mother and sister Danielle, that she was an important and much loved figure in all of their lives. She had faced difficulties in that she and the defendant's father had both struggled for many years with addictions. Each of them had spent time in jail and their three children, of whom the defendant is the eldest, had been taken from their care.

[13] When she was murdered Ms McParland had traces of cocaine and other drugs in her body. This did not prevent her from caring or trying to care for the defendant. The pre-sentence report on the defendant, written by Mr McCann of the Probation Board for Northern Ireland ("PBNI"), records that because of the defendant's significant problems before April 2020 he had met the defendant with his mother on several occasions and had "witnessed the close bond between Mr Kennedy and his mother who was very protective towards him." She was also reported to have been assertive in trying to help him get the support he needed to manage his complex needs.

[14] All of this information establishes that Ms McParland cared for and loved her family, including the defendant and that this love was reciprocated. It is a tragedy almost beyond words that the person who killed her was her own eldest child who she had damaged but had then tried so hard to assist.

The defendant

[15] The defendant had a childhood with no stability of any sort. He lived in many different homes, went to many different schools and witnessed multiple shocking incidents. This was mostly due to the drug addictions, and the effect of the addictions, which his parents suffered from. He and his two younger siblings depended on help from extended family. When a grandfather to whom the defendant was particularly close died in 2014 he suffered another setback.

[16] Psychiatric reports on the defendant are available from July 2015 when he was charged with theft from a shop and was, in the opinion of one psychiatrist, unfit to plead because of a traumatic brain injury suffered in October 2014 which added to pre-existing cognitive difficulties which had been apparent for some years. Those pre-existing difficulties included ADHD.

[17] The October 2014 event has to be considered carefully. The defendant, who was only just 16 and therefore unlicensed, drove a car at dangerously high speeds and caused an accident in which his friend was killed, an elderly person in another car was seriously injured and he himself sustained injuries which left him in intensive care for weeks. The consequence of the severe traumatic brain injury which he suffered was reduced processing speed (cognitive slowing) and some reduction in overall cognitive functioning. He was convicted of causing death and grievous bodily harm by dangerous driving and sentenced on 30 June 2016 to three years in the Young Offenders' Centre ("YOC") and three years on licence.

[18] By 2014 the defendant was already taking drugs. To some degree this appears to have been tolerated and perhaps even facilitated by his parents. Being detained in the YOC did not break the cycle of drug use or other criminal offending. By the time he killed his mother the defendant was still on licence for the driving offences, on probation for drug offences and assaulting the police and subject to a suspended sentence imposed in March 2020 for possession of an article with a knife or blade in public.

[19] Dr Richard Bunn, consultant psychiatrist, reported on the defendant in June and October 2021. In the first of those reports he said as follows:

"8.1 Having examined Mr Kennedy in 2016 and again on two occasions in 2021 this is a complex case involving behavioural difficulties, historic ADHD, polysubstance misuse/dependence, anxiety disorder (the cause of which is not entirely clear but essentially self-medicated with illicit substances) and reported depressed mood.

8.2 Mr Kennedy had been referred into both addiction and mental health services and did not engage with or accept the treatment offered. He frequently did not attend appointments despite efforts by his GP.

8.3 His time in prison has been complicated by his substance use and he frequently is drug seeking. As noted by Dr Bownes he appears to have an external locus of control blaming other people for his difficulties rather than accepting personal responsibility.

8.4 In my opinion the current diagnosis include an adjustment disorder to the vicissitudes of life in prison, polysubstance dependence namely cocaine, a history of brain injury which has resulted in cognitive impairment. In my opinion despite these conditions they are not sufficient to render him incapable of engaging in the proceedings that are before the court."

[20] In each report Dr Bunn concluded that the defendant was fit to plead to the charge of murder.

Pre-sentence report

[21] I have already referred to Mr McCann's very helpful report in the context of describing Ms McParland's care and support for the defendant. In relation to the defendant himself Mr McCann made the following points:

- He has expressed remorse for the two deaths he has caused.
- He was very close to his mother and regarded her as his best friend.
- He is clearly distressed and finding it very difficult to come to terms with killing his mother.
- He will require ongoing support to address his mental health, brain injury and addiction issues.
- He suffers from depression and anxiety and has a history of suicide attempts.
- Support from mental health services within custody along with family support will be imperative.
- It is also imperative that he engages with psychiatry alongside working with addiction services.
- He requires ongoing offence focused work which will depend on recommendations from prison service psychology to ensure the appropriate programmes are completed to address his use of violence, victim issues and consequential thinking.

[22] As was sadly inevitable in all the circumstances, Mr McCann reported that the conclusion reached at a PBNI risk management meeting in February 2022 was that the defendant meets the threshold to be assessed as posing a significant risk of serious harm in that there is a high likelihood of him committing a further offence or offences causing serious harm. For these purposes serious harm means death or serious personal injury whether physical or psychological.

Sentencing principles

[23] I turn now to the sentencing principles which apply when judges are fixing the minimum term which the defendant must serve in prison before being considered for release. There is no dispute between the parties as to those principles which are designed to ensure a level of consistency in sentencing while maintaining scope for judges to exercise some level of discretion in light of the endless variables which become apparent, even in cases which appear similar.

[24] The leading authority in this jurisdiction is *R v McCandless* [2004] NI 269 in which the Court of Appeal adopted the Practice Statement issued by Lord Woolf CJ reported at [2002] 3 All ER 412. The principal sections of the Practice Statement are set out at paragraphs 10-19 and are as follows:

“The normal starting point of 12 years

10. Cases falling within this starting point will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para 12. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph.

11. The normal starting point can be reduced because the murder is one where the offender’s culpability is significantly reduced, for example, because: (a) the case came close to the borderline between murder and manslaughter; or (b) the offender suffered from mental disorder, or from a mental disability which lowered the degree of his criminal responsibility for the killing, although not affording a defence of diminished responsibility; or (c) the offender was provoked (in a non-technical sense), such as by prolonged and eventually 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).

The higher starting point of 15/16 years

12. The higher starting point will apply to cases where the offender’s culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases will be characterised by a feature which makes the

crime especially serious, such as: (a) the killing was 'professional' or a contract killing; (b) the killing was politically motivated; (c) the killing was done for gain (in the course of a burglary, robbery etc.); (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness); (e) the victim was providing a public service; (f) the victim was a child or was otherwise vulnerable; (g) the killing was racially aggravated; (h) the victim was deliberately targeted because of his or her religion or sexual orientation; (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing; (j) extensive and/or multiple injuries were inflicted on the victim before death; (k) the offender committed multiple murders.

Variation of the starting point

13. Whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary the starting point upwards or downwards, to take account of aggravating or mitigating factors, which relate to either the offence or the offender, in the particular case.

14. Aggravating factors relating to the offence can include: (a) the fact that the killing was planned; (b) the use of a firearm; (c) arming with a weapon in advance; (d) concealment of the body, destruction of the crime scene and/or dismemberment of the body; (e) particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time.

15. Aggravating factors relating to the offender will include the offender's previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than to risk.

16. Mitigating factors relating to the offence will include: (a) an intention to cause grievous bodily harm, rather than to kill; (b) spontaneity and lack of pre-meditation.

17. Mitigating factors relating to the offender may include: (a) the offender's age; (b) clear evidence of remorse or contrition; (c) a timely plea of guilty.

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.

19. Among the categories of case referred to in para 12, some offences may be especially grave. These include cases in which the victim was performing his duties as a prison officer at the time of the crime or the offence was a terrorist or sexual or sadistic murder or involved a young child. In such a case, a term of 20 years and upwards could be appropriate."

[25] As has been repeatedly emphasised these paragraphs are guidelines which help the sentencing judge towards the goal of deciding what is the right sentence in each case. This case illustrates how difficult sentencing is even with the benefit of the guidelines.

[26] The prosecution submission is that a higher starting point of 14-15 years is appropriate for this defendant because Ms McParland was a particularly vulnerable victim. She was alone in her own bedroom when she was confronted in the early hours by her son who was armed with a knife. No attack was foreseen in any way and it all happened so quickly that she had no opportunity to defend herself as is evidenced by the absence of defensive wounds.

[27] For the defendant it is submitted that this is a 'normal starting point' case with none of the facts in paragraph 12 of the Practice Statement being properly engaged.

[28] The prosecution then contend that there are significantly more aggravating than mitigating factors as a result of which the sentence might be higher than 14 to 15 years. They suggest the aggravating features to be:

- (i) The killing was planned.
- (ii) The defendant armed himself with a knife before confronting his mother.

- (iii) The fact that only six weeks earlier he received a suspended sentence for possession of a bladed instrument.
- (iv) The fact that he was put on probation in January 2020.
- (v) His earlier relevant record from 2016 for possession of a knife.

[29] The only mitigating factor acknowledged by the prosecution is the guilty plea (which followed the acceptance of responsibility when interviewed) as soon as the psychiatric reports from Dr Bunn became available. It is, however, noted that the case against the defendant was particularly strong.

[30] For the defendant the idea that this was a murder which was planned in any meaningful way is rejected. An emphasis is placed on his remorse and his guilty plea immediately following Dr Bunn's report as well as his relatively young age.

Conclusions

[31] In this most difficult of cases I have concluded that the appropriate starting point is 12 years. By reference to the Practice Statement I consider that the normal starting point might be reduced by the psychiatric and mental health issues set out in a series of reports including most recently those of Dr Bunn. These amount to something akin to a mental disability which arguably lowers the degree of the defendant's criminal responsibility.

[32] As against that, however, is the significant factor that the victim was vulnerable because of her addiction and because the attack took place in the early hours of the morning. In my judgment these factors balance each other out and leave the starting point to 12 years.

[33] There are then significant aggravating factors which I analyse as follows:

- (i) The defendant went to his mother's home to do harm.
- (ii) Before he confronted her he armed himself with a knife from the kitchen.
- (iii) He then used the knife to kill her.
- (v) He had a serious and recent record to the effect that he was on licence, on probation and subject to a suspended sentence.

[34] It is possible to look at the defendant's circumstances from childhood and conclude that he never had a chance in life because of the highly dysfunctional and unstable childhood to which he was subjected. But that is less than the full story. When he was on licence and on probation he had people like Mr McCann trying to help him. In addition, as Dr Bunn has highlighted, there were other opportunities

which were offered to him which he rejected. Those were the chances which regrettably he just did not take.

[35] Furthermore, it is impossible to ignore the fact that he had already caused one death in 2014, in the car crash, before he murdered his mother.

[36] These significant aggravating factors are mitigated to some degree by the fact that he was then only 21 years old and is now only 23. While not a very young man, he is still relatively young.

[37] In addition, he has shown remorse. This has been doubted by his mother's side of the family in their victim impact statements but has come through clearly from the pre-sentence report and from Dr Bunn.

[38] Finally, in terms of mitigation, is his plea of guilty which, as I have already indicated, was entered immediately after Dr Bunn's reports were received and followed on from his immediate acceptance to the police that the killing had been by his hand. While the evidence against him was strong to the point of being overwhelming the defendant is still entitled to have the plea of guilty recognised for the reasons discussed at some length in the recent decision of the Supreme Court in *R v Maughan* [2022] UKSC 13.

[39] The aggravating features which I have identified are extremely serious and raise the appropriate sentence from 12 years to 18 years. Of the mitigating factors by far the most important one is his guilty plea. In all the circumstances, I reduce the sentence to 14 years. That is the minimum period which the defendant must serve in full before he will be considered for release.

[40] Mr McCann has highlighted the importance of the defendant being provided with the right support and services in prison. I agree entirely with his analysis. Turning round the life of this comparatively young man will be quite a challenge. If he shows himself to be interested in accepting services and support it is imperative that they are offered to him and that those offers are repeated even if he initially rejects them.

[41] One of the points which Mr McCann correctly emphasised was how important it is that when in custody the defendant receives support from his family. I understand that there have been some tensions and a degree of acrimony between different sides of the family. While I cannot pretend to understand what they are going through, especially Ms McParland's mother and siblings, I urge them to rally round Ms McParland's three children, including if at all possible, the defendant. Earlier I referred to the moving victim impact statements from Ms McParland's mother and sister Danielle. In addition, I have received a letter from the paternal grandmother, Ms Jean Kennedy. It reflects on how much all three children were damaged and let down, as much by her own son as by Ms McParland. She ends her letter by saying:

“I am heartbroken at the loss of Emma but also for my grandson and my two granddaughters. I can’t begin to imagine how Emma’s mother and siblings feel. The heartbreak I feel for Emma and the children is unimaginable.”

[42] If only for the sake of the two younger grandchildren I hope that the families can find a way through this disaster which assists those children in the future.