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

Delivered: 26/03/2019

IN THE CROWN COURT OF NORTHERN IRELAND SITTING AT BELFAST

R

V

CALLIN WILSON

Her Honour Judge Patricia Smyth

[1] Callin Wilson you have pleaded guilty to the murder of Hazem Ghrier. The only sentence permissible under law for the crime of murder is life imprisonment, and I imposed that sentence on 24 January 2019. It remains for me to determine the minimum term of imprisonment that you must serve before you can be considered for release by the Parole Commissioners. Article 5(2) of the Life Sentences (Northern Ireland) Order 2001 prescribes that the minimum term must be the period the court considers appropriate –

“To satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or the combination of the offence and one or more offences associated with it”.

I am also required by paragraph 25 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 to inform you that the Independent Barring Board will include you on the barred list relating to adults by virtue of your conviction.

[2] The facts are that on 4 June 2017, you fatally stabbed Mr Ghrier with a knife that you had been carrying on your person. Although we cannot be certain, it seems likely that Mr Ghrier had seen you engaged in some inappropriate behaviour such as tampering with a bicycle and in a public spirited way he sought to intervene, running towards you and taking hold of your shoulder.

[3] You were observed removing your right hand from the pocket of your hooded top and making a quick sharp movement towards Mr Ghrier’s chest. It is the prosecution case that that is the point at which you stabbed him.

- [4] Mr Ghrier was able to follow you and restrain you for a period before he collapsed. Your reaction is noteworthy: you gathered up belongings that had fallen out of a plastic bag, telling a taxi driver who had stopped “its fine don’t worry about it”, causing the taxi to drive off.
- [5] You then walked off, returning and putting Mr Ghrier in what has been described as the recovery position. You walked off again and then returned rifling through Mr Ghrier’s trouser pockets and removing his mobile phone. You also picked up the knife and put it in your pocket before making your way to the Tesco express store in great Victoria Street.
- [6] You were apprehended by police as you left the store, and on being searched a black handled knife with apparent blood staining was found. Upon arrest on suspicion of attempted murder you stated after caution “I did not do anything”.
- [7] When you were arraigned before this court you entered a plea of not guilty, but it was indicated that the evidence was agreed and that you were undergoing psychiatric assessment which might give rise to the possibility of diminished responsibility, a partial defence to the charge of murder and further time was needed before advices could be given. The trial was fixed for 22 January 2019.
- [8] In fact, the evidence as to your movements around the time of the fatal stabbing was not agreed. You had given a number of different accounts to police and medical experts, none of which were accepted by the prosecution and indeed have provided yet another account to the probation officer who prepared a presentence report. While medical opinion diverged as to the possibility of a diminished responsibility defence, it was only when you admitted telling lies about your movements, at a very late stage, that medical consensus was reached that you could not avail of that defence. When your legal representatives informed you of the expert conclusion you immediately entered a plea of guilty, on 24 January, after a jury had been sworn.
- [9] You were born on 4 August 1998, and are now 20 years of age. You were 18 when you murdered Mr Ghrier.
- [10] I have received a victim impact report from Mr Ghrier’s brother Rami. It is, first and foremost a tribute to Mr Ghrier, a kind generous person who overcame enormous adversity in search of a new life in Northern Ireland. He was magnetic with people, industrious and determined to succeed whatever obstacles life placed in front of him. In Northern Ireland, Mr Ghrier took every opportunity to educate himself and fit himself for employment. He was working on the night he was murdered.

[11] A great deal of the information in the victim impact statement is personal and I do not intend to make it public, although I have carefully reflected on all of it. The loss of a beloved son and brother has deeply affected his family and their grief is raw.

[12] In R v McCandless [2004] NI 269 and more recently in R -v- Morrin [2011] NICA 24, the Court of Appeal directed courts in this jurisdiction to adopt the approach prescribed by Lord Woolf CJ in the Practice Statement [2002] 3 All ER 412 when fixing the minimum term to be served by an offender convicted of murder. The Practice Statement provides for two starting points. It states -

“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."

[13] The reference in the Practice Direction of 8 to 9 years being the equivalent to 16 to 18 years reflects the notional reduction that judges make to take into account the 50% remission or reduction in actual time to be served in prison, such remission or reduction being built in to the statutory scheme for determinate sentences.

[14] There is one **aggravating factor** in this case. You had armed yourself with a knife and the fact is that Mr Ghrier would not have died if you had not been carrying the knife. It is accepted that you did not arm yourself with the intention of harming anyone, and you have explained your motivation as fear of attack. There is no evidence that you were ever the subject of attack, and

there is evidence that you were fascinated by knives. In any event, all of your behaviour has to be seen in the context that you have a mental disorder.

[15] The **mitigating factors** in this case are -

- you are a young man, aged 18 at the time of this offence, and appear before the court with a clear record.
- although you had armed yourself with a knife, the attack was spontaneous in nature, there was no premeditation in relation to confrontation with Mr Ghrier and a single stab was delivered with modest force.
- the prosecution accepts that it is not possible to be sure whether you intended to kill or rather to cause Mr Ghrier really serious injury. I have taken into account your history, your presentation and the evidence surrounding the circumstances in which Mr Ghrier died. I am sentencing you on the basis that you intended to cause really serious injury, rather than to kill for the following reasons:

(a) You stabbed Mr Ghrier once but had the opportunity to inflict further wounds upon him, particularly after he collapsed, and you did not do so.

(b) Secondly, an independent witness observed you attempting to place Mr Ghrier in what has been described as the recovery position. While you did not seek help from a passing taxi driver, that does not assist in determining your mental state at the time of the fatal stabbing. At most it confirms that you understood the nature of your conduct. All of your behaviour in the aftermath was bizarre and is indicative of a mentally disordered person.

- the fact that you do have a mental disorder.
- finally, you have never denied responsibility for killing Mr Ghrier, although given the CCTV footage and the eyewitness evidence there was little scope for you to do so. You pleaded guilty as soon as it was clear that you could not avail of the partial defence of diminished responsibility.

[16] Although you have expressed regret and some understanding of the impact of your actions you have shown little emotion. However, that has to be seen in terms of your inability to express emotion generally and the fact that lack of empathy, an impulse to lie and evade responsibility are features of your mental disorder.

[17] What is clear is that reaching a tariff that reflects a proper evaluation of the aggravating and mitigating factors in light of your mental disorder is complex.

[18] I have considered the various medical reports , notes and records and I wish to commend your legal team for their meticulous work in identifying relevant excerpts from your medical history. It has been enormously helpful.

[19] There is clear evidence that you were developmentally delayed from infancy. Learning difficulties, communication difficulties and social impairments were observed from early childhood. You were referred to the child and adolescent mental health services by your GP in November 2010 in relation to serious threats to self-harm, but failed to attend appointments.

[20] It is also apparent that there were difficulties in your home life and social services were involved from an early stage. You appear to have been deeply affected due to family bereavement, changes in your family structure and loss of contact with family members.

[21] A report from Dr PJ Kennedy, consultant in clinical and forensic psychology dated 31 December 2014 to social services is particularly informative. There were concerns about impulsive and opportunistic behaviour, cruelty to animals and inappropriate sexual behaviour. From 2013, social services had identified a requirement for you to be supervised at all times. That included full-time supervision by two assistants at all times in school, one of whom was to be male, increasing to three members of staff in December 2013. Concerning incidents in school included trying to put wire around a female teacher's neck from behind, and reports that you were looking at knives in the kitchen. Although work was undertaken regarding your concerning behaviour, it is reported that strategies did not appear to be put into practice.

[22] Concern was reported about your unhealthy interest in TV programmes depicting crime scenes, school reported attempts to access sexual material and your mother expressed fear that you would do something or that something would happen to you. Her prediction has tragically come to pass with the murder of Mr Ghrier.

[23] Dr Kennedy opined that it was not possible to state with certainty whether you would or would not commit offences sexual, violent or otherwise, but concluded that the risks (unmanaged) were significant though essentially unquantifiable. He made a number of safety recommendations premised on the assumption that you would have a safe, stable, and reliably supervised living environment. Two of those recommendations require particular attention:

- That robust measures be put in place for your effective supervision within the community.
- That there should be robust multiagency risk management, appraisal and community monitoring to include intelligence sharing with the local police,

which [would] assist them in the event that they needed to come into contact with [you] but also from a broader risk management and safeguarding perspective.

[24] In 2014 when those recommendations were made, you were aged 16, and living at home. At the time of Mr Ghrier's murder, two and half years later, you were living alone in accommodation for homeless young people without any discernible supervision of the nature recommended by Dr Kennedy. Your GP noted a conversation with a social worker in January 2017, who confirmed that you were currently not under the care of any service and that although there was an awareness about your vulnerability and the vulnerability of others you did not fit any formal service.

[25] Questions need to be asked how the safety net deemed necessary to protect both you and innocent members of the community failed to emerge, so that tragedies like this do not happen in the future.

[26] You are assessed by the Northern Ireland Probation Board as presenting a high likelihood of reoffending and you are also assessed as presenting a significant risk of serious harm to the public. Although I am not required to publicly reach an assessment regarding risk of serious harm because of the special arrangements in place for murder convictions, I am required to do so in respect of the indecent images charges which are also before the court.

[27] Having carefully considered all of the evidence before me, there is no question that you pose a significant danger to others.

[28] It is accepted that the nature of Mr Ghrier's murder puts this case in the category with a starting point of 12 years before consideration of aggravating and mitigating factors. It is important to understand that the sentence of the court is a *life sentence*. The periods that I will be stating are *minimum* terms of imprisonment that must be served before the Parole Commissioners can consider if it is appropriate to release you back into the community on licence.

[29] The use of a weapon, particularly a knife, will always significantly increase the risk of serious or fatal injury and is therefore a serious aggravating factor. Taking into account that aggravating factor, the starting point is 14 years. In light of *all* of the mitigating factors, that starting point is reduced by 3 years. That reflects not only your mental disorder, but an evaluation of all the factors in that context.

[30] I turn now to credit for your plea. I have taken account of the guidance in R v Turner and Turner [2017] NICA 52, regarding the correct approach to the reduction in the tariff to reflect a guilty plea to the offence of murder. At paragraph 27, the court said:

“Each case clearly needs to be considered on its own facts but it seems to us that an offender who enters a not guilty plea at the first arraignment is unlikely to receive a discount for a on re- arraignment greater than one sixth and that a discount for a plea in excess of five years would be wholly exceptional even in the case of a substantial tariff. We have concluded, however, that it would be inappropriate to give any more prescriptive guidance in this area of highly fact sensitive discretionary judgement. Where, however, a discount of greater than one sixth is being given for a plea in a murder case the judge should carefully set out the factors which justify it in such a case.”

- [31] The not guilty plea at arraignment was the result of necessary medical investigations to ascertain whether the partial defence of diminished responsibility would be open to you. However, those investigations were protracted because of your late admission that you had lied regarding your movements at the time of the murder. Whilst an impulse to lie is a feature of your mental disorder, I have taken that into account in reducing the appropriate starting point from 14 years to 11. I do not consider that it would be appropriate to allow greater discount for the late plea than would otherwise be the case, for the same reason.
- [32] In those circumstances, I consider that you are entitled to in or around one sixth reduction to reflect your plea of guilty. Whilst you had never disputed responsibility for Mr Ghrier’s death, your lying accounts of your movements meant that witnesses were required to confirm the truth of what happened until a very late stage, and the impact of the delay on Mr Ghrier’s family was exacerbated. The tariff therefore is 9 years.
- [33] That is the minimum period that you will serve, less any period spent on remand in custody. After you have served that period, it will be for the parole Commissioners to determine when, if ever, you are safe to be released back into the community to serve out the remainder of your life sentence on licence.