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| <i>Judgment: approved by the court for handing down (subject to editorial corrections)*</i> | ICOS No: 24/012910 |
| | Delivered: 26/06/2025 |

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

THE KING

v

MARC DOAK

**Mr G McHugh KC with Mr D McNeill (instructed by the Public Prosecution Service) for
the Crown
Mr E McDermott KC with Mr S Devine (instructed by Breen Lenzi Maguire Solicitors) for
the Defendant**

SENTENCING REMARKS

O'HARA J

Introduction

[1] The defendant was originally charged with the murder of Ryan McNab who died on 21 October 2022. In March 2025, the defendant pleaded guilty to the serious but lesser crime of manslaughter. That development came after the prosecution indicated that it would accept a plea to the lesser charge. In effect, the prosecution accepted, quite rightly in my judgment, that it could not be established that the defendant intended to kill Mr McNab or to cause him serious harm.

[2] It is against that background that I must now pass sentence on the defendant. I am grateful to counsel for their very helpful oral and written submissions. Notwithstanding that assistance, I am left with the task of trying to solve a problem for which there is no easy right answer – what is the correct sentence to pass on this defendant who has taken the life of Mr McNab but did not intend to do so?

Circumstances of the case

[3] In October 2022, Mr McNab was 31 years old. The defendant was 24 – he is now 27. The two men had never met each other and did not know each other at all before 21 October. It is clear that when they did meet they were both heavily under the influence of drink and to some extent drugs. The defendant had been drinking for 2-3 days, possibly longer, but Mr McNab was even further under the influence according to toxicology evidence.

[4] A prosecution witness, a lady who is to be known as J, went to the home in Rathcoole, Co Antrim, of another woman who is to be known as K, at about 4:30pm on 21 October. J and K knew each other, most recently from the two of them having been in rehabilitation together a few years earlier. When J arrived, Mr McNab was already there. He and K were very drunk. Mr McNab was aggressive in that he slapped both women. The police were called when he refused to leave. After he eventually left, he sent K a text saying, “you are dead.”

[5] At some point around this time Mr McNab’s path crossed with that of the defendant. This may have been after K contacted the defendant, in effect, asking for his help because of Mr McNab’s conduct. In any event, the two men went to the defendant’s flat where they continued drinking. Initially, this seems to have been friendly enough, but according to the defendant, the only surviving witness, the mood turned after Mr McNab suggested going back to K’s flat, breaking into it and scaring her and J. Mr McNab was also reported by the defendant as having said that he did not mind if this resulted in him going back to jail.

[6] Since the defendant had not previously met and did not know Mr McNab, he was not to know that Mr McNab had a criminal record, but the reference to going back to jail would inevitably have indicated that his new acquaintance was familiar with trouble. After a further exchange, the defendant asserts that Mr McNab went for him with a vodka bottle and struck him on the head, close to his temple.

[7] A police body map of the defendant shows a mark on the area described by the defendant as being where he was struck by Mr McNab. That then led to a fight or wrestling match which ended with the defendant, who had some basic knowledge of mixed martial arts, holding Mr McNab in a chokehold position. Tragically, this led to Mr McNab’s death.

[8] When he realised or began to realise what he had done and that Mr McNab might be more than unconscious, the defendant called K, in a panic. At that stage he appears to have kicked the body of Mr McNab and slapped his face, not to inflict more injury but to demonstrate that Mr McNab was not responding.

[9] The defendant then rang 999 for an ambulance. He said that he had acted in self-defence after being attacked. At the direction of the ambulance service operator, he started CPR to try to revive Mr McNab. The police and ambulance service

arrived within a few minutes of each other. To the police, the defendant gave essentially the same description of what had happened, that he had acted in self-defence. A paramedic noted that the flat was “a complete mess with blood and broken glass everywhere.” This seems to me to be a description which is consistent with two extremely drunk men having had a fight.

[10] It is worth noting at this point that in October 2022, the defendant’s left arm was in a cast because of an injury which he had suffered a few weeks earlier.

[11] The post-mortem report of Dr Ingram, Assistant State Pathologist, concluded that “the cause of death was features consistent with neck compression.” Dr Ingram then continued:

“The absence of facial congestion and fine pin head sized haemorrhages in the lining of the eyes and on the face, findings often seen in cases of strangulation, suggest two possibilities. The first is that the pressure had been applied very tightly thereby occluding the blood flow to the head and thereby preventing the formation of the haemorrhages and facial congestion. If this were the case, the pressure would have had to have been applied for a period of some minutes in order that irreversible brain damage would occur and that consciousness would not be regained following release of the applied pressure. The other possibility is that the pressure to the neck triggered a reflex cardiac arrest, or heart attack which is a well-recognised, although quite uncommon phenomenon, in cases of strangulation ...

The autopsy also revealed a short segment of moderate narrowing (50%) of one of the coronary arteries of the heart. If the mechanism for death had been a reflex cardiac arrest, and not as a result of more prolonged neck compression, this may have contributed to his death.”

Victim statements

[12] I have been provided with victim statements from Mr McNab’s mother and from his daughter. In her statement, Mrs McNab describes that each and every day is a “terrible nightmare.” She describes panic attacks, exhaustion and endless nights sitting in tears. She also says that she has a constant reminder of what is missing when she looks at her granddaughter, Mr McNab’s daughter. Her statement concludes as follows:

“Hopefully one day I can look at a picture or mention his name and smile instead of breaking into a million pieces, but that day is a long way off.”

Then she adds:

“No one in this world is perfect, but my son did not deserve to die in the way he did, especially at the hands of someone who does not seem to regret his actions or care for the turmoil it has placed onto the lives of the whole family circle.”

[13] The statement from Mr McNab’s daughter is even more heartrending. By a tragic coincidence he died on her eighth birthday. As a direct result of that she says that:

“Instead of looking forward to my birthdays now, I have to remember that this is the day my daddy was killed and relive that horrible day over and over. Instead of seeing him again, I have to go to his grave. I have been robbed of so many things that I know would have made my daddy proud – my last day of primary school, my first day of high school, my formal, when I get older and one day get married or have babies, he won’t be there for anything.”

[14] She also describes how she gets upset when she goes past places where her daddy once took her. Her statement ends with the following:

“People in school and after school clubs pick on me and make fun of me because I don’t have my daddy anymore. I get really upset when people leave voice messages on my phone because it reminds me of the one my daddy left me the night he was killed. I miss my daddy every day, I miss telling him about how I am doing at school and I hope I am making him proud.”

Pre-sentence report

[15] Mr S Gibson of the Probation Board for Northern Ireland, has provided a very helpful pre-sentence report which is of great assistance to me in deciding the sentence which is appropriate in this case. I note at the start that Mr Gibson’s analysis and conclusions have not been challenged in any way by either prosecution or defence. The following main points emerge from the report:

- (i) The defendant started using cannabis at the age of 12 and left school at about 15 without any qualifications. He has a very limited employment history and had little or no structure in his life because of the effect of drug use on his mental health. Some level of paranoia was one of the problems which his drug use caused him. He also abused alcohol. One of the consequences of this lifestyle is that he has played little or no part in the raising of his own two children.
- (ii) While the defendant was initially granted bail, he was rearrested in December 2024 for possession of Pregabalin, a breach of his bail conditions. He accepted a caution for that offence. During the last six months or so in prison, he has finally shown signs of trying to sort his life out, but he is at an early stage in doing so.
- (iii) In his interview with Mr Gibson, the defendant acknowledged that Mr McNab had a daughter and he was able to discuss how he would not forgive himself for taking Mr McNab away from her. He extended his apologies to Mr McNab's family and wider circle of associates, saying that while he will never truly understand the pain and suffering they are experiencing, he is remorseful for the impact this has had on their lives. Mr Gibson's report suggests that this remorse is genuine.
- (iv) The defendant also recognised his own need to gain stability in the long term and has expressed a willingness to engage with various services, both inside the prison and with the Probation Board on his release.
- (v) Mr Gibson's view was that since the defendant has no prior convictions and there are no further matters pending before the courts, the defendant poses only a medium likelihood of reoffending. The factors which make the likelihood medium rather than low are matters such as substance misuse, limited problem solving skills, poor coping skills and longstanding mental health concerns.
- (vi) An important part of the pre-sentence report is the assessment of risk of serious harm to the public. The Probation Board assesses an individual to be a significant risk of serious harm if there is a high likelihood of that individual committing a further offence which will cause serious harm. Serious harm is defined as including death or serious personal injury, whether that injury is physical or psychological. In this defendant's case the assessment by the Probation Board is that the defendant does not present a significant risk of serious harm at this time.
- (vii) The conclusion reached in the pre-sentence report is that the defendant poses a medium likelihood of reoffending and that he is aware that he faces a custodial sentence. Various steps are proposed as part of his sentencing plan including actions to be taken upon his release from prison. Without setting

those recommendations out in detail, I agree with Mr Gibson that those are the sort of steps which will reduce or continue to reduce the risk of this defendant committing further offences.

Submissions

[16] For the prosecution, Mr McHugh KC, suggested that the level of the defendant's culpability in this case is high because the chokehold carried a high risk of death or serious harm, a fact which was known or ought to have been known to the defendant given his background in mixed martial arts. In addition, he suggested that there are five aggravating factors in the present case:

- (i) The offence was committed when the defendant was under the influence of alcohol and drugs.
- (ii) The impact on J and K who witnessed the immediate aftermath of the killing.
- (iii) The defendant's actions after the killing when he could be heard and seen kicking Mr McNab's body to prove that he was dead.
- (iv) The use of strangulation.
- (v) The fact that Mr McNab was vulnerable by reason of his intoxication.

[17] The prosecution referred also to the element of deterrence as discussed recently by the Court of Appeal in *Byrne* [2024] NICA 75, particularly at paras [8] and [9].

[18] For the defendant, Ms McDermott KC, submitted that self-defence was raised from the very start and maintained as the explanation and justification for the defendant's actions until the guilty plea was entered. That proposition has two consequences, she suggested. The first is that the defendant's culpability in this particular case is low, especially considering the autopsy report which suggested that a possible explanation for Mr McNab's death is a reflex cardiac arrest. The second consequence identified by Ms McDermott is that the defendant is entitled to have his guilty plea given full recognition when sentencing is considered.

[19] The defence then challenged the prosecution list of aggravating factors set out above, largely on the basis that they are not truly aggravating factors at all. For example, the fact that the mechanism of death was strangulation is not, or may not, be an aggravating factor at all – it is simply how this tragic death was caused.

[20] In terms of mitigation, it was submitted that the major features are:

- (i) That Mr McNab was the aggressor.

- (ii) That the chokehold may have been of brief duration.
- (iii) That the intention of the defendant was to incapacitate Mr McNab rather than to injure him.
- (iv) The defendant's reaction was spontaneous.
- (v) His clear record.
- (vi) His remorse.
- (vii) His plea of guilty.

Conclusion

[21] The death of Mr McNab in October 2022 came about in truly miserable and totally avoidable circumstances. Two very drunk men, who only an hour or two earlier did not even know each other, got into a fight which was probably started by Mr McNab and which resulted in his death. While the defendant caused that death, he had no intention to do so, nor had he even any intention to cause significant harm. Insofar as he had any intention in his drunken state, it was to defend himself and subdue Mr McNab.

[22] I do not regard this as a case of high culpability. It would be different if the defendant was a highly trained martial arts fighter who abused the training he had received by attacking Mr McNab. On the evidence before me, his level of training was basic and he was defending himself, rather than instigating an assault.

[23] The fact that Mr McNab was vulnerable by being drunk, is largely negated by the fact that he was the aggressor, and it was reasonable in the circumstances for the defendant to respond by defending himself. Furthermore, the defendant's actions after he realised Mr McNab was dead or might be dead, rather than just asleep or unconscious, were grossly insensitive but were not taken with any intention to desecrate the body of Mr McNab. I infer that in his state of shock he was showing on the phone the state that Mr McNab appeared to be in.

[24] So far as the suggested mitigating factors are concerned, setting aside for the moment the plea of guilty, I accept that at its height this was an act of self-defence which strayed into unlawful killing, but only perhaps by a narrow margin. In other words, Mr McNab did not die as a result of a prolonged violent attack, but as a result of an act of self-defence which went on for just too long. There is also evidence of the defendant's remorse for his actions.

[25] I also accept that, regrettably, Mr McNab was probably the aggressor on this occasion as he had been earlier in the evening with J and K. That does not for a moment mean that his death was in any way warranted or justified, but it is relevant

to the culpability of the defendant and to the extent to which he poses a risk of causing serious harm in the future. Both of these factors are relevant to the sentencing exercise.

[26] The absence of a criminal record on the defendant's part may not be a mitigating factor, as much as it is the absence of an aggravating factor, but it is a sign that if the defendant finally follows through on the initial steps which he has taken to put his life in order, then there will be little risk of future violent offending.

[27] I agree with the prosecution that there is a need to deter people from this type of offending, but in the case of this particular defendant, that is not a significant factor when it comes to sentencing.

[28] The range of sentencing in manslaughter cases is very broad. While mitigating factors have been advanced on behalf of the defendant, it is not suggested for him that it would be inappropriate to send him to jail. Taking everything into account, I conclude that while a life has been taken, this case falls at the lower end of the sentencing range. Before allowing some reduction of the sentence for the plea of guilty, I assess the proper sentence to be one of four years in prison. In reaching that conclusion, I recognise two points in particular:

- (i) I cannot possibly impose a sentence which will make good what happened in October 2022. Tragically, Mr McNab's family, particularly his mother and his daughter, will always have to live with the loss of Mr McNab. That is a loss that they will feel deeply and constantly. The fact is that he was their son and father and no one can take his place.
- (ii) If the defendant turns his life around, he is likely to avoid trouble in the future, but he is only at the very start of that road. After a life which has to date been largely aimless and wasted, he will find the work which he has to do, the work identified by Mr Gibson in his report, as challenging. He will need to accept all of the support which he is offered when in prison and on his release from prison on licence. Only if he does that, will he begin to make good the harm which he has caused.

[29] It is part of our criminal justice system to recognise, in appropriate cases, that there is a value to a plea of guilty. Part of that value lies in the fact that Mr McNab's family has heard the defendant admit his guilt in public. Another part, perhaps particularly relevant in this case, is that it saves the family and everyone else from having to hear witnesses give evidence about the grim events of 21 October 2022 which culminated in Mr McNab's death.

[30] In recognition of the guilty plea, I will reduce the sentence from four years to three years. Under the system fixed by Parliament (not by judges) that means that the defendant will serve 18 months in custody and will then be released on licence for the second part of his three year prison term. Since he has already served

approximately six months in custody, he will be released in roughly 12 months' time. On his release he will have to comply with the conditions which are imposed on him at that time. If he breaches his licence, he is liable to be returned to prison to serve out the remaining part of his sentence in custody.