

Neutral Citation No: [2025] NICC 24

Ref: [2025] NICC 24

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

ICOS No: 24/074053

Delivered: 29/08/2025

**IN THE CROWN COURT OF NORTHERN IRELAND
SITTING AT DOWNPATRICK CROWN COURT**

THE KING

v

ELIZABETH BATES

HHJ MILLER KC

Charges

[1] The defendant pleaded guilty on arraignment on 12 December 2024 to counts 1 and 3 on the indictment. The remaining charges were listed for trial on 14 May 2025. On 6 May 2025, she pleaded guilty to count 2. Thereafter, count 3 was amended by agreement to encompass the behaviour in the original count 4 and this count was left on the books in the usual terms. She therefore falls to be sentenced for the following:

Count 1 24 August 2022 – attempting to pervert the course of justice (unlimited at common law)

Count 2 26 August 2022 – attempting to pervert the course of justice (unlimited at common law).

Count 3 30 August 2022 – attempting to pervert the course of justice (unlimited at common law).

Facts

[2] On Tuesday 23 August 2022, the defendant contacted police claiming that she had received a series of emails which she believed were being sent from an ex-partner, Samuel Chan, whom she had dated in 2016.

[3] On Wednesday 24 August 2022, she made a police statement (Exhibit 8) setting out these allegations. Count 1 arises from the making of this statement. In the police statement she alleged the following:

- (a) On Monday 22 August 2022 at 12:35 she had received an email from an email address youhate702@gmail.com saying:

“38 Talbot Street, White trees, am I still in your head.”
[This was her home address at the time].

- (b) Later that day at 23:29, she received a further email from the same address saying:

“I guess I am. You should know by now I’ve got eyes everywhere. Think that pansy boyfriend is going to protect you. He’ll leave eventually just like you husband did. You are trash after all, only time you looked hot was begging be not to have sex with you. My girl’s pussy is nothing like yours, I even told her that. Do anything to feel it one more time. We both know I get what I want. Play victim all you want we both know you secretly liked it. Probably beg me to fuck you if I was there. Maybe it’s my turn to knock you up, seems like you let any guy do so.”

- (c) On Tuesday 23 August 2022 at 13:21, she received an email saying:

“You always did suit pink.” She said that she had been wearing a pink and black top that day.

- [4] She later emailed police screenshots of these emails.

- [5] On Thursday 25 August 2022, she made an application to the Magistrates’ Court in Newtownards and was granted an ex-parte non-molestation order against Mr Chan based on these allegations (CM9 – Exhibit 11).

- [6] On 26 August 2022, the defendant made a further police statement which contained more allegations (Exhibit 5). Count 2 arises from this statement. In this statement, she alleged:

- (a) Her son (then aged three) went to the back door and said that there was a “bad man” outside.
- (b) Shortly after this, at 17:30 on Wednesday 24 August 2021, she was sent a video on Snapchat from a Snapchat account called hateyou702 showing the back door of her house.
- (c) The next day, Thursday 25 August 2021, at 20:45, she let her dog out into her back garden, leaving the back door unlocked. Two men entered the house, one wearing a balaclava and one having his face covered by a scarf. She claimed that they assaulted her by putting a ligature round her neck and tightening it.

While this was happening, they also sexually assaulted her, by ripping off her top and groping her buttocks, waist and breasts. One of them purportedly while doing this, said, "Sam was right, you do have nice tits."

[7] She then made two further police statements on 30 August 2022. Count 3, as amended, relates to both statements.

[8] In the first statement, she set out more detail of the allegations relating to Wednesday 24 August 2022. She alleged:

- (a) At 17:20, her son (then aged three) went to the back door and said that there was a "bad man" outside, pointing to the back garden.
- (b) She looked out but did not see anyone.
- (c) Aiden repeated that there was a bad man out there, but she told him there was no one there.
- (d) Shortly after this, at 17:26, she received a friend request from a Snapchat account called hateyou702 which she opened to see a four second video showing the back door of her house in which her son could be both seen and heard talking about the bad man.

[9] In the second statement, she set out further allegations connected to the burglary and sexual assault. She alleged:

- (a) A pink folder with "Sam" written on its spine, had gone missing from the bedroom of her daughter (then aged four months), following the burglary. This folder contained paperwork relating to Mr Chan.
- (b) £20 had gone missing from the hot press.
- (c) A letter had been found in one of the children's pillowcases threatening her children if she did not withdraw her police statement against Mr Chan. It told her to email him at a work address.

[10] Police commenced an investigation. Mr Chan was arrested on 31 August 2022 at 11:55am. His home was searched on that date, when his computers and electronic devices (both personal and work) were seized and sent for examination. He was released on police bail at 7:18pm and remained on bail until 7 June 2023, when he was ruled out of police enquiries. His devices were then returned to him on 29 June 2024.

[11] As part of the investigation, police made enquiries with Google to find the IP address from which the youhate702@gmail.com emails had been sent. These showed that the emails had been sent from a device connected to the defendant's home broadband account.

[12] This information led police to arrest the defendant on 25 October 2022 and question her about the emails. She denied sending them but was unable to explain why they had been sent from her broadband address. She denied making a false report relating to the burglary and sexual assault.

[13] Police had seized the defendant's phone on 6 September 2022, and this was sent for examination. This showed that the serial number and IMEI number on the phone were the same as those linked to the youhate702@gmail.com email address, showing that the emails had been sent from the defendant's own phone.

[14] The defendant was further interviewed on 1 August 2023. In this interview, she admitted sending herself the emails and Snapchat message and to creating the letter implicating Mr Chan and threatening her if she did not withdraw her police statement. She continued, however, to maintain that the burglary allegation was not fabricated.

Victim statement

[15] The court is in receipt of a victim statement, dated 7 June 2025, prepared by Mr Chan. Understandably, his life and that of his partner, were greatly affected by these false allegations. He was placed in a police cell for several hours and then subject to bail conditions for 10 months, during which time he could not enter Newtownards. Electronic equipment including some belonging to his employer, was seized for investigative purposes and this meant he had to inform his employer as to why it was not available. This obviously caused him distress and embarrassment together with a fear that as the primary wage-earner in the household, what would be the consequences should he lose his job. Clearly this impacted on his mood, his level of anxiety and his relations with both his partner, friends and colleagues. One can only imagine how these fabricated and wholly malicious allegations would have taken their toll on anyone and particularly one who has never been in trouble with the law. Having his name cleared and, thus, being vindicated does not diminish the harm that has been caused to him.

[16] Before turning to assess the defendant in her life-setting, it is important to note that when she spoke to Dr McDonald ((Educational Child & Adolescent Psychologist) for a report dated 17 June 2025, the defendant chose to repeat unfounded and baseless accusations regarding her previous relationship with Mr Chan. This does not sit well with any assertion of remorse or contrition on her part and on the contrary, I view this as a further example of the defendant's manipulative and self-serving attitude.

[17] The court is in receipt of the pre-sentence report prepared by Liza Morgan (PBNI) dated 17 June 2025, with addendum dated 24 July 2025, which together with Dr McDonald's report and the written submissions of Mr McConkey KC (leading Mr Magee) have assisted in the approach to the sentencing exercise in this complex case.

Defendant's background

[18] The defendant is a 26-year-old woman who is married to the father of her youngest child (aged three years old). She has been in a relationship with her husband for four - five years, but they do not live together currently as he provides care for his mother.

[19] The defendant has two other children, aged six and seven, from a previous relationship, both of whom reside with her. The youngest child has sensory issues and suspected Autistic Spectrum Disorder (ASD) and it is believed that the eldest child has the same condition. As a result of the index offences probation made a referral to Social Services who attempted to identify alternative arrangements for care of the defendant's children should she receive a custodial sentence. Whilst the defendant has complied with this request for alternative caring arrangements for her children, she instructs that she is concerned for her children's welfare given the risk of custody in this case.

[20] It is recorded that the defendant had a traumatic childhood characterised by abuse from her father. As a result, she has limited contact with her father and brother but enjoys ongoing support from her mother and sister. The defendant left school at 16 years having achieved 10 GCSEs, mostly at A & B grades and moved to England to live with her boyfriend. Following the breakdown of that relationship she returned to Northern Ireland and lived with her father. It was at this time that she met the victim of the index offences with whom she formed a relationship. The defendant worked in a call centre at that time but has not worked since 2017 due to physical and mental health difficulties. Her income is derived from welfare benefits, and she has experienced financial difficulties, accruing debts for which she is addressing through an Individual Voluntary Arrangement (IVA). The defendant is studying part-time at university and is involved in her local church where she assists with summer schemes and the Girls' Brigade. The defendant has no issues with drugs and alcohol.

[21] The defendant's adult life has been severely affected by poor physical and mental health. She has multiple physical diagnoses including Postural Orthostatic Tachycardia Syndrome (POTS); Gastroparesis (she is fitted with a nasal feeding tube because of this); seizures; Functional Neurological Disorder (FND); and Ehlers-Danlos syndrome (EDS). The defendant's EDS led her to use a wheelchair for 18 months from 2020 and the defendant continues to use a walking aid or rollator from time to time. The complex interplay between these conditions means the defendant spends much of her time attending hospital appointments and hospital accident and emergency departments.

[22] The defendant has a significant psychiatric history and has been treated in the past as a psychiatric in-patient in the Downshire Hospital. The defendant is diagnosed with Emotionally Unstable Personality Disorder and is awaiting assessment for potential Bi-Polar Disorder. The defendant has also experienced hallucinations (both

auditory and visual) in the past and has attempted suicide on several occasions. The defendant's mental health was particularly poor at the time of the index offences, she having just given birth to her youngest child at 31 weeks term, and the defendant believes she was suffering from post-partum depression during the period of her offending. The defendant is treated as a mental health outpatient and has been referred to the Adult Autism Assessment Service but has been awaiting assessment since May 2024.

[23] Mr McConkey outlines the defendant's explanation for the offences and frankly he acknowledges that her stated motivation and justification will be viewed with extreme scepticism by the court. Whether she had an honest belief that she or her family was at risk from some quarter is open to doubt, but it is patently obvious that she chose to frame Mr Chan and in so doing involve her own son in an unwitting role in her scheme. This was nothing short of wickedness on her part.

[24] It is submitted on the defendant's behalf that her offending is out of character, given she has no previous convictions, but nevertheless PBNi assess her as a high risk of reoffending given her poor health and lack of consequential thinking, as well as the attention seeking behaviour that was involved in the offending which remains unaddressed.

[25] Ms Morgan also assesses the defendant as having unmet treatment needs which need to be addressed to reduce the risk of further offending. This could be catered for either as part of licence conditions or through a period of probation supervision. This would take the form of a trauma informed and gender responsive approach.

Aggravating and mitigating features

[26] The court considers the effect upon Mr Chan of the fabricated and malicious accusations levelled against him by the defendant as the core aggravating factor in this case. Mr McConkey acknowledges that the wider implications so far as the effect upon the administration of justice was also significant in that policing resources were tied up with investigating the defendant's false reports, though the case against Mr Chan never resulted in charge or appearance at court.

[27] In terms of mitigation, counsel submits the following:

- (i) The defendant has no criminal record.
- (ii) She suffers from serious physical and psychiatric illness and her poor mental health contributed to the commission of the offences.
- (iii) She is the primary carer for three young children.
- (iv) The defendant endured a traumatic childhood.

- (v) The defendant has pleaded guilty.
- (vi) A significant period has elapsed since the commission of the index offences.

[28] Mr McConkey also includes remorse as a mitigating factor. For the reasons previously given, I find very little to support a conclusion that there is evidence of genuine remorse or regret at her actions shown by this defendant.

[29] I do accept, however that given the guilty pleas entered to two of the counts at arraignment and after the instruction of senior counsel, the court should allow close to the maximum reduction of one third on the sentence that would otherwise have applied had the defendant been convicted of these counts after a contested trial.

Sentencing considerations

[30] Perverting the course of public justice is a very serious offence for reasons that are all too obvious. Public trust in the fair administration of justice from investigation of complaint to conclusion of trial, is a fundamental requirement of the efficacy of our system in a democratic and free country. Any act designed to subvert that trust harms both the individuals caught up in the deceit and society in general.

[31] There are several authorities relevant to the approach sentencing courts should take and counsel have referred to one of the more recent in this jurisdiction, namely *R v McAllister and others* [2018] NICA 45. The then Chief Justice, Sir Declan Morgan stated therein, at paras [8]-[9]:

“[8] It is common case that there are no sentencing guidelines in relation to the offence of perverting the course of justice but that is a consequence to some extent of the fact that this offence can be committed in a very significant and different numbers of ways each of which will have different consequences in relation to culpability and deterrence.

[9] The test in relation to these cases of this sort was set out in the *R v Tunney* [2007] 1 Cr App Rep (S) 62 and it is agreed that there are really three features which need to be taken into account when looking at the appropriate sentences. The first is the seriousness of the substantive offence, the second is the nature or degree of persistence in the conduct and the third is the effect of the attempt in relation to the administration of justice.”

[32] In the present case, the allegations against Mr Chan were undoubtedly serious but not as serious as perhaps, allegations of sexual assault or extreme violent acts. As noted above the defendant persisted in her false accusations and concocted ever more

elaborate strands to her deceitful weave. So far as the effect was concerned, whilst the case did not progress to charging of the victim he was kept in a state of suspense for 10 months as the investigation progressed. There was, consequently, a significant impact upon both the victim and the administration of justice in the waste of valuable police resources and time.

[33] Balancing these various factors, I consider that had the defendant been convicted of these charges after a contested trial, she would have faced a sentence of not less than 18 months. Applying the reduction of one third takes that sentence down to 12 months.

[34] Mr McConkey submits that there is precedent for the court to consider an alternative to immediate custody - *R v Robb & others* [2024] NICC 16. The thrust of his argument in support for such an approach in the case of this defendant, is her caring responsibilities in respect of her children. In the conclusion to her report, Dr McDonald opines that there would be a significant detrimental impact on the defendant's children if she were to receive a sentence of immediate imprisonment. Ms Morgan has confirmed in her addendum report that she concurs with Dr McDonald's assessment.

[35] The court has also been referred to the relatively recent decision of *R v Devlin* [2023] NICA 71, wherein the Northern Ireland Court of Appeal considered, approved and applied the guidance outlined in *R v Petherick* [2012] EWCA Crim 2214 which set out a comprehensive checklist of factors which must be balanced when considering the impact of a sentence of imprisonment upon others, principally children, reflecting the impact of article 8 of the ECHR. Paras [17]-[25] of *Petherick* set out the checklist of factors to be considered, and which were reproduced in full in *Devlin* at para [27].

[36] Mr McConkey helpfully refers the court to the following helpful extract from *Lin & Others* [2023] NICA 11, wherein the court also applied the principle of mercy in respect of two female applicants who were the single mothers of young children. The court outlined at para [86] that:

“It has long been recognised in the world of sentencing that there is scope for a merciful disposal. In the jurisdiction of Northern Ireland this is illustrated in Attorney General's Reference (No 2 of 1992) [unreported, 18 June 1993]. In that case a suspended sentence of imprisonment was imposed on an offender who had been found guilty by jury verdict of one count of burglary and one of causing grievous bodily harm with intent, committed after he had broken into the home of and physically attacked an elderly man. His sentence was referred, unsuccessfully, by the Attorney General to the Court of Appeal. The factors which combined to merit the assessment that the suspended sentence was an appropriate disposal were the offender's

age (21), his clear record and a psychologist's assessment that he was of low intelligence and would be vulnerable in a prison setting."

[37] In the conclusion to Ms Morgan's report, she recommends an enhanced combination order as an alternative to custody. Given the total sentence is one of 12 months, this court is obliged to consider this option and for the reasons set out in the reports and the defence submissions focusing on the needs of her children, I shall accede to that application. I make it clear, however, I do so not out of any sympathy for the defendant, who, all matters being equal, richly deserves to be going to prison today.

[38] Although Ms Morgan recommends the minimum 40 hours' of Community Service, I consider that the defendant is perfectly capable of carrying out more hours and she will just have to knuckle down and fulfil the requirements of the order, failing which she may well find herself back before this court and sent to HMP Hydebank.

Sentence

All counts – ECO – 75 hours' Community Service plus three-year Probation Order.

[39] The terms of the probation element should reflect those set out in the conclusion to Ms Morgan's report with reference also to the recommendations made by Dr McDonald.

Ancillary Order

Restraining order in respect of protecting Mr Chan – five years