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

**ICOS No:**

**Delivered: 09/09/2025**

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

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**THE KING**

**v**

**SEAN FARRELL  
and  
CIARAN MAGUIRE**

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**RULING No.5**

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**APPLICATION TO ADDUCE THE CONVICTION OF SEAN McVEIGH**

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**Liam McCollum KC and David McNeill (instructed by the PPS) for the Crown  
John Larkin KC and Joseph O'Keeffe KC (instructed by Phoenix Law) for Sean Farrell  
Michael Ivers KC and Seamus McIlroy (instructed by Brentnall Solicitors) for  
Ciaran Maguire**

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**ROONEY J**

***Introduction***

[1] The defendants Sean Farrell and Ciaran Maguire are charged with the following offences: (a) attempted murder, contrary to article 3(1) of the Criminal Attempts and Conspiracy (NI) Order 1983 and common law; and (b) possessing explosives with intent to endanger life or cause serious injury, contrary to section 3(1)(b) of the Explosive Substances Act 1883.

[2] The particulars of the offences are that, on 18 June 2015, they attempted to murder a member of the PSNI and that they unlawfully and maliciously had in their possession or under their control an under vehicle improvised explosive device ("UVIED") with intent by means thereof to endanger life.

[3] Sean McVeigh, a co-accused, was charged with the same offences. On 8 February 2019, His Honour Judge Fowler KC (as he then was) found Sean McVeigh guilty of attempted murder and possession of explosives with intent to endanger life.

[4] The prosecution seeks to rely on the said convictions of Sean McVeigh and to adduce the convictions through the statutory gateways as provided in articles 72 and 73 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (hereinafter PACE 1989). The statutory equivalents in England & Wales are sections 74 and 75 of the Police and Criminal Evidence Act 1984 (hereinafter PACE 1984).

[5] At para [23] of the prosecution opening, the following is stated:

“... although the court might very well come to the conclusion that McVeigh was the person who planted the device on the underside (of the police officer’s car), the prosecution case is simply that he was one of a number of people who were involved in the joint enterprise to plant the device. There is no need to ascribe his particular role. He, in fact, was convicted by Judge Fowler on 8 February 2019.

[6] In my ruling No.3 (an application to adduce the convictions of Sean McVeigh and the timing of the application), I decided that, for the reasons given, the prosecution should postpone its application to adduce the McVeigh convictions until after the defence application of no case to answer on the discrete issue as to whether the evidential and legal constituents of the offence of attempted murder have been proved in this case. This matter was determined in my Ruling No.4. The contextual background to the application to adduce the McVeigh convictions remains as detailed in my Ruling No 3. For the sake of completeness, the analysis of the relevant statutory provisions and caselaw will be repeated below.

### *The legal framework*

[7] Article 72 of PACE 1989 (as amended) provides as follows:

#### **“72.— Conviction as evidence of commission of offence**

**72.—**(1) In any criminal proceedings the fact that a person other than the accused has been convicted of an offence by or before any court in the United Kingdom...or by a Service court outside the United Kingdom shall be admissible in evidence for the purpose of proving that that person committed that offence, where evidence of his having done so is admissible, whether or not any other evidence of his having committed that offence is given.

(2) In any criminal proceedings in which by virtue of this Article a person other than the accused is proved to have been convicted of an offence by or before any court in the United Kingdom or by a Service court outside the United Kingdom, he shall be taken to have committed that offence unless the contrary is proved.

(3) In any criminal proceedings where evidence is admissible of the fact that the accused has committed an offence, in so far as that evidence is relevant to any matter in issue in the proceedings for a reason other than a tendency to show in the accused a disposition to commit the kind of offence with which he is charged, if the accused is proved to have been convicted of the offence –

- (a) by or before any court in the United Kingdom; or
  - (b) by a Service court outside the United Kingdom, he shall be taken to have committed that offence unless the contrary is proved.
- (4) Nothing in this Article shall prejudice –
- (a) the admissibility in evidence of any conviction which would be admissible apart from this Article; or
  - (b) the operation of any statutory provision whereby a conviction or a finding of fact in any criminal proceedings is for the purposes of any other criminal proceedings made conclusive evidence of any fact.”

[8] Section 74 of PACE 1984 and Article 72 of PACE 1989 were passed in order to reverse the common law rule that convictions of one person in earlier proceedings were inadmissible as evidence of guilt of another in subsequent proceedings (see *Blackstone's Criminal Practice 2025* at F12.6).

[9] Article 73 PACE 1989 sets out the evidential requirements for proving a conviction which are satisfied by the production of the relevant certificate of conviction. Under Article 73(1), the facts upon which the conviction rests may be established by the production of any document admissible in evidence of the conviction by “the contents of the complaint, indictment or charge sheet on which the person in question was convicted”, as well as by means of any other admissible evidence.

[10] The convictions of Sean McVeigh followed a hearing by HHJ Fowler KC sitting without a jury. The critical issue in this application is whether the McVeigh convictions are admissible, and if so, whether they have the potential to operate unfairly against the accused.

[11] Article 72 PACE 1989 provides a powerful weapon to the prosecution's armoury. Unless carefully managed, this provision has the potential to operate in a highly unfair manner by risking convicting defendants on the basis of guilt by association. For those reasons, a court's discretion to admit evidence that would have an adverse effect on the fairness of the proceedings pursuant to Article 76 of PACE 1989 takes on a particular significance.

[12] The application of article 72 PACE 1989 is subject to the exclusionary discretion in article 76 of PACE 1989 (section 78 PACE 1984). Article 76 provides as follows:

**"76. Exclusion of unfair evidence**

(1) In any criminal proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it."

***Relevant Case law***

[13] A review of the relevant case law and guidelines in respect of articles 72, 73 and 76 of PACE 1989 (sections 74, 75 and 78 PACE 1984) is as set out in *Blackstone's Criminal Practice 2025* at F12.10-20 and *Archbold 2025* at 9.19-9.25. I have considered in detail the said paras.

[14] Two recent decisions in the Court of Appeal in England & Wales have reviewed the applicable case law, namely *R v Stevens (Jack)* [2020] EWCA Crim 280 and *R v Horne (Joshua)* [2020] EWCA Crim 487.

[15] The prosecution submit that the facts in *Stevens* are particularly relevant to the index case. The facts are as follows. The deceased, who had previously been involved in incidents with the defendant and members of his gang, was pursued whilst on foot by the defendant and another man on bicycles. The defendant rang a member of an associated gang who joined them on his bicycle. A youth and another man, both on bicycles, also joined the group. Together, with their faces covered, they pursued the deceased. The youth stabbed the deceased who died a few hours

later. The defendant fled to Spain. The youth, the associated gang member and the man who first accompanied the defendant were charged with murder. The youth pleaded guilty, and the others were convicted after trial. The defendant was extradited from Spain and charged with murder. At the defendant's trial, in addition to relying on evidence of, inter alia, his gang membership and the earlier incidents, the prosecution applied to adduce evidence pursuant to section 74 of PACE 1984 of the youth's and the two others' convictions for murder. The defence contended that the evidence of the convictions was inadmissible under section 74 or, alternatively, should be excluded on grounds of unfairness pursuant to section 78. The judge granted the prosecution's application, and the defendant was convicted.

[16] Stevens appealed against the conviction on the grounds that:

- (i) The convictions of others involved in the attack had no relevance to the issues at his trial and the judge should not have admitted them in evidence pursuant to section 74 of PACE 1984;
- (ii) The evidence should have been excluded pursuant to section 78; and
- (iii) The evidence of the man who first accompanied the defendant added nothing under section 74 but rather caused irreparable unfairness.

[17] The Court of Appeal dismissed the appeal. Having reflected on the relevant case law, to include *R v S* [2007] EWCA Crim 2105; *R v Denham* [2016] EWCA Crim 1048 and *R v Shirt* [2018] EWCA Crim 2486, the Court of Appeal reached the following conclusions at paras [35] to [40]:

- (a) Section 74(1) of PACE 1984 [article 72(1) PACE 1989] can only be used where evidence that a person other than the defendant (hereinafter 'X') committed an offence was relevant and admissible. If section 74(1) does apply, it provides a means of proving that X committed his offence making it unnecessary for the prosecution to prove again that which had been established against X by his conviction, and it did not prevent the prosecution from adducing other evidence that X committed the offence. (see para [35]).
- (b) The effect of section 74(2) PACE 1984 [article 72(2) PACE 1989] is that the admissibility in evidence of the conviction did not automatically conclude the issue of whether X committed the offence. The defendant can still dispute, that fact although he takes on the burden of proof in doing so. (Para [36]).
- (c) By section 75 PACE 1984 [article 73 PACE 1989] the contents of the indictment on which X was convicted are admissible in evidence for the purpose of identifying the facts on which the conviction was based, which is without prejudice to the adducing of other admissible evidence for that purpose. (Para [37]).

- (d) It is always necessary when considering admissibility under section 74 PACE 1984 [article 72 PACE 1989] to analyse the purpose for which it is sought to adduce the fact that X committed his offence and the extent of any facts which it is sought to prove under the ancillary provisions of section 75 [article 73 PACE 1989]. The need for a careful and fact-specific analysis is required. (Para [38]).
- (e) Where evidence of X's conviction is in principle admissible pursuant to section 74 PACE 1984 [article 72 PACE 1989] and the real issue is whether that evidence should be excluded pursuant to section 78 PACE 1984 [article 76 PACE 1989] the important question will be whether and, if so to what extent, X's conviction imports complicity into the crime on the part of the defendant. Significantly, the Court of Appeal stated that a convenient test would be whether an issue would be closed off by evidence of X's conviction. In this regard it would be necessary to consider whether X could not or could scarcely be guilty of the offence unless the present defendant were also guilty. Such will be a fact-specific decision in each case. (Para [39]).
- (f) There may be no unfairness in admitting a conviction under section 74 PACE 1984 in cases involving an allegation of joint enterprise in which there is no substantial issue as to whether the crime was committed and the main issue for the jury is whether the defendant was party to the crime. (see *R v Denham* [2016] EWCA Crim 1048 and *R v S* [2007] EWCA Crim 2105). (Para [39]).
- (g) When the court is considering exclusion of the evidence under section 78 [article 76 PACE 1989], the task for the court is better described as an exercise of judgement rather than an exercise of pure discretion. (Para [40]).

[18] The Court of Appeal further stated that in cases involving joint enterprise, juries have to consider the acts and intentions of each alleged participant separately regardless of whether they were tried separately or together. (Para [44]).

### *Purpose of adducing evidence of the conviction*

[19] As stated above, Article 72 of PACE provides that a conviction of a person other than the accused "shall be admissible in evidence for the purpose of proving that that person committed that offence, where evidence of his having done so is admissible, whether or not any other evidence of his having committed that offence is given."

[20] The Court of Appeal in *Stevens* at para [39] expressly endorsed the dicta of Hughes LJ in *R v S* [2007] EWCA Crim 2105 paras [16]-[18]. At para [18], Hughes LJ stated as follows:

"18. It remains a proper approach, we are satisfied, that if there is no real question but that the offence was

committed by someone and the real issue is whether the present defendant is party to it or not, evidence of pleas of guilty is likely to be perfectly fair, though of course each case depends upon its own facts. However, it also remains true that such evidence may well be unfair if the issues are such that the evidence closes off the issues that the jury has to try.”

[21] Applying the guidelines in the case law to the facts in this case, I am satisfied that Sean McVeigh’s convictions are admissible in evidence under article 72 PACE 1989 for the purpose of proving that he committed the offences of attempted murder and possession of explosives with intent to endanger life. The convictions are clearly relevant to the factual circumstances and the issues in these criminal proceedings. There is no real question that the offences were committed. The convictions provide a means of proving that McVeigh committed the said offences, thereby making it unnecessary for the prosecution to prove again that which had been established against McVeigh by his convictions. Sean McVeigh’s convictions do not prove complicity in the offences on the part of the defendants.

[22] The issues in this trial are whether the court is sure that Farrell and Maguire were in the vehicles alleged to have transported or escorted the explosive device to Eglinton and whether they intentionally encouraged or assisted the attack on the PSNI officer and that they did so with the intention that the police officer would be killed. This court has to consider the acts and intentions of each defendant separately, and in this respect, the position of each defendant will be no different from what it would have been if they had stood trial jointly with Sean McVeigh.

[23] Therefore, pursuant to article 73 PACE 1989, the contents of the indictment on which Sean McVeigh was convicted are admissible in evidence for the purpose of identifying the facts on which the conviction was based.

***Whether evidence of the convictions should be excluded under Article 76 PACE 1989***

[24] In *R v Stevens*, the Court of Appeal stated at para [39]:

“...As the decisions in *R v S* [2007] EWCA Crim 2105 and *R v Denham* [2016] EWCA Crim 1046 show, there may well be no unfairness in using section 74 in cases involving an allegation of joint enterprise in which there is no substantial issue as to whether the crime was committed and the main issue for the jury is whether the defendant was party to that crime.”

[25] However, the Court of Appeal further stated at paras [39 and [40]]:

“39. Where evidence of X’s conviction is in principle admissible pursuant to section 74 and the real issue is whether that evidence should be excluded pursuant to section 78, the important question will be whether, and if so to what extent, X’s conviction imports complicity in the crime on the part of the defendant. As Hughes LJ put it - in words which we think are a convenient test of whether an issue would be closed off by evidence of X’s conviction - it is necessary to consider whether X could not or scarcely could be guilty of the offence unless the present defendant were also guilty. This, obviously, will be a fact-specific decision in each case....

40. When exclusion under section 78 is being considered, we respectfully agree with the court in *Denham* that the task of the court is more appropriately regarded as an exercise of judgement rather than as an exercise of pure discretion.”

[26] In *R v Denham* [2016] EWCA Crim 1048, Simon LJ, giving the judgment of the Court of Appeal, confirmed that evidence admissible under section 74 [article 72] should be excluded if its admission would be unfair in the particular circumstances. However, he observed at para [39] that:

“The admission of prosecution evidence will often raise difficulties for a defence; but it is unfairness to, and not difficulties for, the defence which is the key.”

[27] In this case, the prosecution seeks to prove that Ciaran Maguire and Sean Farrell, with the intention to kill, were engaged in a joint enterprise with Sean McVeigh in the planting of a UVIED below the vehicle of a PSNI officer. Essentially, the prosecution must prove that the principal in the joint enterprise, alleged to be Sean McVeigh, performed an act that was more than merely preparatory and with the intention to kill and, furthermore, that Farrell and Maguire, as accessories, intended to assist or encourage the commission of the substantive offence by the principal, with knowledge of the existing facts. The prosecution must also prove that each was guilty of possession of explosives with intent to endanger life.

[28] The prosecution submit that Sean McVeigh’s convictions are admissible in evidence under article 72 PACE 1989 for the purpose of proving that he committed the offences of attempted murder and possession of explosives with intent to endanger life. It is submitted that the convictions are clearly relevant to the factual circumstances and the issues in these criminal proceedings. As stated above at para [21], I agree with this submission.



[29] The defence submit that the admissibility of Sean McVeigh's convictions is unnecessary and disproportionate because it is not in dispute that a UVIED was placed under the police officer's vehicle. Furthermore, it is argued that the introduction of the McVeigh convictions will shut off defences available to the defendants, resulting in unfairness to the defendants and should be excluded pursuant to article 76 of PACE 1989.

[30] In *R v Heather Ramsey* [2016] NICA 13 at para [22], the Court of Appeal provided guidance as to the process which a court should adopt when considering Article 76 of PACE 1989:

"Article 76(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989, provides that the Court may refuse to allow evidence which in all of the circumstances 'would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.' There are three steps to the process. The first is to have regard to all the circumstances. The second is to determine whether the admission of the evidence would have an adverse effect on the fairness of the proceedings. Fairness involves a balance between the interests of the prosecution and the interests of the defence. The third step is to exclude evidence where the adverse effect would be such that the Court ought not to admit the evidence. This aspect concerns the adverse effect on the defendant."

[31] Having carefully considered the written and oral submissions which were comprehensively advanced by senior counsel on behalf of Farrell and Maguire and also the dicta of the Court of Appeal in *Stevens* at para [39] (see para [25] above), I am unable to accept that the admission into evidence of the convictions is unfair. I do not accept that the admissibility of Sean McVeigh's convictions will close off the issues which I have to decide and will have the effect of shutting down any defences.

[32] As stated above, the issues in this trial will include, whether I am sure, based on the evidence, that the defendants were in possession of explosives with intent to endanger life or cause serious injury, and as accessories, with knowledge of the existing facts, intentionally encouraged and assisted McVeigh in the planting of the UVIED and did so with the intention that the police officer would be killed.

[33] Resolution of those issues requires the court to focus on the acts and the intentions of each defendant in the context of all the evidence. In any case in which the prosecution alleges a joint enterprise, the prosecution must prove that the defendant committed a particular act to assist or encourage the commission of an offence and also an intention to assist or encourage the commission of the offence with knowledge of any existing facts necessary for it to be criminal, together with a

specific intent necessary for the offence. Accordingly, the court has to consider the acts and intentions of each alleged participant separately, and in that respect, the position of Farrell and Maguire is not different from what would have been the situation if they had stood trial jointly with Sean McVeigh.

[34] Evidence of Sean McVeigh's convictions may raise difficulties for both Farrell and Maguire since the evidence confirms they were stopped in a VW Passat in which McVeigh was a passenger outside Lifford, Co Donegal, following a pursuit by the AGS. However, the key question, as stated in *R v Denham*, is not whether the admission of the conviction evidence will cause difficulties for the defence, but rather whether it is unfair. Counsel for Sean Farrell argue that the fact that he was in the rear seat of the vehicle in the Republic of Ireland, *after* the conduct for which McVeigh was convicted, does not provide a basis in relevance for the admissibility of the McVeigh convictions. I disagree. The convictions are relevant to the issues in this case, although I remain conscious of the words of Morgan LCJ in *Shivers* [2013] NICA 4 in relation to joint enterprise that "the Crown must prove that an accused participated before or during the commission of the crime, assisted the principal and intended to assist him."

[35] In his defence statement at para [4], Sean Farrell states that he "was not involved in or present at the deployment of an explosive device at 41 Glenrandel, Eglinton on 18 June 2015." Furthermore, at para [6], he states that he "was detained following pursuit of a VW Passat vehicle in County Donegal in the early hours of 18 June 2015 (and) he was not in this VW Passat at any time when it is said to have been in Northern Ireland." At para [7] of his defence statement, Sean Farrell states that he "was not in the VW Passat vehicle for any purpose connected to the offences on the Bill of Indictment. He was only in the VW Passat vehicle in the Republic of Ireland for the purpose of car theft."

[36] Having carefully considered the competing submissions and having balanced the admissibility of the convictions against a potential unfairness to the defendants, in my judgment, the McVeigh convictions will not prevent Sean Farrell from advancing his defence, which in essence is that he was not in the VW Passat or indeed any other vehicle alleged to have been in Northern Ireland and, consequently, he was not part of a joint enterprise and he did nothing to assist or encourage or procure the planting of the UVIED, with the intention to kill. Also, the admission of Sean McVeigh's convictions into evidence will not close off any challenges to the cogency and admissibility of the evidence, particularly the CCTV and ANPR evidence, the explosive trace forensic evidence, other forensic evidence and the essential legal ingredients required for proof of joint enterprise attempted murder and possession of explosives with intent to endanger life.

[37] In respect of Ciaran Maguire, independent of Sean McVeigh's convictions, it is essential that I consider all the evidence, taking into account such evidence (if any) Maguire may give in explanation for his actions and intentions. If Maguire gives evidence of an innocent association or that he was innocently caught up in the

wrongdoing of others, then I will carefully assess that evidence which will not be closed off by the admission of McVeigh's convictions. If Maguire chooses not to give evidence, as stated above, the admission of Sean McVeigh's convictions into evidence will not shut off any defence put forward that he was not involved in any joint enterprise and close down any challenges to the cogency and admissibility of the evidence against this defendant, particularly the forensic evidence and the CCTV and ANPR evidence.

### *Decision*

[38] In the exercise of my judgment, having carefully balanced the competing submissions and with the particular focus on the issue of fairness as required by article 76, it is my decision that the McVeigh convictions are to be admitted into evidence pursuant to article 72 PACE 1989. The prosecution seeks to use McVeigh's convictions in proof of the fact that he planted the UVIED and that he was in possession of explosives with intent to endanger life or cause serious injury. There is little or no issue that the offences were committed. The real issue is whether the defendants were engaged in a joint enterprise with McVeigh. The admission of McVeigh's convictions does not prove that Farrell and Maguire jointly participated in the offences of attempted murder and possession of explosives. Far from it. In my judgment, the admission of the evidence of Sean McVeigh's convictions will not have the effect of closing off the very issues that this court, sitting without a jury, has to decide. A central issue will be whether, based on the evidence, the court is sure that the defendants engaged in a joint enterprise with Sean McVeigh and whether the defendants were in possession of explosives with intent to endanger life or cause serious injury, and as accessories, intentionally encouraged and assisted in the planting of an explosive device and did so with the intention that the police officer would be killed.

[39] Any defence raised or to be raised by the defendants will not be closed off by the evidence of McVeigh's convictions. Any challenges to the cogency and admissibility of various aspects of the evidence, particularly the CCTV and ANPR evidence, the explosive trace forensic evidence, other forensic evidence and the essential legal ingredients required for proof of joint enterprise attempted murder and possession of explosives with intent to endanger life remain live and will not have been shut off by the admission of McVeigh's conviction.

[40] Accordingly, the convictions of Sean McVeigh will be admitted under article 73 PACE.