

Judicial Communications Office

26 February 2026

COURT DISMISSES CONVICTION AND SENTENCE APPEALS IN RELATION TO THE MURDER OF IAN OGLE

Summary of Judgment

The Court of Appeal¹ today, dismissed appeals against conviction brought by Glenn Rainey, Walter Alan Ervine and Robert Spiers for the murder of Ian Ogle on 27 January 2019. Jonathan Brown and Mark Sewell had pleaded guilty to the murder. The court also dismissed appeals against sentence brought by Ervine, Rainey, Brown and Sewell, upholding the tariff of 20 years in the case of Ervine and Rainey and 17½ years in the case of Brown and Sewell on the basis that they pleaded guilty. Spiers did not appeal his sentence.

Background facts

The Crown case was circumstantial and based on CCTV footage; telephony evidence; eyewitness testimony; forensic evidence including DNA; a knife recovered near Spiers' home consistent with a missing knife from his set; and evidence of flight from the jurisdiction by Rainey, Ervine and Brown. Background evidence of earlier confrontations in 2017 was admitted as bad character relevant to motive and association. The judgment included a summary of the background facts in paras [5]-[37]².

The conviction appeals

The trial judge sat without a jury pursuant to the Justice and Security (Northern Ireland) Act 2007. The appeals related to several common grounds as well as individual grounds raised by Rainey, Ervine and Spiers. The common grounds were summarised as follows:

- The trial judge's failure to recuse himself having decided not to admit the evidence of an expert in relation to the CCTV evidence;
- The manner in which he drew adverse inferences from the appellants' failure to give evidence;
- The inferences he drew from the appellants leaving the jurisdiction;
- The admission of the background material relating to the events in 2017; and
- The judge's failure to grant a no case to answer application.

The appellate test is whether the convictions are safe (*R v Pollock* [2004] NICA 34). In non-jury trials, an appellate court may scrutinise a judge's reasons but will rarely disturb primary findings (*R v Murray et al* [2015] NICA 54). The appellate court can consider how the first instance court drew an inference beyond reasonable doubt in relation to the charge.

(i) Spiers

¹ The panel was Keegan LCJ, Colton LJ and Kinney J. Keegan LCJ delivered the judgment of the court.

² The facts are set out in full in the Crown Court judgment reported at *R v Rainey, Ervine and Spiers* [2024] NICC 32.

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Amongst the individual grounds submitted on behalf of Spiers were that:

- He was not involved in the background events in 2017 and so motive could not be ascribed to him;
- There was no cell phone evidence link to him;
- The judge did not reflect the fact that he stayed in the jurisdiction rather than leave like other appellants;
- There was an explanation for him lying to police about his mobile which was that he wanted to distance himself from events; and
- The judge paid too much weight to the knife evidence, and it could not be said that this was the murder weapon.

This appeal was about whether there was sufficient evidence upon which the judge could reasonably draw inferences and/or establish strands of circumstantial evidence against Spiers. The court considered the trial judge was more than entitled to find as he did. In particular, the court found on a holistic view that the judge was entitled to find that Spiers was intimately connected with Brown by virtue of the telephony evidence, he knew about the assault on Neil Ogle, thereafter he was connected again to Brown through telephone evidence, his phone was silent during a highly relevant period and never recovered. Spiers lied to police about all of this and so his credibility was undermined. Perhaps most crucially in Spiers' case, the court found that the evidence of the knife found in the river close to his house when an identical type of knife was missing from his house was logically evidence that a judge can consider more than coincidental in linking him to this murder:

"This judge has applied meticulous care to a case which involved many strands of evidence to find Spiers guilty of murder. [This appeal] distils into the amount of weight placed on various strands of evidence by the judge. This argument was ambitious to start with but cannot succeed on a proper analysis of the judge's findings. We agree with the judge's finding that there were strong strands of evidence against Spiers as he says which were threefold. We therefore dismiss this appeal on all grounds presented orally or in writing."

(ii) *Ervine*

The individual appeal points submitted on behalf of Ervine related to:

- The weight applied by the judge to clothing;
- The judge placed too much weight the events in 2017 because of a temporal gap between this evidence and the murder in 2019;
- He placed too much weight on the telephony evidence;
- Ervine's removal from Northern Ireland to Scotland was planned and the judge placed too much weight on that and, in particular, this was important given that Ervine voluntarily returned to the jurisdiction;
- Whilst the judge could draw an inference from Ervine's failure to give evidence, this should be viewed in context of the case and as such he could not realistically say any more.
- Overall, counsel maintained that the judge did not properly analyse the evidence particularly the telephony evidence and should therefore have granted an application for

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no case to answer and/or rejected the circumstantial case made by the prosecution against Ervine.

As with Spiers, the judge found parts of the prosecution case of probative value against Ervine and others not. The court was entirely satisfied that the judge made permissible inferences from the evidence particularly telephony, the ongoing part in the feud, and leaving the jurisdiction. It found that Ervine was clearly part of an incident in 2017 which formed a highly relevant background to this case in that he was one part of the faction that attacked the other faction comprising Ian Ogle. While the court understood counsel's submissions that there could be other explanations for the telephone traffic, it said that is to underestimate the entirety of the telephony evidence which must be read as a whole. It considered that Ervine's departure from the jurisdiction within a very short time of the murder was clearly material and had not been explained. As such, the judge was entitled to draw an adverse inference:

"This was patently a case where there were matters which Ervine needed to explain as regards his connections and associations with Brown and Sewell who pleaded guilty to murder, his leaving the jurisdiction and his telephone activity with other members of the group. He decided not to give evidence and as such, the judge was entitled to draw an adverse inference from this choice. Furthermore, we consider that the judge was quite entitled to find that the various strands of evidence which he identified established a circumstantial case against Ervine. There can be no valid argument that the judge was right to refuse an application of no case to answer and correct to find to the criminal standard that the circumstantial case was made out. Therefore, we dismiss Ervine's conviction appeal having satisfied ourselves that there is no question of the safety of this conviction."

Counsel for Ervine addressed the issue of motive and the application of the decision in *Myers*³ that a temporal gap may dilute the question of motive. The court said a temporal link is not essential. In these cases, the issue of association is not simply restricted to established gangs but can also apply to cases where there are groups or associates who have taken sides as was the situation in this case. The court considered that the judge applied proper weight to this evidence.

(iii) *Rainey*

The appeal advanced on behalf of Rainey was on the following grounds:

- The judge used different terms throughout the judgment to describe the weight that he had given to certain strands of evidence and it was therefore impossible to form a proper overall view;
- Too much weight had been given to the interactions between Rainey and Ryan Johnston which were at the lower end and irrelevant. It was, therefore, wrong to cast him as part of an ongoing feud;
- Too much emphasis was placed on telephony, car movements, and CCTV where there were contra indicators;
- There should have been no weight on clothing comparisons applied;

³ *R v Myers* [2016] AC 314

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- Rainey's departure from the jurisdiction could be explained given that he had a girlfriend in Thailand and Brown was in crisis and so that was not properly dealt with by the judge; and
- This was a weak circumstantial case hence there was less of a requirement to provide an explanation by way of giving evidence.

The court said the point advanced as to the use of language was understandable, however, when properly analysed it was a transparency point which did not lead to a conclusion in favour of Rainey. That was because, in a circumstantial case, all of the evidence must be looked at holistically and the narrative provided by the judge was ample to work out why he found a circumstantial case established: "As the law states, even if one strand on its own does not establish a circumstantial case to the requisite standard, it can form part of the overall picture." The court said it would have been better to simply say "modest weight" or "no weight" rather than 'little or no weight' when attaching a qualitative assessment on evidence:

"However, it is a step too far to say that judges have to categorise the weight that they give to evidence in these types of cases by some binding and rigid standard. The broad parameters are that something has low weight, modest weight or strong weight. By and large the judge has kept within those categories, although he has used adjectives in relation to what he considers to be very strong pieces of evidence. It would be a counsel of perfection to achieve absolute consistency on this within a lengthy judgment, as we have said. Suffice to say, we think it is plain from the judgment where the judge placed the most emphasis and where the judge did not find the greatest evidential proof and so [this] argument in relation to the language used fails."

The ultimate question was whether on a holistic view, there was sufficient circumstantial evidence to convict Rainey. The court concluded that:

"[The judge] was, in our view, perfectly entitled to reject the application for no case to answer and entitled to find this appellant Rainey guilty beyond a reasonable doubt given the evidence which he evaluated and heard. Like the other conviction appeals, we find no basis for a legal argument that the background evidence should have been excluded. It was relevant background and was rightly admitted in this case ... In addition, we find no basis for the appeal point not advanced in oral submissions and tepidly made that the judge should have recused himself. We find no merit in any of the arguments made by [counsel]. We dismiss this appeal. We are satisfied as to the safety of this conviction."

Conclusion on the conviction appeals

Applying *R v Pollock*, the legal question was whether the appellate court, examining the entirety of the judge's reasoning, considers that the convictions are safe. The court said that, properly analysed the judge worked through each strand of evidence carefully, identified its limits, removed prejudicial and speculative material, and repeatedly stated that the strands were only

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capable of supporting conviction when considered cumulatively. Nothing on the face of this judge's analysis suggested evaluative excess, logical error, the drawing of inappropriate inference or reliance on any strand of evidence beyond its permissible footprint.

In addition, the court found no error in the decision to admit the bad character evidence. It said the previous incidents were clearly admissible as relevant background and potential evidence of motive. The appellants argued that background animosity or "feud" material, was prejudicial, unnecessary, or deployed as propensity. However, the judge admitted only a tightly circumscribed body of contextual evidence necessary to understand motive, opportunity and the relational dynamics between parties. He excluded the broader or more prejudicial aspects. This careful pruning mirrors the approach in *R v Hanson* [2005] EWCA Crim 824, to bad character and the narrative-integrity principles recognised in *McKinney*. The court considered that the judge's decision to admit limited contextual evidence, while excluding more inflammatory material, demonstrated an appropriate balance between probative value and prejudice.

Whilst not advanced in oral submissions, the court said the arguments based on the judge's failure to recuse himself were also bound to fail. It said the judge decided that the evidence that he had been privy to which he ruled inadmissible did not prejudice his ability to hear the case. The court said it was not enough to say that other judges in some non-jury cases have recused themselves because the circumstances of cases vary. In this case, it was entirely satisfied that the judge's judgment on recusal was not one that it should interfere with:

"The judge referred to the relevant law to the effect that when a jury or tribunal of fact has been exposed to prejudicial material, the discretion to discharge is based in the context of the issues at trial and the significance of the material to the issues. We see no reason to interfere with his exercise of discretion. Accordingly, for all of the reasons given the convictions are safe and the appeals are dismissed."

2. *The sentence appeals*

The four sentence appeals overlapped to some extent but also raised different issues given that two appellants pleaded guilty (Brown and Sewell) and two were convicted after trial (Ervine and Rainey). The arguments distilled into four core points:

- A 20-year tariff was manifestly excessive applying the guidelines set out in *R v Whitla* [2024] NICA 64.
- The judge did not sentence on the agreed factual basis that for these four appellants (unlike Spiers) the intention was to cause really serious harm rather than kill.
- Insufficient allowance was made for personal mitigation and in Brown and Sewell's case the plea of guilty.
- No proper allowance was made for delay.

Relevant legal principles

R v Whitla is the current guideline case in Northern Ireland dealing with murder tariffs and recalibrated the case of *R v McCandless* [2004] NICA 1. The case does not require the application of a rigid arithmetical formula because each case will have different characteristics. *Whitla* decided that 15/16 years should now be viewed as the normal starting point. The factors that place a case within this category are outlined in the Practice Statement, which is set out in

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McCandless [2004] NICA 1, and which addresses the variation of the starting point by reference to aggravating and mitigating factors.

The primary argument advanced by the appellants was that their intention was to cause really serious harm rather than kill and that this should be a mitigating factor. Sentencers have the flexibility in this jurisdiction to apply the principles to facts without mechanically following the Practice Statement. There is a discretion invested in any sentencing court as to whether an intent to cause grievous bodily harm as opposed to kill is mitigation or reduces culpability.

R v Turner and Turner [2017] NICA 52 stated: “In a case of this sort where gratuitous and extensive violence was used in the course of the attack, including the use of a weapon, the mitigation is unlikely to be material.”

That case also provides guidance in relation to the reduction for a plea in murder cases. Specifically, where it is appropriate to reduce the minimum term having regard to a plea of guilty the reduction will not exceed one-sixth and will never exceed five years. The maximum reduction should only be given when a guilty plea has been indicated at the first stage of proceedings, in other words at first arraignment. When a guilty plea is given on the day of the trial a maximum of one sixth should be allowed.

Conclusions on sentence

As with the conviction appeals, there was common case among the appellants on some points but also individual arguments.

The first point of commonality was that of intent in relation to the four appellants (this argument does not apply to Spiers who was connected to the knife and who decided not to appeal his sentence). The appellants made the case that there was an agreed basis of plea which referred to their lesser intention and that the judge was obliged to sentence on that basis. The judge, however, decided, given the particular facts of this case which he described as unique and the commonality of purpose, that no allowance should be made for the lesser intent. Based on the factual matrix, the court said the judge was entitled to do this as it was a group vigilante revenge attack with a clear commonality of purpose:

“Even if there is an error in principle in relation to how the judge dealt with culpability or mitigation flowing from lesser intent it does not affect the outcome in this case. That is because on an overall view we consider the 20-year starting point appropriate for each of the appellants. If anything given that Spiers had the knife which was used multiple times his starting point could justifiably have been raised above 20 years. However, the fact that one co-accused has arguably obtained a benefit does not mean that the other related sentences should be reduced. Therefore, we are not with any of the appellants on their primary ground of appeal based upon lesser intention.”

A second and related point was that the starting point was too high. The court found no merit in this appeal as it was a very serious case of exceptionally high culpability which put it into the 20-year category for murder. It said it was a pre-planned revenge attack by five people on a

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vulnerable man with multiple weapons (knife, baton, shod foot) causing multiple injuries in a public street:

“Lest there be any doubt we take this opportunity to state that gang violence of the nature found in this case falls into the very serious category of murder cases. The arguments made by the appellants that this murder could have attracted the lower culpability starting point are totally without merit and were sensibly not advanced with any enthusiasm by any of the experienced criminal practitioners involved in this case. ... Plainly, this was a very serious case which required application of the highest bracket of sentence. Hence grounds 1 and 2 of the sentence appeals are without merit.”

The third ground of appeal was that personal mitigation should have reduced the sentences. The court found this argument unconvincing. In this regard the court said that in this case, with all of the features that it had including non-co-operation and the destruction of evidence, there could be no room for personal mitigation, meriting a reduction in the sentence. The court recognised that family difficulties will arise from the prison sentences imposed, however, the fact that family and children suffer because of the criminal acts of their relatives will not reduce sentences in a brutal murder case such as this.

The next ground of appeal was whether there was adequate reduction for the guilty pleas entered by Brown and Sewell. The judge had stated that the pleas had “limited effect.” The court found that while they were undoubtedly of value, in that they assisted the presentation of the case by the prosecution, this was a case with many strands of circumstantial evidence which stacked up strongly against the appellants, including Brown and Sewell. In addition, the pleas were entered at a late stage after the trial had started. The court commented that the judge’s description of the pleas as of limited effect was unfortunate and may have given the impression that he underestimated the value of them, however, the pleas were late in the day and so the value attached to them had to be balanced against that:

“The level of reduction is within the judge’s discretion. This is not an area the appellate court readily interferes with absent clear error. On an overall view we consider that the judge was entitled to apply a reduction below the one sixth maximum recommended in *R v Turner* which applies at arraignment. Therefore, we conclude that the application of a one-eighth reduction was within range and should stand. This was a period of two and a half years reduction on the 20 years sentence which we consider just and proportionate. Furthermore, we are not satisfied that in the context of largely no comment interviews, lies and destruction of evidence, that declarations of remorse are to be viewed as genuine or result in any further reduction. Hence, this third ground of appeal also fails.”

The final point of appeal related to delay. The argument was advanced that as a result of *R v McGinley* [2025] NICA 11, if a reduction in sentence is to be allowed for delay it should attach to all offenders not just the more meritorious criminals. The court said the delay in such a complex

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case cannot translate into any appellant being entitled to a reduction in sentence. Hence, the judge was entitled record the fact of delay but decline to apply any reduction in sentence. This approach accords with the principles set out in *R v Dunlop* [2019] NICA 72 which the court said represented an unimpeachable assessment on the facts of the case.

Overall conclusion

The court dismissed all of the appeals against sentence and conviction. It concluded by saying it hoped the judgment would bring some closure to the bereaved family of Ian Ogle and the community in which he lived:

“This case serves as a reminder that group violence of the nature displayed in this case has no place in our society and that those who engage in such activity will be brought to justice and appropriately punished.”

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available shortly on the Judiciary NI website (<https://www.judiciaryni.uk/>).

ENDS

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