

Neutral Citation No: [2026] NICC 7

Ref: OHA13060

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

ICOS No: 21/088182

Delivered: 29/05/2026

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

THE KING

v

**DAVID AUSTIN
BRIAN JOHN McCOOK
STEPHEN DEREK McCOOK
EASTHER McCOOK**

**Ms G McCullough KC with Mr M Farrell (instructed by the Public Prosecution Service)
for the Crown**

**Mr N Connor KC (instructed by Paul D Thompson Solicitors) for the Defendant Austin
Mr S Toal KC with Mr T Madden (instructed by McConnell Kelly Solicitors) for the
Defendant Brian McCook**

**Mr R McConkey KC with Mr S Magee (instructed by McConnell Kelly Solicitors) for the
Defendant Stephen McCook**

**Mr M Chambers KC with Ms L Jennings (instructed by McConnell Kelly Solicitors) for
the Defendant Easther McCook**

SENTENCING REMARKS

O'HARA J

Introduction

[1] Soon after 7:30pm on 3 January 2021, Steven Peck went to meet Helen Dunlop (also known as Helen Austin) in a park in Ballymoney, Co Antrim. He did not know that Dunlop's husband, David Austin, had set up the meeting with the intention of "giving him a hammering" or that Austin would bring with him two others to make sure that Mr Peck came off worst.

[2] As Mr Peck walked through the park he was attacked, brutally beaten and left lying helplessly. The incident was seen from a distance by a local man, Glenn Brolly, who was walking his dog. He was unable to make out what exactly was happening

but believed that he saw three people in the distance. He called out, the men scurried off and he moved closer and found Mr Peck. Mr Brolly rang 999 and admirably stayed with the stricken Mr Peck until the emergency services arrived. Mr Peck was taken to hospital but his injuries were so extensive that he died without regaining consciousness six days later on 9 January.

[3] The defendant Austin pleaded guilty to the murder of Mr Peck on 17 February 2023. On that date I imposed the mandatory sentence of life imprisonment on him but I did not fix the tariff, ie the minimum term which he must serve in prison before his release can even be considered by the Parole Commissioners. That exercise was deferred until after the trial of the co-accused.

[4] When the trial of the other defendants started in November 2025, Brian and Stephen McCook were each charged with the murder of Mr Peck. The Crown case was that they were the two men who had been seen with Austin in the park and who had joined in on the fatal attack on Mr Peck. For reasons which will be explained later, the prosecution was unable to prove that case and the McCook brothers ultimately only pleaded guilty to the serious but obviously lesser offence of assisting an offender (Austin) contrary to section 4(1) of the Criminal Law Act (Northern Ireland) 1967. The basis of that plea will be dealt with below. Each of them is now to be sentenced for that offence.

[5] Finally, Easter McCook, the mother of Brian and Stephen McCook, pleaded guilty but not until November 2025 to the sole charge which she had always faced, namely perverting the course of justice by providing false alibis for her sons. She is now to be sentenced for that.

Background

[6] Steven Peck was 33 years old in January 2021 when he was murdered. He lived with his parents and his sister in Ballymoney and worked as a forklift driver for a company in Coleraine. Physically he was a big man but he was called the "gentle giant" by his family. In no way did he pose a physical threat to anyone. Mr Peck thought that he had a girlfriend in Helen Dunlop but what he did not know was that she was married.

[7] On 1 January 2021, Helen Dunlop and David Austin were in the McCooks' home. At some point that evening, Easter McCook with Helen Dunlop beside her, told Austin that Mr Peck had attacked Dunlop. There is not a shred of evidence that this wicked allegation against Mr Peck had any truth to it whatever. On the papers and evidence before me there is no suggestion that Austin asked Dunlop, either on the night of 1 January or at any time before the murderous attack two days later, when or where she was supposed to have been attacked. If I am to believe what is in the papers, not a single word was exchanged between Austin and Helen Dunlop on that subject.

[8] In any event, Austin spent the next 48 hours thinking about how to take revenge on Mr Peck. He decided to attack him but he got the McCook brothers to help him, he said, because he (Austin) was 54 years old at the time and he did not want to take the risk of the younger Mr Peck being too strong for him.

[9] The park where the attack took place is just a short distance away from Austin's home in Ballymoney. When he left his house that night Austin wore a balaclava and gloves and took a knife with him from his kitchen. He told the police that "when I lifted this knife the thought in my head was to kill Steven Peck. I had the intention to use it but I didn't know if I could have." Austin was aware that others who were with him brought a knuckleduster and a metal bar to the scene. During the attack on Mr Peck, the assailants inflicted multiple injuries to his face and head which resulted in a brain injury. The pathologist provided a report in which he opined that the injuries which included facial and skull fractures were as a result of multiple heavy blows to the head and face, some possibly by punching whereas others were more likely as a result of blows from a weapon or kicking with a shod foot. Mr Peck's lower left leg was broken, probably by stamping or a blow from a heavy weapon. There were also bruises on his back, probably as a result of kicks. There were red marks on his chest and bruises were also found on his left hand and left forearm and on the fingers of his right hand. Most of those injuries were likely caused when he attempted to defend himself, according to the pathologist.

[10] Austin blamed the two men who were with him for inflicting most of the beating on Mr Peck. However, he admitted that when Mr Peck was lying on the ground, that he knelt down beside him and said to him "you know what you got this for." Although Mr Peck did not speak or try to fight back, Austin then used a metal bar to hit Mr Peck twice as hard as he could around the shoulder area. It was at that point that they became aware of Mr Brolly shouting so the three of them made off.

[11] When Austin got back to his own home he claimed to have put the knife, which had not been used in the attack, back into a kitchen drawer. He put his balaclava and gloves into a lit fire in the living room. Other gloves and balaclavas were also burned. Austin stated that he had no concerns about Mr Peck's welfare after the attack nor did he consider phoning for an ambulance. In July 2025, he told the police that he had no regrets about attacking Mr Peck but that, if he was to do it again, he would act alone so that maybe Mr Peck would not have died. He said that he was sorry that Mr Peck died but he was not sorry that he got a hiding. When he came to give evidence in the Crown Court in November 2025 as a witness for the prosecution, he repeated that in evidence.

[12] After the emergency services had been called, and Mr Peck's body had been taken to the hospital, the police maintained a presence at the scene through the night. At approximately 3am Helen Dunlop left her home and went out to speak to police. She reported to them that Austin had come home earlier covered in blood and she suspected that he had been involved in the attack. This led to Austin being arrested at 3:57am in his own home on suspicion of attempted murder. DNA

evidence was obtained which connected him to the murder scene. Blood stains were found on his jeans and on his boots. He pleaded guilty to murder on 17 February 2023 having maintained a position of not guilty when arraigned in April 2022.

[13] There were significant delays between Austin's guilty plea in February 2023 and the trial of the remaining defendants eventually starting November 2025. The causes of that delay will be considered below, but by November 2025 the prosecution case against the McCook brothers was based in respect of the murder charge in significant part on three witnesses who were to give evidence:

- (i) David Austin;
- (ii) Helen Dunlop; and
- (iii) William McCook.

[14] While Austin gave evidence-in-chief when called at the trial, less than half way through his first cross-examination (by Mr Toal KC on behalf of Brian McCook) he refused to continue. This meant that none of this evidence could be relied on by the prosecution. As a result, the murder charge against the McCook brothers depended in greater measure on Helen Dunlop and William McCook. William McCook, to explain, was a limited individual with a severe alcohol problem who was living with Austin and Helen Dunlop in January 2021.

[15] After Austin refused to continue with his evidence, the Crown and defence both reconsidered their positions. The prosecution had major difficulties in presenting Helen Dunlop as a witness of truth and the same problem arose with William McCook. However, the McCook brothers and their mother had their own difficulties, largely as a result of painstaking investigative work done by the police. This included scrutinising many hours of CCTV evidence from 3/4 January in the Ballymoney/Dervock/Coleraine areas together with analysing evidence about mobile phone movements and usage.

[16] These discussions eventually led to an agreed basis of plea. The prosecution did not pursue any further the murder case against the McCook brothers but agreed the following:

"5. In light of the circumstantial evidence, Brian McCook and Stephen McCook each now plead guilty to the offence of assisting an offender, contrary to section 4(1) of the Criminal Law Act (NI) 1967 on the following basis:

- That they were present in the home of David Austin at 16 Cherry Gardens, Ballymoney, before and at the

time that David Austin left the house to go to ambush Steven Peck.

- That they each assisted David Austin after he assaulted Steven Peck on 3 January 2021 in the playing fields behind the Joey Dunlop Centre, Ballymoney, in that they provided him with a safe haven, while they believed that David Austin knew that police were conducting house to house enquiries in the vicinity.
- And furthermore that they helped him to dispose of incriminating evidence which were involved in that assault in the knowledge that Steven Peck had been assaulted.
- They also accept that they failed to take any steps to assist Steven Peck or to alert the emergency services to aid his recovery.
- They accept that they lied to police throughout the investigation.

6. They accept that by their lies to police and their involvement in the destruction of evidence, they obstructed the police investigation.”

[17] So far as Easter McCook is concerned the document records as follows:

“8. Easter McCook pleads guilty as charged to perverting the course of justice by providing false alibis for both Brian McCook and Stephen McCook. She accepts that she lied to police.”

[18] It is necessary to add some more detail to this document. On 4 January, Helen Dunlop told the police that when her husband left their house on the evening of 3 January he was with Stephen and Brian McCook and that the three of them had returned together. After Austin had been arrested, Brian and Stephen McCook were arrested at their home in Dervock later on 4 January.

[19] During interviews over the next three days, Brian McCook provided a written statement to police in which he gave an alibi to say that he and his mother Easter, had been at the house of a friend named Coleman in Ballycastle from about 6pm to 7:20pm on 3 January. On 5 January, when asked by the police about this Easter McCook confirmed that she and Brian had been at Coleman’s house. She also told the police that when she and Brian left their home in Dervock at around

6pm Stephen McCook was at home asleep and when they returned around 7:30pm he was still at home asleep.

[20] CCTV seized from Coleman's house proved that Brian McCook and Easter McCook had not, in fact, been there at all on 3 January, so they had both lied to the police.

[21] Brian McCook also told the police that he had never been to Austin's home at Cherry Gardens, Ballymoney, but police retrieved body worn footage dated 9 December 2020 as a result of a visit that they had paid to that address which showed Brian McCook was in the house on that date. When questioned about that he said that the earlier incident had completely slipped his mind.

[22] In a further defence statement dated 2 May 2025, Brian McCook repeated his denial of any involvement in the incidents surrounding the murder of Mr Peck. He claimed that on the evening of 3 January, he had left home with his mother and driven to his sister's house in Ballymoney to check on her. After finding her house empty and having waited for about 30 minutes, they then drove in the direction of Coleman's house in Ballycastle, but because Coleman did not answer his phone they then returned to Dervock. These were all further lies told by him.

[23] Stephen McCook, during his interviews, provided a prepared statement in which he claimed that he was at home on 3 January 2021, save for one occasion when he went to get cigarettes at about 10:50pm. CCTV seized from his home address and accounts provided by witnesses proved that he was out on his moped on 3 January and, therefore, he and Easter McCook had both lied about his movements.

[24] Stephen McCook also lied by claiming that he did not have a mobile phone and had not had one since November 2019. When police asked him about three reports he had made to police using his phone, he later claimed that he had lost it, but only a few days prior to the murder of Mr Peck. These are also lies.

[25] After her arrest, when Easter McCook was interviewed by police, she gave a different account. She said that she and Brian McCook had gone to visit Coleman in Ballycastle but he was not at home and his house was in darkness. She said they got home from Ballycastle at about 6:45/6:50pm and that Brian had gone to feed the dogs. She said that she and Brian stayed in the house from then on.

[26] The police were able to prove through mobile phone analysis that Stephen McCook and Easter McCook were in communication with Austin shortly before and soon after the attack on Mr Peck on 3 January.

[27] CCTV footage was seized by police from the McCooks' home address in Dervock. Easter McCook told police that the CCTV rewrote every Sunday as there was no footage on the hard drive for the time of the murder. When police

interrogated the drive they found that just before 8am on the morning after the attack on Mr Peck, the drive had been manually interfered with. The CCTV footage which the police were then able to recover showed the movements of all three McCooks leaving their home address at Dervock at times which confirmed that none of them was at home at the time of the attack. This crucially contradicted their many versions of events about their movements.

[28] Shortly after the attack on Mr Peck, which can be timed at around 7:30-7:40pm, Brian McCook and Easter McCook returned to their home address at 8:01pm. Stephen McCook arrived home on his moped at 8:08pm and Austin drove up to that address at 8:09pm. Austin remained at the McCooks' house until 10:57pm when he drove to Moran's service station together with Stephen McCook. He returned to the McCooks' house at 00:01am and left again at 00:07am.

[29] Cell site analysis evidence showed that Easter McCook's mobile phone used cell sites consistent with it being in the area of Austin's home and the scene of the incident between 19:45hrs and 19:48hrs. At 19:05hrs, Stephen McCook's phone was connected to a cell detected in the same area. Then at 19:55hrs Stephen McCook's and Austin's phones both used the Ballymoney North cell site, consistent with them being north of that mast and consistent with them travelling from Ballymoney towards Dervock. At 20:04hrs, both of their phones connected to cells detected in the area of the McCooks' home address. Stephen McCook's and Austin's phones continued to use cell sites at times up to 20:59hrs consistent with them being at the Dervock home with the McCooks.

[30] From 19:29hrs to 19:44hrs, Mr Peck's mobile phone number was using a cell detected in the area of the park where he was murdered. At 19:57hrs, his phone connected to cell Ballymena North and then to the Dervock cell with the last known connection at 22:58hrs which is consistent with his phone moving northwards in the same direction as the phones of Stephen McCook and Austin. The inevitable inference to draw from this evidence is that after the fatal attack on Mr Peck, his phone was taken from him and taken towards the Dervock home of the McCooks.

[31] Immediately following the attack on Mr Peck, balaclavas and gloves were burned in the living room fire at the Austin home. Then, on reaching McCook's home, as they travelled in convoy, the metal bar used in the attack was thrown into a river, from a bridge on the Dervock Road. Mr Peck's phone was never recovered by police but from cell site analysis police can prove that the phone was moved after the attack, when Mr Peck was lying unconscious, so that it was using cells travelling in the same direction and at the same time as the phones of Austin and Stephen McCook.

[32] Brian McCook's phone was turned off during the evening of the attack.

Victim statements

[33] I have received victim statements on behalf of Mr Peck's family from his mother, from his father and from his sister Heather.

[34] In every murder case these statements are moving but that is particularly so in this case.

[35] Mrs Rosemary Peck MBE, Steven's mother, has outlined her family background. She married Derek Peck, Steven's father, in 1971. After a number of years trying unsuccessfully to have children of their own, they made the decision to enter the fostering system. She was approximately 30 years old when this started. At that time she was in full-time employment but she chose to sacrifice her career to be able to provide love and care for the many children who needed it.

[36] Over the years which followed, the Pecks fostered around 100 or more children from all over Northern Ireland. Sometimes the children came straight to them from birth and sometimes they fostered teenagers. At one stage she had 16 children staying in her home. Some of them stayed for only half a day or overnight while others stayed for much longer. The longest she had any one child for was 13 years.

[37] Of all those 100 or more children, Mrs Peck and her husband adopted four of them, including Steven who was with them from when he was six days old. These four were all siblings or half-siblings and the Pecks could not bear the prospect of them being separated to different foster homes. That is what prompted the wheels being put in motion for the adoptions. In her statement, Mrs Peck describes the love and care that she and her husband provided for the children and for their various birth mothers, grannies, aunts and uncles.

[38] In her mid-fifties Mrs Peck went back to part-time work, acting as an escort on the local school bus in the Ballymoney area. There were a number of special needs children on the bus of whom Brian McCook was one. She took a particular interest in him because she felt so sorry for him and at one point had cause to speak to Easter McCook about Brian's behaviour.

[39] In 2014, at the age of 62, Mrs Peck was diagnosed with motor neuron disease (MND). She has lost her mobility and is now wheelchair bound. Her speech has deteriorated and she has other MND related issues. Despite these challenges she has attended court every day in Coleraine.

[40] When speaking about Steven, the only boy she adopted, Mrs Peck describes her heart as breaking. Typical of her and her husband, Steven did not leave them when he turned 18 but rather stayed living with them and they helped him through challenges over the next 10 or 15 years in his life. She and her husband describe the

horror of seeing him in the Royal Victoria Hospital and of them having to accept that it was in his best interest to turn off the life support machine.

[41] Mr Peck, whose own career was one of public service, describes how he misses so much, including their “father to son conversations”, he misses the journeys and conversations in his car on the days when he used to take Steven to work because it was raining, he misses the Ulster Fry which Steven made every Saturday morning and he says that Saturdays have never been the same since.

[42] Heather Peck’s statement is in similar terms. She describes how she has had difficulties in her life and even though she is five years older than Steven, he was her protector through all her ups and downs. She says:

“Steven was the most caring kind lovable brother anyone could have wished for.”

[43] The contrast between what the Pecks have given to society and what the McCooks and Austin have contributed could hardly be starker.

David Austin - Tariff setting

[44] Having imposed a life sentence on Austin in February 2023, I must now set the minimum term which he is to serve in prison before he is considered for release by the Parole Commissioners. This is as provided for in the Life Sentences (NI) Order 2001.

[45] In *R v McCandless* [2004] NICA 1, the Northern Ireland Court of Appeal adopted as its guidance the Practice Statement issued by Lord Woolf CJ in 2002. The guidance was that there would be a normal starting point of 12 years, a higher starting point of 15/16 years in cases where the offender’s culpability was exceptionally high or the victim was in a particularly vulnerable position and that whichever starting point is selected, it might be appropriate for the trial judge to vary the starting point upwards or downwards to take account of aggravating or mitigating factors. In very serious cases, a substantial upward adjustment may be appropriate; it is not suggested that this case is one of them.

[46] More recently in *R v Whitla* [2024] NICA 65, the Court of Appeal reviewed the *McCandless* guidelines and gave further guidance. In relation to what had been “the normal starting point of 12 years”, the court said that “Recourse to this starting point will only arise where culpability is low and so arises in only a small number of cases. This should be the practice going forward.”

[47] It then continued at para [43] as follows:

“[43] We stress that what we have said does not amount to any sea change in terms of murder sentencing. It is

simply a recalibration to reflect the complexion of cases we have had before our courts in the 20 years since *McCandless* was penned. In summary, *McCandless* should now be read with following revision:

- (i) The normal starting point is 15/16 years. This is based on high culpability.
- (ii) In exceptional cases of low culpability, the starting point may reduce to 12 years.
- (iii) In cases of exceptionally high culpability the starting point is 20 years."

[48] It is important also to note what the court said at para [44]:

"[44] It is not necessary for us to redefine *McCandless* any further as the factors that feed into each starting point and aggravating or mitigating factors are comprehensively set out. In addition, sentencing judges are expressly reminded that they have the flexibility to vary the starting point upwards or downwards to take into account the particular circumstances of each case."

[49] On the issue of credit for a guilty plea, I was referred to *R v Turner* [2017] NICA 52, in which the court said at para [40]:

"[40] 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 plea on re-arraignment greater than one-sixth and that a discount for a plea in excess of 5 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."

[50] On behalf of the prosecution, it is submitted that the aggravating features in Austin's case are the following:

- (i) Planning and premeditation over a period of about 48 hours.

- (ii) Austin, by his own admission, was armed with a knife which he said he intended to use and he said at that time his intention was to kill.
- (iii) Austin knew that other weapons were being brought to the scene, namely a knuckleduster and a metal bar. He was aware that these weapons had been used to inflict injury and he himself admitted using the metal bar to strike Mr Peck in his words “as hard as he could twice.”
- (iv) The additional sinister element of Austin saying to Mr Peck “you know what you got this for” as he lay helpless on the ground.
- (v) Disposal of weapons and Mr Peck’s mobile phone.
- (vi) The vulnerability of Mr Peck in that he was ambushed at night having been lured to a dark pathway and set upon without any chance to try to defend or protect himself against three attackers.

[51] In terms of mitigating factors, the prosecution suggest that there are, in fact, no mitigating factors in this case. They challenge Austin’s assertion that it was not his intention that Mr Peck would die and highlight the fact that in July 2025 he told the police that he had no regrets about attacking Mr Peck and that while he was sorry that Mr Peck died that he was not sorry that he got a hiding, a line which he repeated in his oral evidence.

[52] The prosecution also point out that ordinarily credit will include an element for remorse but that in this case there is no clear evidence of remorse at all. Furthermore, they suggest that his contempt for the trial process and for Mr Peck’s family as shown by his “antics” while in the witness box should be reflected in a reduction of the credit he is allowed for his guilty plea.

[53] In summary, the prosecution position is that the new normal starting point, following *R v Whittle*, of 15-16 years applies here. They suggest that the evidence of extensive and multiple injuries warrants a further increase in the starting point which should also be increased by reference to the aggravating factors set out above. The proposition is that there are no mitigating factors to vary the sentence downwards and that credit for the guilty plea should be allowed but at a reduced level bearing in mind that it came one year after arraignment in a situation where the evidence was overwhelming against Austin.

[54] I have the advantage of a helpful pre-sentence report prepared by Ms McCreight of the Probation Service. Without reciting its full contents, I draw the following main points from it:

- (i) Austin is now 59 years old.

- (ii) He had a difficult childhood, having difficulties with both of his birth parents and only having a positive relationship to any great extent with his stepmother.
- (iii) While Austin does not have a learning disability, his poor verbal comprehension places him in the lowest 7% of the population and he scores low on verbal ability. In addition, episodic drinking may be considered a risk factor for future potential offending.
- (iv) It was the unanimous opinion of the Probation Board that Austin represents a significant risk of serious harm due to a combination of historical clinical and attitudinal factors which indicate a high likelihood of further violent offending. Violence is regarded as integral to his self-concept and esteem which increases the risk of future harm. This is aggravated by the fact that historically he has engaged poorly with mental health services and shown poor medication compliance.

[55] Despite all this, Austin's criminal record is very limited - in effect, apart from a number of driving offences, he has a clear record.

[56] The contents of this report are consistent with the report provided by Mr Joe Dwyer, Educational Psychologist, in April 2022. Mr Dwyer considered that Austin has a severely impaired level of social functioning and social understanding but without any significant history of offending or aggressive behaviour. In addition, while Austin does not have a learning difficulty he is of low average ability and he has a very limited understanding of his personal situation.

[57] On behalf of Austin, Mr Connor KC made the following main points:

- (i) Austin is entitled to substantial although not full credit for his relatively early plea of guilty.
- (ii) He should be sentenced in accordance with the starting points established in *McCandless* rather than the "more draconian regime" brought into effect by *Whitla* given that he pleaded guilty on the basis of advice given to him before the *Whitla* judgment was issued. It is submitted that the impact of *Whitla* should not be allowed to operate retrospectively.
- (iii) It is accepted that the infliction of multiple injuries places Austin in the higher starting point of 15/16 years and it is further accepted that the degree of planning can be properly regarded as an aggravating factor. It is not accepted, however, that there was gratuitous violence and the fact that Austin armed himself with a knife is of limited significance as it was not used in the course of the attack.

[58] Mr Connor took issue with any description of Mr Peck as vulnerable because, according to Mr Connor, Mr Peck was relatively young and strong when compared to Austin and the circumstances of the attack do not render him vulnerable in the proper sense of the word.

[59] Mr Connor also challenged the prosecution assertion that there were no mitigating factors. He suggests that the early guilty plea should be regarded as one, that the fact that he has, in effect, a clear record should be regarded as the second, that the fact that there was an intention to cause serious harm rather than to kill might be a third, and that the defendant should be sentenced as a secondary party because it is likely that he was not responsible for the injuries which were the cause of death.

[60] Taking all of these factors into account, Mr Connor's submission was that the tariff imposed on Austin should be 15 years, after making allowance for the guilty plea.

Conclusion on tariff

[61] The circumstances of Austin's crime of the murder of Mr Peck would never have come within the *McCandless* starting point as Mr Connor has acknowledged. The real question is what the starting point should be, taking the aggravating and mitigating features together.

[62] While Mr Connor contends that Whitla introduced what he described as a "more draconian regime", what the Court of Appeal actually said at para [43] of *Whitla* was that what it was doing did not amount to a sea change but rather a recalibration of what was becoming established practice.

[63] In my judgment, the aggravating features which are present in this case are as follows:

- (i) Mr Peck was vulnerable, being set upon in the dark by three men who had equipped themselves in advance.
- (ii) Extensive injuries were inflicted on him before the attackers ran off (but only after they had been disturbed).
- (iii) Austin personally struck him twice as hard as he possibly could with a metal bar as he lay helpless on the ground.
- (iv) The killing was planned rather than spontaneous.

[64] The only clear mitigating factor, in my judgment, is the guilty plea. I do not regard the minimal criminal record as being a mitigating factor - while a bad criminal record would be an aggravating factor, the same does not apply in reverse.

In this regard, there is a parallel with the lack of remorse which is striking here – remorse might be a mitigating factor if it is genuine but its absence is not necessarily to be taken as an aggravating factor. And in the circumstances of this case in particular, I question whether remorse can necessarily be inferred from a guilty plea.

[65] I do not accept the submission that this is clearly a case where there was an intention to cause serious harm rather than to kill. The defendant, Austin, has been inconsistent on that point and I see no reason to interpret the facts to give him the benefit of any uncertainty. And, in addition, I certainly do not accept that he should be sentenced as a secondary party because it was likely that he was not responsible for the injuries which were the cause of the death. On any analysis of these events, he instigated, planned and led the attack.

[66] Taking all of these factors together, this is a case where, in my judgment, the appropriate sentence before allowing some credit for the guilty plea is 19 years. I will allow Austin credit of two and a half years for the plea of guilty despite his subsequent “antics” as the prosecution describe them. Accordingly, I set the tariff at 16 and a half years.

[67] I was also invited by Mr Connor to make some allowance for the delay in setting the tariff. Mr Austin pleaded guilty three years ago but for various reasons has not had his tariff set until now. In my judgment, while there are cases in which delay is or may be a reason for reducing a sentence, that is less likely to be so in a murder case when the mandatory life sentence has been imposed. Mr Connor accepted that his client has known since 2023 that his tariff would be well into double figures. His only uncertainty was what the precise figure would be. That being the case, I do not consider any reduction of the tariff by reference to delay is appropriate.

Brian and Stephen McCook

[68] I have already referred to the victim statement from Mrs Rosemary Peck. I want to return to it briefly. At the very end of her statement Mrs Peck said:

“The court case has impacted us as a family unit. People are talking about it and I can’t. I don’t want to see anyone. I don’t want to engage in conversation, I just want it all to go away. I feel the justice system has let us down as a family, as I know in my heart who was responsible for murdering Steven. I am so, so angry but I know I can’t do anything about it. I can’t blame anyone for the outcome for this, and I know that the barristers are just doing their job all I wanted as a mother who loves her son so much was justice for Steven. No mother should ever have to lose their son in such circumstances.”

[69] Before I determine the sentences which are to be imposed on the McCook brothers, there is one point which I should deal with. It is a point which ties in with what Mrs Peck said. I am aware that some people in this courtroom today believe that by pleading guilty only to assisting an offender, namely Austin, the McCook brothers have literally got away with the murder they were originally charged with.

[70] I understand that belief and it is not my role to tell those people who hold it that they are wrong or to argue with them. It is, however, necessary to point out two fundamental points. The first is that the prosecution accepted that the charge of murder was unlikely to be proved. In my judgment, the prosecution was correct in taking that view. The second is that whatever anyone's suspicions are, I can only sentence the McCooks for the crime to which they have pleaded guilty and not for any other crime.

[71] It might also help to deal at this point with the issue of delay which, in line with recent authorities, has been advanced as a reason to reduce whatever sentence is otherwise appropriate for the McCooks. Regrettably, it has taken just over five years to reach this final stage of the trial. That is far too long but approximately 18 months of that time, from Austin's plea in February 2023 to September 2024, were wasted at the behest of the McCook brothers who both tried to run a case that they were unfit to stand trial. I heard and dismissed Brian McCook's hopeless application on 30 September 2024 after the first psychiatrist called on his behalf accepted that he could not stand over his written report. The even worse application by Stephen McCook was abandoned soon after. (I say "even worse" because at the same time as he was pretending not to understand the legal process, he was a critical prosecution witness in the trial of a man who was ultimately convicted of inflicting serious life altering injuries on an infant). But for those applications, this trial could have been dealt with towards the end of 2023 or early 2024, a significantly better timescale albeit not a perfect one.

Brian McCook

[72] Brian McCook is 30 years old and has only one criminal conviction, a driving offence. He was 24 when Mr Peck was murdered. The basis of his plea of guilty to assisting an offender, Austin, has been set out at para [16] above.

[73] I have no pre-sentence report on McCook nor any expert report. In my judgment the defence took a tactical decision by not asking for a pre-sentence report lest such a report would make Brian McCook's position even worse.

[74] There are limited sentencing authorities in this jurisdiction and no guideline cases from the Northern Ireland Court of Appeal or indeed the Court of Appeal in England and Wales. Notwithstanding that, one useful non-guideline case which is much referred to is that of *AG's Reference (No 16 of 2009)(Yates)* [2009] EWCA Crim 2349. In that decision the Court of Appeal set out some principles which have been

used in later cases to help judges pass sentence. It was said there that when passing sentence for the offence of assisting an offender, the first issue is likely to be the nature and extent of the criminality of the offender for whom assistance was provided. The second issue is the nature and extent of the assistance provided, and the third issue is the extent to which the efforts to assist the offender damaged the interests of justice.

[75] When one applies those three factors to Brian McCook, the following points emerge:

- (i) The nature and extent of the criminality of the offender for whom assistance was provided is the most serious of all criminality, the crime of murder committed by Austin.
- (ii) The nature and extent of the assistance provided was to help Austin dispose of incriminating evidence involved in the assault, knowing that Steven Peck had been assaulted and in providing him with a safe haven in their own home while they knew or believed that police would be conducting house to house inquiries in the vicinity of the murder scene.
- (iii) The extent to which the efforts to assist Austin damaged the interests of justice was minimal because Austin was arrested within hours of the murder in any event and the police were soon able to link him to the attack by DNA evidence recovered from Austin's own clothes.

[76] It is accepted on behalf of this McCook that the custodial threshold has been passed but the question is raised whether it is necessary to send him to prison. I have been referred to other recent cases which are said to be comparable in which no immediate prison sentences were imposed eg *R v Brown & Ors* [2025] NICC 6, arising from a murder in East Belfast and *R v Gill & Ors* [2023] NICC 21, arising from a murder in Comber, County Down. On analysing those cases, however, I have been unable to identify any defendant in those cases who was convicted of assisting an offender or withholding information to the same degree as is accepted by the McCook brothers in the basis of plea document.

[77] I must also say that I am unconvinced by the third limb of Yates because it seems to me that it is highly questionable whether an attempt to assist a murderer who is quickly caught for other reasons such as good police work should somehow inevitably reduce the sentence. Having said that, I recognize that such an approach to sentencing is well established.

[78] Taking all of these considerations together, I have concluded that the appropriate sentence is one of four years in prison which is immediate, not suspended. It is to be divided in the usual way, two years in custody and two years on license. I do not believe that suspending the sentence is proper in this case for

this crime. Time already spent in custody for this offence will be credited to Brian McCook in the normal way.

Stephen McCook

[79] Stephen McCook is now 34 years old and was 28 at the time of the murder of Steven Peck. His criminal record is limited, featuring two burglaries and thefts in 2009 when he was a juvenile and one criminal damage and three assaults in 2015 when he was 22 for which he received a suspended sentence in 2017. He has no subsequent convictions. The basis of his guilty plea has already been set out at para [16] above.

[80] I repeat in relation to Stephen McCook what I have already said above about the factors to be taken from the *Yates* case and how they are reflected here. In Stephen McCook's case I do have a pre-sentence report, a short one from Mr O'Hagan of the Probation Board to whom I am grateful. The report does not help Mr McCook in that he has clearly resiled from the agreed basis of plea when discussing his offence with Mr O'Hagan. He has sought to minimise the role which he played in a way which is not consistent with the agreed basis of plea. It is, however, clear from the pre-sentence report and from another report from Mr Joe Dwyer that Mr McCook has a moderate learning disability with an extremely low IQ and that until recently the dominant person in his life was his mother.

[81] That has changed because he is now the father of an infant daughter. He lives in County Tyrone with her mother in an apparently stable relationship. I am informed that social services have been involved in confirming that the child's welfare is secure and they are apparently satisfied that it is. Indeed, a letter from his partner's general practitioner confirms that she has medical problems which have been diagnosed as chronic reactive arthritis. As a result of that she has some physical limitations which means that Mr McCook is now having to do a lot of the caring duties associated with a newborn baby.

[82] It was, I assume, a conscious decision on the part of Stephen McCook and his partner to have a child while he was facing a murder charge. To that extent, I am slow to allow him to rely on that as a factor which I should take into account when considering the sentence which is to be passed upon him, particularly in light of recent authorities from the Court of Appeal which indicate that limited credit is to be allowed for the existence of difficult personal circumstances if a prison sentence is otherwise merited.

[83] Of possibly more significance is the fact that Mr O'Hagan did not assess Mr McCook as posing a significant risk of serious harm to the public and he assessed the likelihood of reoffending as being in the medium range. On that basis he was assessed as being suitable for community service and/or probation and it has been made clear to me that Mr McCook consents to the imposition of any such order including an enhanced combination order.

[84] Having considered his circumstances separately and independently from those of his brother, my view is that there is no meaningful distinction between them and I have reached the same conclusion, namely that the custody threshold is passed and that an immediate prison sentence is called for. Accordingly, I impose a sentence of four years in prison to take immediate effect, divided equally between custody and license. Any time already spent in custody on the murder charge will be credited to him in the normal way.

Easther McCook

[85] Mrs McCook is 51 years old and was 46 when Steven Peck was murdered. She has a limited criminal record but one which, when taken with her pre-sentence report, suggests that she lives life by her own rules. It is for this reason that Ms Rock of the Probation Board has assessed her as posing a medium likelihood of reoffending but not presenting a significant risk of serious harm to the public.

[86] Despite her guilty plea the pre-sentence report shows Mrs McCook repeatedly minimising and seeking to avoid any acceptance of wrongdoing, so much so that Mr Chambers KC had to confirm to me in court that she still stood by her guilty plea. I agree with what Ms Rock highlighted helpfully in her report:

“The defendant presents with substantial caring responsibilities, health issues and historic trauma all of which are relevant to her current functioning. However, the central concern remains her continued minimisation of the offence, her failure to acknowledge the seriousness of providing misleading accounts during a murder investigation and her externalisation of blame.

This offence appears to have arisen from situational family pressures rather than persistent criminality. However, her limited insight, defensive presentation and continued minimisation indicate a residual risk of similar behaviour if placed again under familial strain.”

[87] The independent social worker, Ms Rebecca Demirkol, has provided a report on Mrs McCook’s family circumstances. Particular emphasis is placed on the fact that since 2006 when he was paralysed in a motorbike accident, Mrs McCook has been the primary carer for her long-term partner.

[88] In addition, I have been provided with a psychological report from Dr Dean O’Driscoll which describes her as being a vulnerable adult with an extremely low level of intellectual ability within the range typically described as a moderate learning difficulty. In Dr O’Driscoll’s opinion:

“This level of intellectual functioning is likely to have contributed to a longstanding history of learning needs, including reported special educational needs during a time in education, markedly limited literacy skills and significant and ongoing cognitive difficulties in adulthood.”

[89] The maximum penalty for perverting the course of justice is life imprisonment. For the prosecution it is submitted that Mrs McCook’s culpability is high because of the sustained period over which her perversion of the course of justice endured and because the underlying offence of murder is the most serious offence of all. Furthermore, it is emphasised that in her case the false alibi which she provided for her sons was evident from a very early stage, yet she persisted in her denial of guilt until November 2025.

[90] I accept the prosecution’s submission that it is only in highly exceptional cases that it is justifiable to suspend a custodial sentence where a deterrent sentence is required. That is a clear lesson to be taken from recent decisions of the Court of Appeal in *R v Devlin* [2023] NICA 71 and *R v Brian Ruddy* [2025] NICA 13.

[91] For the defendant, Mr Chambers KC has challenged the proposition that a deterrent is actually called for. His submission is that this is simply not a case where a deterrent sentence is required. He does, however, accept that the custodial threshold has been passed.

[92] In relation to Mrs McCook, I am satisfied that her behaviour has been outrageous in the extreme. It seems to me however that her criminal conduct, and I emphasise the word criminal, was less serious than that of her two sons. I am satisfied that I should not impose an immediate custodial sentence on Mrs McCook. I should add that in her case I am entirely satisfied that the care which she has been providing to her paralysed husband for the last 20 years is a rare positive feature of her presentation. If I was to impose an immediate custodial sentence on her that arrangement, which is in his interests and in the interests of society and the caring services generally, would inevitably be jeopardised.

[93] For those reasons, I impose on Easter McCook a sentence of two years’ imprisonment suspended for three years. That means that if she does not reoffend within three years from today’s date she will not serve any time in custody but if she does reoffend then the sentencing judge will consider whether, as a starting point, he will activate the suspended sentence and then add whatever sentence is appropriate for the fresh offending. That suspended sentence will act as a deterrent and a threat hanging over her for the next three years.