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	Delivered: 04/08/2026

IN HIS MAJESTY’S COURT OF APPEAL IN NORTHERN IRELAND

THE KING

v

**STEPHEN McCOOK
and
BRIAN McCOOK**

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

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

**Mr Toal KC with Mr Madden (instructed by McConnell Kelly Solicitors) for the
Appellant Brian McCook**

Before: Keegan LCJ, Colton LJ and McAlinden J

KEEGAN LCJ (delivering the ex tempore judgment of the court)

Introduction

[1] These appeals by Stephen and Brian McCook are brought with leave of the single judge in relation to sentences imposed on 29 May 2026 for one count of assisting an offender, contrary to section 4(1) of the Criminal Law Act (Northern Ireland) 1967. The sentences were imposed after pleas of guilty to that charge.

[2] The co-accused, David Austin, pleaded guilty to murder. He provided evidence against each of these two appellants who were initially also charged with murder. However, the judge directed the jury to find the appellants not guilty of the murder charge mid-trial. Each appellant then pleaded guilty to the assisting offender charge. They each received a four-year sentence of imprisonment split equally between custody and licence.

[3] For the purposes of this appeal, it is not necessary for us to recite all of the details of the case. Suffice to record that this offending arises as a result of the brutal murder by a group of men of Mr Steven Peck in Ballymoney.

[4] The basis of the pleas entered by these appellants clearly frames this case. This agreed basis of plea arose following discussions between the parties and is set out in various papers in relation to the appellants' position as follows:

- (i) 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.
- (ii) 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.
- (iii) Furthermore, that they helped him to dispose of incriminating evidence which was involved in that assault in the knowledge that Steven Peck had been assaulted.
- (iv) They also accept that they failed to take any steps to assist Steven Peck or to alert the emergency services to aid his recovery.
- (v) They accept that they lied to police throughout the investigation.
- (vi) They accept that by their lies to police and their involvement in the destruction of evidence, they obstructed the police investigation.

Grounds of appeal

[5] The appeal has been refined from the original grounds which were put before this court. Delay is no longer relied on as a stand-alone ground. We are grateful to Mr Toal KC for that concession which we think was well made.

[6] Both appellants maintain through their counsel that there is an error of principle in the sentencing remarks in that they lack transparency as to how the judge arrived at his ultimate sentence. This point is conceded by the prosecution and, again, we think that concession was properly made.

[7] It is unfortunate that the basis for the sentence was not set out more clearly. However, as is accepted in the written arguments, that is not the end of the consideration for this court. We must conduct our own analysis to determine whether the sentences imposed on each of the appellants were manifestly excessive.

There is also a related argument in Stephen McCook's case as to whether any sentence of imprisonment should have been suspended.

Consideration

[8] In a murder case the maximum sentence for assisting an offender is 10 years' imprisonment. Reading the judgment as a whole, mindful of the lack of transparency, but nonetheless imputing meaning to how the judge arrived at his ultimate sentence, the primary issue is whether a starting point of somewhere in the region of five years with a 20% reduction for a plea leading to a final sentence of four years is manifestly excessive.

[9] As has been said, there are no specific guideline cases in relation to this type of offence. This is understandable and inevitably driven by the variety of circumstances in which this type of offending can occur. We do not intend to set rigid guidelines.

[10] However, *Attorney General's Reference (No.16 of 2009) (Yates)* [2009] EWCA Crim 2439, assists us in terms of methodology by highlighting three issues which a court should consider when sentencing in this area and which counsel have addressed. To paraphrase, the first issue is the nature and extent of the crime consideration. The second issue is the nature and extent of the assistance provided consideration and the third is the extent to which the efforts damaged the interests of justice consideration.

[11] We do not find it particularly difficult to determine how these issues apply to the facts of this case. On issue one, this is the most serious crime of murder. On issue two the nature and extent of the assistance was significant as evidenced by the basis of plea which we have already referenced. On issue three, whilst the co-accused, Austin, was apprehended quickly as the basis of plea accepts, the appellants by their lies and involvement in the destruction of evidence and obstruction to the police investigation, in circumstances where there was an attack by a group in this case on Mr Peck, have clearly damaged the interest of justice.

[12] We reject the argument that the interests of justice is confined to the time taken to apprehend one offender or a principal offender or the time taken to bring a prosecution. We consider this is a much wider consideration.

[13] What this means is that the offending in this case was clearly at a high level. The only possible mitigation which has been raised, mostly by Mr McConkey but also by Mr Toal, is related to the capabilities of the appellants and personal circumstances. Mr McConkey has principally relied on a report provided by Mr Dwyer, educational psychologist, as evidence of low IQ and vulnerability on the part of his client. Mr Toal also points to his client's low abilities and the fact that he needed a registered intermediary at trial.

[14] We have considered this aspect of the case carefully and read Mr Dwyer's report in the context of the entirety of the case papers. One issue that arises is the potential point of distinction between Stephen and Brian McCook. We understand why this has been raised, but having considered the matter, we think that given the overall circumstances, the joint basis of plea document and the general nature of this case it would be wrong to make a distinction on the basis of the facts. Hence, we agree with the trial judge on this.

[15] There are numerous authorities both from this jurisdiction and from England & Wales on the issue of assisting offenders which we have had the chance to read and consider. It is trite to say that they all turn on their own facts, but they do. That said, a consistency point is raised by Mr McConkey given two recent cases of the Crown Court in Northern Ireland *Brown* and *Gill*. Characteristically Mr McConkey has considered these cases in detail. In summary, he extracts from them that sentences in murder cases have ranged from approximately 15 months' to two years' imprisonment.

[16] This court has already expressed some reservations about the *Brown* authority in relation to those who were actively assisting and not in the position of a partner, who became embroiled more spontaneously. In any event, as the authorities we have just mentioned are not guideline cases, the judge was not bound by the parameters set within them. He had to consider the particular circumstances of this offending and as we have said, proceed on the basis of plea. The circumstances set out in the plea denote a range of activity, namely presence in David Austin's house before the ambush, providing him with a safe haven, helping him dispose of incriminating evidence, failing to aid Mr Peck by alerting emergency services, lying to police and obstructing the police investigation.

[17] Thus, this is a case which, in our view, went beyond the range seen in other cases to a potential range of 4-5 years at a starting point. The judge should have explained this in the judgment and articulated an actual starting point. Then a 20% reduction for a plea was appropriate. If the judge had proceeded on this basis we can see how a sentence of four years was justified for the myriad ways in which David Austin was assisted in this murder. This is the absolute maximum that could have been imposed, but applying the legal test, we do not consider that the sentence of four years for either appellant was manifestly excessive.

[18] We also reject the argument that there is no need for deterrence where this type of offence is established. The position is quite the opposite as people should plainly be deterred from assisting in a brutal murder such as this.

[19] Hence, having carefully considered all of the arguments, we uphold the four-year sentence of imprisonment in each appellant's case.

[20] The only remaining issue is whether in Stephen McCook's case the judge should have suspended that sentence of imprisonment. As the authorities tell us

suspension of sentence may flow from either the circumstances of the offending or the personal circumstances of an offender. It was accepted during argument that in this jurisdiction exceptional circumstances are required for suspension and that the law as it stands is found in two cases of this court *R v Devlin* [2023] NICA 71 and *R v Ruddy* [2025] NICA 13. Mr McConkey has made a valid argument as to the personal circumstances of Stephen McCook being relevant allied to his vulnerabilities which we have already referenced. We have considered that argument carefully in the light of the law which requires us to conduct a balancing exercise between the interests of the individual against the public interests in play.

[21] In the context of such serious offending as arises here, we are not convinced that a suspended sentence was warranted. Rather, an immediate sentence of imprisonment was appropriate in this case. We see no reason to interfere with the judge's ruling on that. We also record some of the other cases relied on in relation to suspension of sentence for assisting offenders in murder cases lack reasoning as to why suspension was preferred and should be viewed with a measure of caution.

Conclusion

[22] Whilst a transparency point was validly made and highlights an error in principle in the sentencing exercise, it does not result in any reduction in sentence for the reasons we have given. This conclusion results from the particular facts of this case which may or may not read into other cases. Therefore, the appeals are both dismissed.