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IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

ATTORNEY GENERAL'S REFERENCE NUMBER 6 OF 2004
(CONOR GERARD DOYLE)
(AG REF 16 of 2004)

Before Kerr LCJ, Nicholson LJ and Campbell LJ

KERR LCJ

Introduction

[1] The offender, Conor Gerard Doyle, was charged with the murder on 14 October 2002 of Angela Snoddy. He pleaded not guilty at his first arraignment on 5 September 2003, but was re-arraigned on 15 March 2004 and pleaded guilty. On 11 June 2004 at Belfast Crown Court, Weir J sentenced the offender to life imprisonment. The learned judge ordered that the minimum period to be served under article 5 of the Life Sentences (NI) Order 2001 should be ten years.

[2] The Attorney General sought leave to refer the sentence to this court under section 36 of the Criminal Justice Act 1988, on the ground that it was unduly lenient. We gave leave and the application proceeded.

Background facts

[3] The offender is now ages twenty-three, having been born on 17 February 1981. He and Miss Snoddy began a relationship some eighteen months before her death. It was a turbulent relationship with the parties sometimes living together and sometimes apart but it produced a child, a boy also called Conor, who was born in August 2002. Before the child was born, the offender's eldest brother, Tony, committed suicide in June 2002. The relationship between Miss Snoddy and Doyle deteriorated after his brother's death. She felt that he did not pay enough attention to her whereas he was preoccupied with grief at the loss of his brother. This was not the only reason for strain

between them. Doyle was associating with another young woman and Miss Snoddy saw them together towards the end of September 2002.

[4] Another principal cause of strife between the offender and Miss Snoddy related to their baby. At the end of September Miss Snoddy arranged for the child to be taken into care. This appears to have given rise to a particular sense of grievance on his part.

[5] Telephone records for a land line telephone used by Miss Snoddy establish that over a short period before her death she made contact with the offender on numerous occasions. We were told that these records represent only some of the calls that she made to him, for she also telephoned frequently using a mobile telephone for which no records are available. The case made on Doyle's behalf in relation to these is that Miss Snoddy was trying to persuade him to return to her and that she used the baby as a means of exerting pressure on him to return.

[6] On the night of the murder Doyle had been drinking heavily. At the last licensed premises he visited he was involved in a fight. He returned to his parents' home and despite his intoxication he took the keys of his father's car and drove to Miss Snoddy's home. There is a dispute as to how he gained access. Neighbours of Miss Snoddy claim to have heard someone shouting "I'm going to kill her" and forensic evidence suggests that Doyle got into the house by a bathroom window. He claims that Miss Snoddy admitted him to the house. His counsel, Mr O'Donoghue QC, has argued that, in the absence of a *Newton* hearing, this court is obliged to deal with the case on the basis of the offender's account and that it must be accepted that Doyle did not break into the house.

[7] In *R v Newton* (1983) 77 Cr App R 13 it was held that where there is a plea of guilty but a conflict between the prosecution and defence as to the facts, the trial judge should approach the task of sentencing in one of three ways: a plea of not guilty can be entered to enable the jury to determine the issue; or the judge himself may hear evidence and come to his own conclusions; or the judge may hear no evidence and listen to the submissions of counsel. If the last of these options is chosen and there is a substantial conflict between the two sides, the version of the defendant must so far as possible be accepted.

[8] In this case a *Newton* hearing was not held and plainly it would not be appropriate for this court to hold one. With some reluctance, therefore, we feel obliged to deal with the case on the basis that Miss Snoddy admitted Doyle to the house. No satisfactory explanation was offered for the forensic findings in the bathroom and we find it difficult to suppose that he would have left the house by this route but, in the absence of the opportunity to assess evidence relevant to that issue, we have no alternative but to accept Doyle's claim.

[9] What happened in the house to precipitate the attack on Miss Snoddy will perhaps never be known with complete certainty. What is clear beyond question, however, is that she was the victim of a horrendous, sustained attack in which a number of knives were used. Altogether the deceased suffered seventy-five stab wounds to the body. Sixty-six of these wounds were to the front of the chest and abdomen, one on the left arm, five on the front of the left thigh and three on the front of the right thigh. When police came to the scene they found that a knife was in situ, penetrating some six inches into the chest cavity. The left lung had been penetrated eight times and the right lung once. There were penetrations of two large blood vessels of the chest and multiple penetrations of the liver. There were also penetrations of the stomach, the pancreas and the abdomen. On the front of the chest there was a horizontal incised wound extending to the cervical vertebra. She had been punched or stamped on several times causing severe trauma to the face and a broken nose. There was bruising and generalised swelling on the left side of the brain, which would have caused rapid unconsciousness and could alone have been fatal. A large tear of the liver was found, which indicated the use of blunt force probably in the form of kicking, stamping or forceful kneeling on the abdomen. There were bruises on the back, consistent with forceful contact with the ground. Further, there was considerable bruising of both upper arms and forearms, strongly suggestive of forceful grasping. The ferocity of the attack on this physically slight girl, who was some 5' 3" in height, is difficult to credit and awful to contemplate.

[10] It cannot be certain at what stage Miss Snoddy sustained fatal injury. One can only hope that it was at an early point in this appalling attack. Unquestionably the injuries to the throat would have caused her rapid death. At whatever stage she died, however, what must not be lost sight of is that she was the victim of an unspeakable assault. That factor must figure prominently in any assessment of the requirements of retribution in the selection of the minimum period that the offender must be required to serve.

[11] After he had killed Miss Snoddy he drove away in his father's car at high speed but crashed it. He then made a number of telephone calls in which he stated that he had murdered her. In at least some of these he appeared calm, which is remarkable in light of what he had just done and the scene that he had just left. He telephoned the police and waited in the damaged vehicle until they arrived whereupon he led them to Miss Snoddy's home. When interviewed by the police he claimed not to remember stabbing Miss Snoddy so many times or cutting her throat. But in one of the telephone calls that he had made earlier he said, " I've killed her, I've stabbed her, she will not take the kid away from me" and later, "I've stabbed her 70 times". While in the police car after his arrest he was heard to say, "At least I'll see my child in twenty years, she won't" and "Her family wants to put me down. I put her

down, tough shit." It must be remembered that these appallingly callous remarks were made when he was highly intoxicated (a sample of blood taken some hours after the killing revealed a still significant level of alcohol in the bloodstream) but they cannot be ignored in any evaluation of the authenticity of his claimed remorse.

The offender's medical condition

[12] In a report on an examination of the offender that took place on 28 August 2002 Dr Mangan, a consultant psychiatrist, recorded a history of depression and anxiety; he had been admitted to the RVH in June 2001 following a drug overdose and again in July 2002 having deliberately taken an overdose of tablets and cut his wrist. Dr Mangan concluded at that time that he was suffering from a major depressive illness which would require antidepressant medication for at least a further twelve months. He also found that Doyle was suffering from a post-traumatic anxiety disorder with many of the features of post-traumatic stress disorder. This was the result of his being at home when a pipe bomb attack on the house took place.

[13] Dr Mangan saw the offender after the killing of Miss Snoddy on 5 December 2003. In that report he gave his opinion on the impact of his mental state on the offender's culpability in the following passage: -

> "It is well recognised that patients suffering post-traumatic anxiety disorders have marked problems with hyperarousal including irritability and difficulties controlling aggressive impulses. The patient's high level of intoxication at the time of the index offence, coupled with his problems with irritability, contributed significantly to his inability to control his aggressive impulses."

[14] Although the offender suffered significant mental health problems, it is clear that he was well able to appreciate the gravity of what he did at the time of the killing. Dr Mangan dealt with that aspect of the case in the following section of his report: -

> "Despite the patient's history of depression and hyperarousal I do not believe that at the time of the killing he was suffering from any psychiatric condition or disorder which substantially impaired his ability to control his mind."

The fixing of minimum terms in life sentence cases

[15] The system of fixing minimum terms in life sentence cases was described with admirable clarity by Carswell LCJ in *R v McCandless and others* [2004] NICA 1. For those who wish to have a clear understanding of that system we commend the judgment in that case. Despite the precision of the explanation that the judgment contains, it is, sadly, evident that there remains a widespread misconception as to the essential features of the system. Much of the media coverage of this case (of which this court could not but be aware) unfortunately exemplifies that misconception. It is not for the courts to prescribe how judgments are reported but it is open to us – and, we believe, in this instance incumbent on us – to observe that those who report cases such as this have a clear responsibility to ensure that the nature of the sentence imposed is fully made clear in reports offered to the public.

[16] As the judgment in *McCandless* makes clear, a minimum term fixed by a judge in a life sentence case does not represent the totality of the sentence imposed. Every adult convicted of murder in the United Kingdom must be sentenced to life imprisonment. This does not in practice mean that he will be detained for the whole of the rest of his life, save in a few very exceptional cases. Under the Life Sentences (Northern Ireland) Order 2001 a judge who sentences a person to life imprisonment is required to fix a minimum term that must be served by the prisoner before his release can be considered. This exercise involves the judge making an estimate of the period that is necessary to satisfy the requirements of retribution and deterrence. We shall return presently to discuss what is meant by those concepts.

[17] What has perhaps been lacking in the past is a clear understanding that the judge does not fix the total term that a prisoner must serve. He decides what minimum period must be served *before* the prisoner's case is considered by the Life Sentence Commissioners under article 6 of the 2001 Order. When the matter has been referred to them, under article 6(4)(b) the Commissioners must be satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined, and if they are so satisfied they will then direct his release, pursuant to article 6(3)(b) of the Order. Moreover, a life sentence prisoner when released does not obtain unconditional freedom. He is released on licence and will be subject to recall to prison if he breaches the terms of the licence. Finally, what has not emerged with sufficient prominence in press reports of this type of sentencing is that a minimum term sentence, unlike other determinate sentences passed by judges, is not subject to normal remission rules. Thus a minimum term sentence of, say, ten years is the equivalent of a determinate sentence of twenty years on which full remission is earned.

[18] The selection by the judge of the minimum period to be served is therefore but an element of the sentence, or, as it is described in article 5 of the 2001 Order, 'part' of the sentence. Article 5 (2) describes the purpose to be fulfilled by the selection of the minimum period: -

> "The part of a sentence specified in an order under paragraph (1) shall be such part as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it."

[19] The conventional definition of retribution is punishment for crime but the concept also includes an aspect which might be described as exacting from the offender society's due for the wrong that he has done. The revulsion that right thinking people feel for the extinction of a young life in such squalid circumstances as befell Miss Snoddy must therefore feature in the estimate of the appropriate minimum term in the present case. Deterrence is, of course, quite a separate component of the minimum period sentence. Its purpose is to discourage the wrongdoer and others from offending in the manner that was involved in the crime of which he has been convicted. Unhappily, violence against partners meted out usually by men on women is all too prevalent in our society. While few cases involve the level of violence that was inflicted on the victim on this occasion, courts have a duty to send a clear message to those who engage in violence on women that severe penalties will be imposed on those who are found guilty of it.

[20] As in all manner of criminal offences, our courts have striven to achieve a measure of consistency in sentencing when fixing a minimum period to be served by those sentenced to life imprisonment. In *McCandless* the Court of Appeal adopted as a principal guideline the *Practice Statement* issued by Lord Woolf CJ on 31 May 2002 and reported at [2002] 3 All ER 412. This set out the approach to be adopted in respect of adult offenders in paragraphs 10 to 19: -

> *"The normal starting point of 12 years*
>
> 10. Cases falling within this starting point will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para 12. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph.
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> 11. The normal starting point can be reduced because the murder is one where the offender's culpability is significantly reduced, for example, because: (a) the case came close to the borderline between murder and manslaughter; or (b) the offender suffered from mental disorder, or from a

mental disability which lowered the degree of his criminal responsibility for the killing, although not affording a defence of diminished responsibility; or (c) the offender was provoked (in a non-technical sense), such as by prolonged and eventually unsupportable stress; or (d) the case involved an overreaction in self-defence; or (e) the offence was a mercy killing. These factors could justify a reduction to eight/nine years (equivalent to 16/18 years).

The higher starting point of 15/16 years

12. The higher starting point will apply to cases where the offender's culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases will be characterised by a feature which makes the crime especially serious, such as: (a) the killing was 'professional' or a contract killing; (b) the killing was politically motivated; (c) the killing was done for gain (in the course of a burglary, robbery etc.); (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness); (e) the victim was providing a public service; (f) the victim was a child or was otherwise vulnerable; (g) the killing was racially aggravated; (h) the victim was deliberately targeted because of his or her religion or sexual orientation; (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing; (j) extensive and/or multiple injuries were inflicted on the victim before death; (k) the offender committed multiple murders.

Variation of the starting point

13. Whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary the starting point upwards or downwards, to take account of aggravating or mitigating factors, which relate to either the offence or the offender, in the particular case.

14. Aggravating factors relating to the offence can include: (a) the fact that the killing was planned; (b) the use of a firearm; (c) arming with a weapon in advance; (d) concealment of the body, destruction of

the crime scene and/or dismemberment of the body; (e) particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time.

15. Aggravating factors relating to the offender will include the offender's previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than to risk.

16. Mitigating factors relating to the offence will include: (a) an intention to cause grievous bodily harm, rather than to kill; (b) spontaneity and lack of pre-meditation.

17. Mitigating factors relating to the offender may include: (a) the offender's age; (b) clear evidence of remorse or contrition; (c) a timely plea of guilty.

Very serious cases

18. A substantial upward adjustment may be appropriate in the most serious cases, for example, those involving a substantial number of murders, or if there are several factors identified as attracting the higher starting point present. In suitable cases, the result might even be a minimum term of 30 years (equivalent to 60 years) which would offer little or no hope of the offender's eventual release. In cases of exceptional gravity, the judge, rather than setting a whole life minimum term, can state that there is no minimum period which could properly be set in that particular case.

19. Among the categories of case referred to in para 12, some offences may be especially grave. These include cases in which the victim was performing his duties as a prison officer at the time of the crime or the offence was a terrorist or sexual or sadistic murder or involved a young child. In such a case, a term of 20 years and upwards could be appropriate."

[21] Since the *Practice Statement* was issued, the position in England and Wales has changed. Sections 269 and 270 of the Criminal Justice Act 2003 and

Schedule 21 to the Act (which sets out the starting points for various cases where a minimum sentence must be imposed) came into force on 18 December 2003. In *McCandless* this court acknowledged that the *Practice Statement* had already been overtaken in England and Wales by the 2003 Act. It did not consider that this should alter the sentencing pattern already established in Northern Ireland, based as it was on the *Practice Statement*. At paragraph [10] of the judgment Carswell LCJ said: -

> "In a number of decisions given when imposing life sentences and fixing minimum terms, including those the subject of the present appeals and applications, judges in the Crown Court have taken account of the principles espoused by the Sentencing Advisory Panel and by Lord Woolf CJ in his *Practice Statement* and have fixed terms in accordance with those principles and on a comparable level with the terms suggested in them. We consider that they were correct to do so. We have given careful consideration to the level of minimum terms which in our view represent a just and fair level of punishment to reflect the elements of retribution and deterrence. We are not unmindful of the mandatory minimum terms prescribed in England and Wales for certain classes of case by the Criminal Justice Act 2003, but we consider that the levels laid down in the *Practice Statement,* which accord broadly with those which have been adopted for many years in this jurisdiction, continue to be appropriate for our society."

[22] We do not believe that the provisions of the 2003 Act can be imported and applied in Northern Ireland in the absence of legislation to like effect in this jurisdiction. We consider that the *Practice Statement* should continue to be the touchstone in this jurisdiction for the fixing of minimum terms in life sentence cases. It must be remembered, however, that the statement did not purport to offer more than a series of guidelines and a suggested range of minimum terms and the court in *McCandless* was careful to recognise this in paragraph [8] of its judgment where it said: -

> "We think it important to emphasise that the process [outlined in the *Practice Statement*] is not to be regarded as one of fixing each case into one of two rigidly defined categories, in respect of which the length of term is firmly fixed. Rather the sentencing framework is, as Weatherup J

> described it in paragraph 11 of his sentencing remarks in *R v McKeown* [2003] NICC 5, a multi-tier system. Not only is the *Practice Statement* intended to be only guidance, but the starting points are, as the term indicates, points at which the sentencer may start on his journey towards the goal of deciding upon a right and appropriate sentence for the instant case."

[23] There is a temptation to try to strain the words of the *Practice Statement* in order to fit a particular case into a specific category or species of case instanced in the statement in pursuit of the aim of consistency. This should be firmly resisted, not least because of the infinite variety of murder cases and the facts that give rise to them. Moreover, Lord Woolf was careful to make clear that the examples that he gave to illustrate the broad categories were precisely that, examples rather than an exhaustive list of all those cases that might be classified in one group or the other. This approach characterises both the selection of the normal or higher starting point and the identification of aggravating or mitigating factors that may warrant a variation of the starting point selected.

[24] What the *Practice Statement* does is to provide a broad structure for the manner in which the minimum sentence should be chosen. We agree with the submission of Mr McCloskey QC, counsel for the Attorney General, that in the vast majority of cases the sentencer should be able to decide which of the starting points is appropriate to the particular case that he or she is dealing with. The facts of an individual case may not precisely mirror those outlined in the statement but, as we have said, the categories in the *Practice Statement* should be regarded as illustrative rather than comprehensive. Once the starting point has been chosen, the facts of the case should be examined in order to identify those factors that may give rise to a variation of the starting point. Once more, the aggravating and mitigating matters outlined in the *Practice Statement* must be regarded for this purpose merely as examples.

The sentencing judge's approach

[25] The learned judge applied the *Practice Statement* and concluded that this was a normal starting point case. He then identified a significant aggravating feature and a number of mitigating factors and selected a minimum period of ten years. The relevant parts of his ruling are as follows: -

> "[13] I therefore follow the direction in *McCandless* by applying the *Practice Statement* issued by Lord Woolf CJ and reported at [2002] 3 All ER 412. The relevant terms of that statement have been set out in extenso in other judgments and I need not

repeat them here. Having considered all the circumstances I have concluded that your case falls within the normal starting point of twelve years as it involves the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. But for one important aggravating matter, which I intend to reflect by a significant upward variation to the normal starting point, the killing does not have the characteristics that typify the higher starting point.

[14] That important aggravating feature is the multiple and extensive injuries that you inflicted upon your victim in this sustained and brutal attack. I have already described their horrific nature. So far as mitigation is concerned, I take account of:

1. Your relatively young age, clear criminal record, excellent family background and good working history.

2. Your well - documented history of psychiatric illness at the time when this crime was committed.

3. The fact that you can be shown to have consumed a considerable quantity of alcohol.

4. The apparent lack of premeditation.

5. Your immediate report to the Police and to others that you had committed the crime, your prompt surrender to the Police and your co-operation at interview.

6. Your declarations of remorse to Ms Richardson and the doctors and expressed today both by your Counsel on your behalf and in the letter that you have written to the Court. I must however say that those expressions of regret sit rather uneasily with your remarks to friends and police in the immediate aftermath when admittedly you were still intoxicated and

the absence of much expressed remorse at the later Police interviews when you were not.

7. Your plea of guilty, thereby saving Ms Snoddy's family and your own the distress of a trial where all the upsetting circumstances of this matter would have had to be gone into in painful detail.

[15] Taking all the factors into account I have concluded that the appropriate minimum term in your case is ten years. The period that you have already spent in custody since your arrest will be deducted from that period."

[26] Mr McCloskey criticised this approach on a number of grounds. He submitted that a higher starting point should have been selected by the judge, pointing out that even counsel for the offender, in making a plea in mitigation, accepted that this was a higher starting point case. Counsel also suggested that, although he had said that the 'multiple and extensive injuries' constituted an important aggravating feature, the judge did not appear to reflect this in his choice of minimum period. Finally, he argued that many of the factors identified by the judge as mitigating factors were not such; at best they were features of the case that were essentially neutral.

[27] For the offender Mr O'Donoghue suggested that the judge had chosen a starting point somewhere between the two positions outlined in the *Practice Statement.* This, he said, was a legitimate approach because of the difficulty in easily accommodating the facts of the case into either category. Mr O'Donoghue argued that paragraph 11 of the *Practice Statement* (which outlines a number of possible mitigating features in a normal starting point case) could also be applied to higher starting point cases. In particular, in this case it was right to take into account that the offender suffered from a 'mental disability which lowered the degree of his criminal responsibility for the killing' and that he had been 'provoked by prolonged and eventually unsupportable stress'. Lastly, he submitted that the offender's plea of guilty and his genuine remorse were powerful mitigating features and that the sentencing judge was right to reduce significantly the minimum period to reflect these factors.

Conclusions

[28] We do not accept the proposition that the judge chose a starting point somewhere between the two positions outlined in the *Practice Statement*. It is clear from paragraph [13] of his ruling that he chose the normal starting point

and that he proposed to vary that upwards because of what he described as "one important aggravating feature".

[29] We consider that this case must be regarded as coming within the higher starting point category. This is so for several reasons. In the first place it is not the type of case that Lord Woolf had in mind when he described a quarrel or loss of temper between two people known to each other. It appears to us that a typical example of a lower starting point case would be a disagreement between two friends suddenly igniting and leading to an exchange of blows in which one kills the other. This case involved much more than that. The deceased and the offender were certainly known to each other and we have no difficulty in accepting that the offender lost control but this is otherwise quite unlike what we would regard as a normal starting point case.

[30] Quite apart from this consideration, however, is the circumstance that the victim in this case was, in our view, extremely vulnerable. She was a young woman living alone who was no match in physical strength to the offender. She would have been quite unable to defend herself against the ferocity of his attack on her and indeed there were no signs of defensive injuries detectable on post mortem examination. Like many unfortunate women she was at the mercy of a male partner of superior strength.

[31] The enormous number of wounds inflicted on this unfortunate young woman and the horrific way in which her body was treated by the offender also warrant the choice of the higher starting point category. It is true that the *Practice Statement* refers to the infliction of 'extensive and/or multiple injuries … *before death*' but we do not consider that this precludes the inclusion in the higher starting point category of cases where those injuries have been inflicted after death. Obviously, each case will depend on its own particular facts and one can understand that where a victim has suffered grievously before death, inclusion in the higher starting point category will be more automatic but it appears to us that where there has been a large number of injuries or a particularly gruesome killing has occurred, these are matters that should be taken into account in the choice of the appropriate starting point.

[32] Mr McCloskey argued that the case should be viewed as a higher starting point case because the offender's culpability was 'exceptionally high'. We consider, however, that the reports of Dr Mangan suggest that there was some lowering of the offender's powers of self control and we would be reluctant to categorise this case as a higher starting point case by reference only to the level of his culpability.

[33] Having concluded that this is a higher starting point case, we must then examine any aggravating or mitigating features that might prompt a variation from the norm suggested by the *Practice Statement*. It seems to us that where the court chooses the higher starting point because of one particular aspect of

the case, it should not normally vary the starting point upwards because of the same factor. Where, however, there are several reasons that a case might be regarded as meriting a higher starting point, then some measure of increase of the minimum sentence may be warranted. It is important to avoid an over-mechanistic approach to this issue, while guarding against the danger of double counting. Adopting this course we have concluded that some increase in the starting point figure is justified because of the horrific nature of the assault on Miss Snoddy.

[34] What then of the claimed mitigating features? We do not agree with the learned judge's conclusion that the consumption of alcohol can be regarded as a mitigating factor. This is at most an indication that he was more liable to lose control and on that account a contra-indication to a finding that this was a planned attack. In other words it may neutralise a factor that might otherwise have been regarded as aggravating. Likewise a lack of premeditation does not mitigate the offence in the sense that it makes it less reprehensible. If the offence had been premeditated that would have been an aggravating factor. If it is not premeditated, that merely signifies the absence of that aggravation, not an independent source of mitigation.

[35] We consider that the offender's mental state may properly be regarded as a mitigating factor. Unlike alcohol which is self administered, the post traumatic stress disorder which lowered his powers of self control is a factor that he was not in command of and which made it more difficult for him to resist his aggressive impulses. But this is not a matter of substantial weight, in our view. The offender was well able to appreciate the gravity of his conduct and his mental condition can in no way explain, much less excuse, the heinousness of the attack on Miss Snoddy.

[36] If it had been shown that the offender had been 'provoked by prolonged and eventually unsupportable stress', it would have been a factor of some importance but we consider that the evidence falls far short of establishing this. We do not underestimate the concern for his child that he may have felt and we do not dismiss the possibility that he may have come under pressure in relation to arrangements for the child but this could not begin to qualify as unsupportable stress leading to such an appalling outcome.

[37] The offender's youth and the absence of any significant criminal convictions, his good working record and his excellent family background are all matters to be borne in mind but, as this court has frequently observed, the personal circumstances of an offender will not normally rank high in terms of mitigation, particularly where the offence is as serious as that in the present case.

[38] The offender's expressions of remorse must also be carefully considered. The probation officer who prepared the pre-sentence report stated that Doyle

struggled to come to terms with the fact that he was capable of murder and one must be careful to distinguish between on the one hand, genuine repentance, and on the other, regret at the situation that one has created, which may include a strong element of sorrow for one's own plight. Moreover, as the sentencing judge observed, Doyle's expressions of regret do not rest easily with his remarks to friends and police in the immediate aftermath of the killing or with the absence of much expressed remorse during police interviews when he was no longer intoxicated.

[39] The strongest mitigating factor is the offender's plea of guilty whereby he spared witnesses, particularly his victim's family, the ordeal of giving evidence. This stands clearly in his favour although we bear in mind that no possible defence was available to him. Although he did not plead guilty at the first available opportunity, we accept the submission of Mr O'Donoghue that this should not tell significantly against him since a number of legal issues would have had to be addressed before final advices could be given to the offender.

[40] Having carefully considered all these factors and everything that was advanced to us on the offender's behalf we have come to the conclusion that the minimum period chosen by the sentencing judge was unduly lenient and must be quashed. Mr O'Donoghue urged us to accept that the effect of double jeopardy should be taken into account in the same way as it would be in the case of a determinate sentence and Mr McCloskey was disposed to accept that some account of this principle should be taken. We have given some weight to this factor although we feel that it is not of the same significance where the sentence of the court (life imprisonment) remains unaltered and where the court's quest is to find the appropriate minimum period to represent the retribution and deterrent requirements of the penalty rather than the totality of the sentence.

[41] This court has determined that the appropriate minimum period to be served by the offender, taking into account the aggravating and mitigating factors that have been reviewed in this judgment, is one of fifteen years, the equivalent of a determinate sentence of thirty years. This period will be substituted for that ordered by the sentencing judge.