

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

THE QUEEN

-v-

ROBERT ADAMS

Before: Kerr LCJ, Campbell LJ and Girvan J

Campbell LJ

[1] On 30 September 1977 Robert Adams, who was then aged 17 years and 5 months, was convicted by a judge sitting without a jury at Belfast City Commission of murder, false imprisonment and causing grievous bodily harm with intent. The court ordered that he be detained at the pleasure of the Secretary of State on the count of murder and serve a concurrent sentence of 5 years' imprisonment on the remaining counts. He was released on licence on 30 October 1985.

[2] His case was referred to this court by the Criminal Cases Review Commission under s. 10 of the Criminal Appeal Act 1995. When the reference came on for hearing Mr James Lavery QC appeared with Mr Niall Moore for Mr Adams and Mr Bernard McCloskey QC appeared with Mr Stephen Fowler for the Crown.

[3] Mr Lavery asked the court to receive in evidence a report from Dr Gisili Gudjonsson, Professor of Forensic Psychology in the University of London, a police log schedule and a hand written statement of DC Compton, which had come to light during preparations for the hearing of the reference. The application was not opposed by the Crown and the evidence was received.

[4] The court proceeded to consider the reference and to hear the submissions of counsel including a statement by the Crown that it did not seek to uphold the safety of the convictions. At the conclusion of the hearing

the court announced that it had decided that the convictions should be quashed and that the reasons would be given later. We now give the reasons.

[5] On 4 June 1976 the body of Mr William Herbert Spring, who was 51 years of age, was found in the kitchen of a derelict house in Waterproof Street in Belfast. Mr Spring was unemployed. He was described as being an alcoholic. The learned trial judge said in his judgment that the undisputed findings were that Mr Spring:

‘...was bound hand and foot, two knotted handkerchiefs had been used as a gag, and [his] body was enclosed in a sheet which was also tied. He had been shot in the head five times. An examination of his urine and blood disclosed that his blood contained 133 mgs. of alcohol per 100 ml. and his urine 212 mgs. per 100 ml.’

The judge continued:

‘On the evidence I am satisfied beyond reasonable doubt that the deceased was alive when his hands and feet were tied and that he was shot after being tied in the sheet. Death was due to the gunshot wounds’.

[6] At 7.30 a.m. on Wednesday 10 November 1976 police officers went to the home of Robert Adams in Belfast. His father opened the door and when they told him that they were inquiring into a matter (which was not connected with the death of Mr Spring) he agreed to allow his son, who was then 16 ½ years old, to accompany them to a police station. Mr Adams said that he would follow later. On that day Robert Adams was not questioned by the police about the death of Mr Spring but about the other matter. He told Professor Gudjonson in 2002 and Dr Hanley in 2004 that during one of these interviews he was punched once in the ribs.

[7] On the day following, 11 November 1976, during an interview which began at 9 am, Mr Adams was asked if he knew anything about the murder of Mr Spring. The interviewing officers claimed that he indicated to them that he did and they asked him if he would like to tell them about it. They reminded him that he was under caution and he said that he did not want to make a statement. The officers then left the room to make arrangements for Mr Adams’s father to come to the station.

[8] At 9.30 am on that morning, a detective sergeant and a detective constable began to interview Mr Adams. He was asked a number of questions during this interview and he described how Mr Spring was killed.

[9] On the afternoon of 11 November 1976, in the presence of his father, Mr Adams dictated a statement which was recorded by a police officer. There are some differences between the version that he gave when answering questions and what he said in his written statement, however, in summary this is what he said. He was a member of a group of five people who picked up Mr Spring in Mount Street with the intention of robbing him. They persuaded him to accompany them to Waterproof Street where he was forced into an empty house. There he was asked for money and a member of the group hit him, knocking him to the ground. When on the ground he struggled as he was being searched. All of the group, including Mr Adams, kicked him and after nearly five minutes of kicking Mr Spring appeared to pass out and they thought that he was dead. A member of the group then produced a gun from the front of his trousers, which Mr Adams said that he had not seen before, and this person fired five shots at Mr Spring saying that he was doing this to make sure that Mr Spring was dead. Another member of the group brought a sheet from upstairs in the house and they wrapped Mr Spring in it. Someone tied up his hands and legs with a piece of cord before pushing him into the middle of the sheet. Mr Adams claimed that Mr Spring was dead before he was shot. After this the group split up and Mr Adams said he went home and washed himself and cleaned his shoes which were covered in blood.

[10] Mr Adams senior said that after his son made his written statement on the afternoon of 11 November he told him that he was not involved in the killing of Mr Spring and complained of having sore ribs.

[11] The trial judge said in his judgment that Mr Adams in his evidence before him made some changes in his version of events. He told the court that he had accompanied the others to Waterproof Street out of curiosity and that he did not touch Mr Spring but remained in the house while Mr Spring was taken to a back room. He claimed that he did not want anything to happen to Mr Spring and that he did not have the courage to say anything. His explanation for the discrepancies between his verbal and written statements was that the police had made suggestions to him with which he had agreed. The judge went on to say that he was not impressed by Mr Adams whom he described as being anxious to exculpate himself and showing a 'glib indifference to the truth.'

[12] It is apparent from the judgment that during the trial the statements made by Mr Adams and relied on by the prosecution were not challenged by counsel for the defence. Nor was any suggestion made to the police officers that they had assaulted Mr Adams in any way and the judge expressed himself as satisfied that the police had acted not merely properly but with considerable humanity towards him.

[13] Mr Adams' defence at the trial was that he had gone along with what he thought was to be a robbery and he was neither a knowing nor a consenting party to the murder. The judge rejected the suggestion that this was to have been a robbery, on the grounds that it could have been carried out in the street and it was therefore unnecessary to take Mr Spring to a derelict house to rob him; when Mr Spring was knocked to the ground and probably rendered unconscious he could have been robbed without the need for any further violence; tying his hands and feet and wrapping him in a sheet before shooting him at point blank range all pointed to assassination rather than a robbery. The judge rejected also the suggestion that Mr Adams had gone with the others out of curiosity and found that he was present throughout and was a willing and consenting party to the killing. He found him guilty as an accessory to murder and of falsely imprisoning Mr Spring and of acting in concert in causing him grievous bodily harm with intent. The judge added that in his view Mr Adams was probably not as evil as his associates and that he thought that in part his defence was occasioned by the fact that he was not prepared even then to admit to himself or his father that he played a part in this foul crime

[14] A co-accused Ivan Kelly pleaded guilty to conspiracy to rob under section 8 of the Theft (Northern Ireland) Act 1969 and no other person has been charged with the murder of Mr Spring.

[15] On 13 September 1979 Mr Adams applied for leave to appeal out of time against his convictions and the single judge dismissed the application for an extension on the ground that 'The persons named as possible witnesses all seem to have been known and approached at the time of the trial.' Between 1980 and 1984 petitions to the Secretary of State were lodged asking for a review of the conviction of Mr Adams on six occasions by Mr Adams or by public representatives on his behalf. The response to each of these was that there was no new evidence.

[16] On 16 August 1999 an application was made by Mr Adams to the Criminal Cases Review Commission. In the Commission's statement of reasons it refers to a number of irregularities that it has identified in the detention and questioning of Mr Adams, to his vulnerability to making a false confession and non-compliance with the Judges' Rules and the 1974 edition of the RUC code. It concludes that if the trial judge had been alerted to these matters he may have reached a different decision either on the admissibility of Mr Adams's admissions or on the question of proof of his guilt beyond reasonable doubt. It is necessary to refer to each of these.

[17] *Irregularities in the detention and questioning:*

- (i) Adams was questioned without a parent or independent adult being present although he was 16 years of age. The Judges' Rules which

were brought into use in Northern Ireland on 8 October 1976 provide that as far as practicable children should only be interviewed in the presence of a parent or guardian, or, in their absence, some person who is not a police officer and is of the same sex as the child. There is a similar provision in the RUC Code referring to children and young persons. (RUC Code 1974 section 129 para 127). Mr Adams was at the time of his interviews a 'young person' as defined by section 52 of the Children and Young Persons Act (Northern Ireland) 1968.

(ii) There is no record that the officers arrested and re-cautioned Mr Adams before questioning moved from the offence for which he was originally arrested and questioned to the murder of Mr Spring though he was reminded that he was still under caution.

(iii) There are inconsistencies between the log schedule and some of the officers' statements with regard to the identity of the interviewers and when the interviews were conducted.

(iv) The files contain a draft statement by DC Compton which was written and significantly altered in ink.

(v) The log schedule and the officers' statements show that after his arrest Mr Adams was interviewed about an armed robbery without an independent adult being present. He then admitted this offence and at a separate interview he made a written statement under caution in the presence of his father at 11.30 am on 10 November 1976.

(vi) The logs show that Mr Adams was not questioned again on 10 November until 8.45 pm and that between 11.30 am and 8.45 pm the three officers who sat with him (at various times) were DC Compton, DC Turner and Constable McMaster.

(vii) It is noted in the log that between 7.55 pm and 8.20 pm while DC Compton was sitting with him they had a 'general conversation' but no 'interview'. DC Compton's witness statement regarding an interview on the following day, 11 November 1976, contains the following;

"He [Adams] was visibly disturbed from his calm composure in the interview I had done on the previous day."

The earlier part of D C Compton's witness statement indicates also that he neither conducted nor observed an interview with Mr Adams prior to 11 November 1976.

(viii) The log shows that between 8.45 pm and 11 pm on 10 November 1976 Mr Adams was alone with DC Turner and against the entry is 'discussed other matters'. This contradicts DC Turner's witness statement in which he says that at 11.30 am on 10 November 1976 he left Adams after he had made a written statement under caution relating to the armed robbery, and did not see him again until 9 am the following morning, 11 November 1976.

(ix) Mr Adams was held overnight in custody and according to the statements of the officers he was questioned on 11 November about recent crimes in the area including the murder of Mr Spring. The log entry suggests that he was asked only about Mr Spring.

(x) DC Turner in his witness statement about his interview with Mr Adams at 9 am on 11 November does not say that Mr Adams was cautioned specifically about the offence of murder but he does say that he asked him about recent crimes in C Division and 'again reminded him that he was under caution'.

(xi) DC Turner and DC Compton in their witness statements say that they interviewed Mr Adams at 9 am on Thursday 11 November without an adult present and that they concluded this interview, during which Mr Adams told them that he knew something about the murder, so that Mr Adams's father could be asked to attend. This was at 9.30 am and the log shows that another interview began at that time with DC Turner and DS Scott without any adult present. This interview continued to 10.15 am and was followed by another at 10.30 am, again in the absence of any independent adult. In the afternoon of that day Mr Adams made the written statement in the presence of his father but there is no reference in the log or in the statements of the officers to say that they had any difficulty in contacting Mr Samuel Adams sooner.

(xii) In the police file there is a handwritten draft of a statement by DC Compton concerning the interview which began at 9 am on 11 November 1976. It contains an alteration made by drawing a line through the original and writing the alteration above. In the original it reads:

"DC Turner then asked Adams about recent crimes in the area and reminded him that he was still under caution. DC Turner then asked Adams about the murder of William Herbert Spring on 4th June 1976.
Adams shook his head in a negative reply."

In the altered version it is as follows:

“DC Turner then asked Adams about recent crimes in the area and reminded him he was still under caution. DC Turner then asked Adams about the murder of William Herbert Spring, on 4th June 1976. **Adams nodded his head indicating his knowledge.**”

It is the altered version that appears in the committal papers.

[18] *Vulnerability to making a false confession*

(i) Mr Adams was examined by Dr R Irwin on the morning of 11 November at about 11.25 am. He told the doctor that he had not had any recent illness but had been treated for a perforated ulcer a year earlier. He said that he had not been assaulted or abused in any way while in police custody and the doctor did not record any signs of bruising. He found him fit to be detained. The doctor does not make any reference to his psychological condition.

(ii) In November 1975 Mr Adams was admitted to hospital with a perforated duodenal ulcer which was repaired and he was discharged in early December. At the beginning of January 1976 he reported that he had a recurrence of abdominal pain and vomiting. His surgeon reported that he had suffered from ulcers from the age of 12 and his symptoms recurred in September 1976 and continued after his imprisonment.

(iii) Mr Adams was described in a pre sentence report prepared in May 1977 for the Court of Appeal as:

“... a young lad who seemed to have almost totally isolated himself from his school mates and friends. Since his mother’s death, which deeply affected the boy, he spent most of his time indoors watching television or reading and only rarely went out to play. During conversation with the probation officer Robert had expressed feelings of deep insecurity and of being unwanted- probably attributable to the absence of any stable parental figure in his life at that time.”

(iv) In prison Mr Adams protested his innocence and from January 1979 he is recorded as having had psychiatric problems. He inflicted superficial wounds on himself and swallowed two halves of a razor blade and a staple. He was in the psychiatric unit from August 1979 until April 1980 and again from February 1981 until September 1981. He continued to attend a consultant psychiatrist until his release on 30 October 1985. He was diagnosed as anorexic in 1979 and in a letter to his doctor he gave as

one of his reasons for not eating that he was doing life for a murder that he did not commit.

(v) Professor Gudjonsson assessed Mr Adams as abnormally suggestible and compliant and as likely to have been so at the time of his arrest. He considered that he was unlikely to have coped well with lengthy detention and interrogation.

[19] Mr Adams was examined on behalf of the Crown by Dr I G Hanley, a consultant clinical psychologist, on 7 July 2004. In an opinion, given following this Dr Hanley said;

“Leaving aside the fact that no appropriate adult was present during the police interviews it is my view that it is almost certain that Mr. Adams was in a psychologically distressed and highly vulnerable condition when interviewed by the police ...

In my clinical experience there is a very strong possibility that Mr. Adams would have suffered from what is known today (but not then) as **post traumatic stress disorder**...

There is considerable face validity to Mr. Adams’s account of how he panicked even more when struck in the ribs, as he alleges, during the interrogation by Detective Compton ...

Mr. Adams was likely to have been a highly vulnerable individual during police interview in 1976 because of the earlier life experiences. The very nature of the interview/interrogation process would have triggered the fear and anxiety originally associated with the trauma of the paramilitary assault ...

I would be of the view that the main vulnerability factor identified by the psychometrics, in the context of a possible false confession, is Mr. Adams's general emotional lability and anxiety ...

I would have to say that I was struck by the obvious determination that he shows to have his conviction reversed. This, together with the ease and consistency with which he describes past events

makes him an impressive and largely convincing witness.”

He concluded that there was highly detailed and convincing evidence that the conviction of Mr Adams for murder in 1977 was likely to be unsafe.

The court's approach

[20] Where the Commission refers a conviction to the Court of Appeal the reference is to be treated for all purposes as an appeal against conviction under section 1 of the Criminal Appeal Act 1980. The test to be applied is whether this court considers the conviction is unsafe. The safety of the conviction is to be judged according to contemporary standards which would be applied in any other appeal under section 1 of the 1980 Act (*R v Gordon* [2001] NIJB 50).

[21] The only evidence against Mr Adams was contained in his verbal and written admissions. In *R v King* [2000] Crim LR 835 Lord Bingham CJ said:

“If, in a case where the only evidence against a defendant was his oral confession which he had later retracted, it appeared that such confession was obtained in breach of the rules prevailing at the time and in circumstances which denied the defendant important safeguards later thought necessary to avoid the risk of a miscarriage of justice, there would be at least prima facie grounds for doubting the safety of the conviction - a very different thing from concluding that a defendant was necessarily innocent.”

Conclusion

[22] In this case a number of matters have come to light. There are possible breaches of the Judges' Rules and breaches of the RUC code provided as guidance to police officers. Although these would not necessarily make a conviction unsafe they give cause for concern in the present case where an adolescent was being interviewed about a murder without an independent adult present. This is especially so where Mr Adams is described as being abnormally suggestible and compliant.

[23] The discrepancies between the statements of DC Turner and DC Compton and the police log cannot, on the face of them, be resolved and while some explanation might have been forthcoming if the issue had been raised at the trial it is impossible to know if it would have been convincing.

[24] The alteration of DC Compton's draft witness statement provides a serious cause for concern. There is no indication in the judgment that counsel for the defence was aware of it at the trial. If they had been it is almost certain that they would have raised it and that the judge would have referred to it in his judgment. If, as he claims, Mr Adams denied knowing anything about the murder at this first interview, in the interviews that followed prior to the arrival of his father the officers are likely to have been more persistent in their questioning than may have appeared to the trial judge.

[25] The fact that DC Turner and DC Compton were with Mr Adams on 10 November after he had been interviewed and made a statement about the other matter and say that they did not interview him provides a further cause for concern which does not appear to have been explored at the trial.

[26] Taking all these matters into account, together with the opinions expressed by Professor Gudjonson and Dr Hanley, the doubt cast on the safety of the convictions is such that the court ordered that they be quashed.