

IN THE CROWN COURT OF NORTHERN IRELAND

THE QUEEN

v

CECIL JONES

STEPHENS J

[1] Cecil Jones, on 11 May 2007, you were arraigned and pleaded not guilty to the offence of attempted murder of Stewart Beck. On 29 June 2007 you were re-arraigned and pleaded guilty to the offence of unlawfully and maliciously wounding Stewart Beck with intent to cause him grievous bodily harm contrary to Section 18 of the Offences against the Persons Act 1861. The prosecution have accepted that plea.

[2] I consider that you have pleaded guilty at a relatively early stage. The offence was committed on 18 July 2006. The trial was due to start in September 2007. I make it clear that I give you credit for your plea of guilty. The sentence that I will impose is less than I would have imposed had you not pleaded guilty at the stage which you did. However to benefit from the maximum discount on the penalty appropriate to the offence that you committed you should have pleaded guilty at the earliest opportunity. In that regard I take into account your interviews with the police after you were arrested. During the course of those interviews you made 'no comment'. You did not accept your guilt at the earliest stage. You did not plead guilty when you were first arraigned.

Factual background.

[3] The factual background has been outlined to this court by Mr Fowler QC. I do not intend to repeat everything that he has said. It is clear that you had consumed a considerable amount of alcohol. You and Stewart Beck, your victim, were in a flat in Lisburn at 2c Blaris Park. That was a flat of a mutual friend. It appears that the incident which caused you to viciously attack Stewart Beck was that he accidentally kicked over your tin of beer and also

there was a dispute in relation to the alleged theft of money and credit cards from your girlfriend. An argument ensued. You left the living-room, went into the kitchen and armed yourself with a kitchen knife. You returned to the living-room and you proceeded to stab Stewart Beck with the knife. I consider that this was a drunken argument between persons known to each other. I consider that the mental impairment from which you now suffer played no part in the circumstances of the offence.

[4] I have read the report of Dr Sidhu. From that report it is clear that your victim sustained two stab wounds. One to the chest and one to the neck over the collarbone. Having stabbed your victim you left him and made good your escape. These were life threatening wounds and having inflicted them you abandoned Stewart Beck to his fate. Fortunately he was able to get out of the flat and he was seen by others to be bleeding and in need of urgent attention. An ambulance was called and he was taken to Lagan Valley Hospital and then to the Royal Victoria Hospital, Belfast.

[5] The neck wound traversed the neck 15cm deep to the area of the transverse process of the cervical spine but no vessels or nerves seem to have been injured. In short you had stabbed your victim in the neck, not with a glancing blow, but with a deep entry right up to the bones at the back of his neck.

[6] The wound to the chest was to the left-hand side. This also was not just a flesh wound. It is clear that the wound penetrated so that it communicated with the pleural space. These wounds were the result of barbaric violence perpetrated with callous indifference. You intended to and did cause grievous bodily harm. I consider that the use of a knife is a serious aggravating feature in your case.

Personal circumstances.

[7] I take into account your personal background. You are 28 years of age having been born on 29 March 1979. You are originally from Carrickfergus. You were raised in an unsettled family environment. By the time you were at secondary school you were involved in anti-social and criminal behaviour. You were abusing alcohol and misusing drugs. I will deal separately with your mental condition.

Attitude to the offence and risk of further offending.

[8] I have also considered your attitude to the offence that you have committed and the risk of further offending. I have read and considered the report of Michael Winnington, Probation Officer, dated 29 August 2007 and the medical report of Dr Kennedy dated 26 September 2007 together with its addendum dated 12 October 2007. When you were interviewed by Mr

Winnington in early August 2007 your mental condition was deteriorating and it subsequently transpired that you were in fact psychotic at that stage. Accordingly I consider that your attitude during that interview was affected by your condition and was not truly representative of the attitude that you would have had if you were not severely mentally disturbed. It is correct however to record that during that interview you displayed no recognition as to the gravity of the offence you face. You described it as "just an old assault". You displayed no awareness and no recognition as to the ordeal experienced by your victim. Throughout the interview you struggled to accept any responsibility for the injuries you had caused Mr Beck. You had little motivation or awareness regarding the offending lifestyle issues you need to address for the risk of re-offending to reduce. The risk of you re-offending was high. As a result of that interview Mr Winnington formed the view that you were unsuitable for a custody probation order due to your lack of motivation and the problems in managing your behaviour when in the community. The report and the addendum report were then obtained from Dr Kennedy, consultant psychiatrist. She examined you on two occasions. She has considered your medical notes and records. She advises that there is some improvement in your mental state. You are compliant with treatment. Dr. Kennedy was of the opinion that custody probation would be a good option in your case. That this would balance punishment/deterrence as well as rehabilitation. You have a Carrickfergus address and would come under the responsibility of the Northern Trust by which Trust Dr Kennedy is employed. She has made it clear that she will follow you up in prison and later in the community and that should your condition deteriorate further or you became non compliant with treatment she would arrange for your transfer to hospital. In short that she will be involved in monitoring you in the community in conjunction with the probation service if there is a probation element to your sentence. She has discussed this with Mr Winnington who is broadly supportive.

[9] The views of Dr Kennedy and the broad support from Mr Winnington are relevant to the question of whether a custody probation order is appropriate to which question I will return. However I make it clear that there is a need to protect the public from a person such as yourself who presently demonstrates almost complete indifference to the fact that you attacked Mr Beck with a knife and also presently has little or no insight into the injuries that you inflicted upon him. I consider that you are now and will remain for a considerable period a substantial risk to the public. I do however note that your mental condition is improving.

Injuries sustained by the victim and the victim impact.

[10] I have considered the injuries sustained by your victim as I have already outlined and the impact of those injuries on him. I have read his statement dated 20 September 2007. I entirely discount the last sentence of

that statement as I am required to do by law. I note that when Mr Beck was discharged from hospital he had to move into his mother's house as he could not cope with looking after himself. What happened to Mr Beck has affected him mentally as well as physically.

Procedural requirements for the custodial sentences.

[11] A pre-sentence report has been made available to me and I have considered it in accordance with the provisions of Article 21 of the Criminal Justice (Northern Ireland) Order 1996. In determining your sentence I have borne in mind the provisions of Article 19(2) (a) and (b) and Article 19(4) of the Criminal Justice (Northern Ireland) Order 1996. I consider that the offence before me now is so serious in its content that only a custodial sentence is justified and that, given that your offence was a violent offence, I also consider that only such a sentence will be adequate to protect the public from serious harm from you. I am of that opinion for the reasons set out in this judgment. I emphasise that you have committed a most serious offence. You are a danger and a risk to others.

[12] There are additional procedural requirements specified by Article 22 of the Criminal Justice (Northern Ireland) Order 1996 in the case of a person who is or appears to be mentally disordered. Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996 defines mentally disordered by reference to the definition contained in the Mental Health (Northern Ireland) Order 1986. Article 3(1) of the 1986 Order defines "mental disorder" as "mental illness, mental handicap and any other disorder or disability of mind". I consider that you are mentally disordered within that definition. Accordingly before passing a custodial sentence, other than one fixed by law, the court unless it considers it unnecessary to do so, shall obtain and consider a medical report within the meaning given to that by Article 22(5) of the Criminal Justice (Northern Ireland) Order 1996. A medical report has been obtained from Dr Kennedy together with an addendum. They are dated respectively 26 September 2007 and 12 October 2007. I have considered that report and its addendum. Following your arrest for this offence you were held on remand in prison from July 2006. You were admitted to the hospital wing of the prison on 25 December 2006 because you had cut your wrist but at that stage there was no evidence of psychosis. However by 3 August 2007 your mental condition had deteriorated. On 10 August 2007 you were again admitted to the prison's hospital wing this time for a psychiatric condition. You appeared to be responding to hallucinations and you reported hearing two male voices talking to each other and to you. Dr. Kennedy is of the opinion that you most probably suffer from a dissocial personality disorder with co-morbid alcohol dependence and poly-substance misuse. You present as floridly psychotic with incongruous affect, thought disorder, visual and auditory hallucinations and possible delusions of thought broadcasting. Your presentation is in keeping with a possible schizophrenic illness. You suffer

from a major mental illness and you require substantial treatment with medication under specialist supervision. I consider that a custodial sentence will have no significant adverse impact on your mental condition or on the treatment for your condition. I note that a prison environment will provide a degree of stability in which you can be treated and in that respect I note that Dr Kennedy advises that there do not seem to be protective factors for you in the community in terms of stable relationships or accommodation, which could offer you a degree of security and stability.

Sentencing guidelines in relation to an offence under Section 18 of the Offences against the Persons Act 1861.

[13] I have given consideration to the sentencing guidelines. In *Attorney General's Reference No 18 of 2002 Christopher Simon Hughes* [2002] EWCA Crim 1127 the Court of Appeal in England and Wales stated that a sentence in the bracket of 3 to 8 years was appropriate for offences contrary to Section 18 of the Offences against the Persons Act 1861. I also bear in mind paragraph B2.42 of Blackstone's *Criminal Practice*, 2007 where it is stated that the normal sentencing range is in the bracket of 3 to 8 years although sentences over 8 years are upheld in particularly grave cases. In determining the sentence that I impose on you I have also considered the passage at paragraph [23] - [24] of *R v Stephen Magee* NICA 15/6/07.

Aggravating features relating to the offender.

[14] You have 50 previous convictions but I do not consider that this record discloses a proclivity to acts of extreme violence. You have some previous convictions for violence including one serious assault conviction from 22 August 1993 when you were a juvenile. Since then you have 4 convictions for common assault and one conviction for assaulting the police. All of these later offences were minor and were dealt with in the magistrate's court. You also have a conviction for robbery and two convictions for conspiracy to rob. For the later two offences you were sentenced to be detained in a young offenders centre for 12 months with the sentences being concurrent. The conviction for robbery is your most serious conviction. That case also involved a person known to you and occurred when you were drunk. Your record is dominated by offences of dishonesty rather than violence.

Aggravating features in relation to the offence.

[15] You caused the serious injuries that I have outlined. I accept that those injuries are not catastrophic. However I consider that the injuries that you inflicted are a serious aggravating factor.

[16] You used a knife. The prosecution have accepted that you did not intend to kill Stewart Beck and I will sentence you on that basis. However it is clear that you took a wicked risk with the life of Stewart Beck by using a

knife in these circumstances. The fact that you used a knife is a serious aggravating factor.

[17] You committed this offence whilst under the influence of alcohol. Ordinarily I would consider this to be an aggravating feature, see paragraph 1.22 of the Sentencing Guidelines Council Guideline entitled "Overarching Principles: Seriousness" dated December 2004. However in your case you are addicted to drink. I consider that your case is different from a person who has a choice as to whether to consume drink in the knowledge that potentially they are exposing others to erratic behaviour which behaviour is far more dangerous for the victim. In your case I accept that you are the subject of an addiction and accordingly in your case I treat this as a neutral feature.

Mitigating features relating to the offender.

[18] I take into account your personal circumstances but on a strictly limited basis. I bear in mind that in cases of this gravity your personal circumstances are of limited affect in the choice of sentence, see *Attorney General's Reference (No 7 of 2004) (Gary Edward Holmes)* [2004] NICA 42 and *Attorney General's Reference (No 6 of 2004) (Conor Gerard Doyle)* [2004] NICA 33.

[19] I take into account the remorse that has been expressed on your behalf by counsel during the plea in mitigation. I accept in part that there is some degree of remorse but there is also an element of complete indifference to the severity of the injury that your victim has suffered.

Mitigating features in relation to the offence.

[20] At the time these offences were committed you were heavily intoxicated with drink. Your perception of events may accordingly have been badly distorted. The offence was not premeditated or planned. I do not consider this to be a mitigating feature. I consider that the lack of premeditation through the consumption of drink is a neutral feature. I consider that your intoxication with drink in the particular circumstances of this case is a neutral feature.

[21] I take into account the mitigating factor that you have pleaded guilty. I make it clear that the sentence I am now imposing is less than I would have imposed had you not pleaded guilty at the stage which you did. In this case you did not admit your guilt during interview. You did not enter a plea of guilty when you were first arraigned.

Custody probation.

[22] As you must receive a substantial period of imprisonment in excess of 12 months I am required by Article 24 (1) of the Criminal Justice (NI) Order

1996 to consider whether I should impose a Custody Probation Order. In considering that issue I have sought to apply the principles set out by the Court of Appeal in *Attorney General's Reference (No.1 of 1998) (McElwee)* [1998] NI 232, *R v Lunney* (03/99) and *R v McDonnell*. The Court of Appeal pointed out in *R v Quinn* [2006] NICA 27 at paragraph 29 that:-

“A Custody/Probation Order should only be made where it is considered that the offender would benefit from probation at the conclusion of a period of custody and that it is deemed necessary to enable him to reintegrate into society or because of the risk that he would otherwise pose”.

In view of the matters set out in paragraph [8] of this judgment and in view of the contents of the report and the addendum report from Dr Kennedy I have concluded that you would benefit from probation at the conclusion of a period of custody in view of your abuse of alcohol and drugs prior to the commission of this offence, the previous lack of stability in your life, and your ongoing need for medical treatment for your mental condition. I have considered making a hospital order under Article 44 of the Mental Health (NI) Order 1986. Dr Kennedy states that such an order “would not have the same teeth in managing community risk at the end of any sentence”. I consider that such an order is not the most suitable disposition in that I can impose requirements to the probation element of a custody probation order in respect of your mental condition under schedule 1 paragraph 4 of the Criminal Justice (NI) Order 1996. I am of that view despite the fact that you have breached a previous probation order. I have indicated that you should be brought back to the Crown Court in relation to that breach and your counsel has agreed that you should be so brought back and that the breach should be dealt with either by the original sentencing judge or by myself.

Conclusion.

[23] If you consent to a custody probation order I will sentence you to 6 years imprisonment followed by 2 years' probation. There will be a number of requirements in the Probation Order as follows namely:

- (a) You will reside in the petty sessions district for Carrickfergus throughout the whole period of probation.
- (b) You will reside at such accommodation as is specified by your probation officer and at no other address. If there are any rules that apply in relation to that accommodation then you will comply with those rules.
- (c) You shall submit during the whole period of probation to treatment by or under the direction of Dr Christine Kennedy

with a view to the improvement of your mental health. That the treatments to which you are to submit include treatment whether as an in patient or an out patient at Holywell hospital.

- (d) You shall submit during the whole of the probation period to treatment by or under the direction of Dr Kennedy with a view to the reduction or elimination of your dependency on drugs and alcohol. That the treatments to which you are to submit include treatment (whether as an in patient or an out patient) at Holywell hospital.
- (e) You address your impulsive and risk-taking behaviour as directed by your supervising probation officer.
- (f) You develop an involvement in constructive and purposeful activity as directed by your supervising probation officer.
- (g) You examine the consequences of your behaviour both on yourself and in particular on victims as directed by your supervising probation officer.
- (h) You attend such course or courses for counselling and treatment for alcohol and drug abuse as directed by your supervising probation officer or by Dr Christine Kennedy.
- (i) You will keep all appointments with the probation officer as are notified to you.
- (j) You will not consume alcohol, nor be in licensed premises throughout the whole period of probation. You will submit yourself to a breathalyser test for alcohol if requested to do so by your probation officer. You will also submit yourself to testing for drugs as directed by your supervising probation officer.

I make it clear that if you fail to comply with any requirement in the probation element of the order then you will be brought back to this court which may deal with you in a number of ways including revoking the probation order and sentence you instead to a further period of imprisonment.

[24] If you do not consent to custody probation I will sentence you to 7 years imprisonment.

[25] I make it clear that the 2 year probation period does not equate to the reduction in the period that you will spend in custody. I consider that you

require 2 years' probation to enable you to reintegrate into society and because of the risk that you would otherwise pose. In short, that you need that length of probation in view of your history of alcohol and drug addiction and your mental condition.

[26] I must now enquire from you as to whether you consent to a custody probation order. Do you consent to a custody probation order being made?

[27] I understand that you consent. Accordingly I sentence you to 6 years imprisonment followed by 2 years' probation. I specify the following requirements in the Probation Order namely:

- (a) You will reside in the petty sessions district for Carrickfergus throughout the whole period of probation.
- (b) You will reside at such accommodation as is specified by your probation officer and at no other address. If there are any rules that apply in relation to that accommodation then you will comply with those rules.
- (c) You shall submit during the whole period of probation to treatment by or under the direction of Dr Christine Kennedy with a view to the improvement of your mental health. That the treatments to which you are to submit include treatment whether as an in patient or an out patient at Holywell hospital.
- (d) You shall submit during the whole of the probation period to treatment by or under the direction of Dr Kennedy with a view to the reduction or elimination of your dependency on drugs and alcohol. That the treatments to which you are to submit include treatment (whether as an in patient or an out patient) at Holywell hospital.
- (e) You address your impulsive and risk-taking behaviour as directed by your supervising probation officer.
- (f) You develop an involvement in constructive and purposeful activity as directed by your supervising probation officer.
- (g) You examine the consequences of your behaviour both on yourself and in particular on victims as directed by your supervising probation officer.

- (h) You attend such course or courses for counselling and treatment for alcohol and drug abuse as directed by your supervising probation officer or by Dr Christine Kennedy.
- (i) You will keep all appointments with the probation officer as are notified to you.
- (j) You will not consume alcohol, nor be in licensed premises throughout the whole period of probation. You will submit yourself to a breathalyser test for alcohol if requested to do so by your probation officer. You will also submit yourself to testing for drugs as directed by your supervising probation officer.