

IN THE CROWN COURT SITTING IN NORTHERN IRELAND

THE QUEEN

-v-

CIARAN GERARD CORBETT  
AND  
MICHAEL ANTHONY CORBETT

**STEPHENS J**

**Introduction**

[1] Ciaran Gerard Corbett, on 13 January 2009, you pleaded guilty to the manslaughter of Kevin Coiley on 19 December 2007. You had previously been arraigned in relation to that offence on 26 September 2008. At that stage you pleaded not guilty.

[2] Michael Anthony Corbett, on 5 December 2008, you pleaded guilty to the offence of common assault on Kevin Coiley on 19 December 2007 contrary to Section 47 of the Offences Against the Persons Act 1861. You had previously been arraigned in relation to the offence of assault contrary to Section 47 of the Offences Against the Persons Act 1861, on 26 September 2008. At that stage you pleaded not guilty.

**Factual background**

[3] The factual background has been outlined to this court by Mr Murphy QC on behalf of the prosecution. Your victim, Kevin Coiley, was in the habit of attending the Royal British Legion Club, Old Church Road, Newtownabbey, 2-3 times per week. From early afternoon on Wednesday 19 December 2007 he had been in the back bar of the club drinking. He was in his usual position sitting at the bar just in front of the juke box. There was no suggestion that Mr Coiley was aggressive or violent in any way and he was known to be an agreeable character. Two incidents occurred involving Kevin Coiley. You Michael Anthony Corbett were involved in the first incident and you Ciaran Gerard Corbett were involved in the second. The first occurred at

some time between 7.00 pm and 8.30 pm. The second occurred some 20-40 minutes after the first.

[4] In the first incident you, Michael Anthony Corbett, assaulted Kevin Coiley. You were heavily intoxicated. Exactly what occurred in the assault is not entirely clear. The assault is variously described as you punching Kevin Coiley on the right side of his face causing him to stumble back against the juke box or as you grabbing his throat and holding him for a period of seconds. In any event a scuffle began and a group of men grabbed you and put you out of the social club. Kevin Coiley did not sustain any injury of significance as a result of that assault. He remained in the same position and continued drinking. You, Michael Anthony Corbett, did not return to the club that evening but your brother Ciaran Gerard Corbett heard of this first incident from your partner. You had not suggested that your brother should be informed. Your partner did not suggest that your brother did anything as a result of the telephone call. However as a result of that telephone call and completely on his own initiative your brother, Ciaran Gerard Corbett, went to the social club to confront Kevin Coiley.

[5] In the second incident which occurred some 20-40 minutes after the first incident you, Ciaran Gerard Corbett, went into the back bar of the social club and within a very short space of time went straight to the area where Kevin Coiley was sitting. You then struck him a single blow on the right side of his face. He fell onto the floor. As he did so his head struck the juke box and also banged on the hard concrete floor. As a result he was knocked unconscious and he remained unconscious for possibly up to 10 minutes. There are various accounts of this assault by witnesses but they are essentially consistent. Your account in so far as it is inconsistent with the witnesses does not vary greatly. It is clear that you are not a violent individual and that what occurred was out of character. It is also clear that a short time after the incident, when you had gone home, you were concerned as to the welfare of Kevin Coiley. Furthermore upon hearing of Kevin Coiley's death you immediately gave yourself up to the police. Accordingly I do not consider that upon hearing by telephone of the earlier incident you there and then decided to assault Kevin Coiley but rather at that stage, you wished go to the social club to have it out with him by speaking to him. However I conclude that once you entered the back bar of the social club and as you started to walk across towards him you at that stage formed an intention to strike him. I conclude that you then approached Kevin Coiley in a purposeful and determined manner. At that stage you did not hesitate in your purpose. Rather you struck without pausing and without speaking to him. After you struck him you walked out of the social club.

[6] Kevin Coiley was initially unconscious but he came round after possibly up to 10 minutes. He went home. His condition deteriorated. An ambulance was called. Resuscitation was attempted but at 23.35 hours on 19

December 2007 a doctor pronounced his life extinct. The cause of his death was the injury that he had sustained in the second incident. Toxicological analysis revealed high concentrations of alcohol, 3¾ times the legal driving limit. In view of the severity of the head injury it is doubtful that intoxication played any direct role in Kevin Coiley's death other than possibly accelerating it slightly.

[7] In conclusion Kevin Coiley died as a result of the back of his head striking an unyielding surface such as the ground causing severe injury to his brain.

[8] Both, you, Ciaran Gerard Corbett, and you, Michael Anthony Corbett, heard of the death of Kevin Coiley that night. You both went directly to Antrim Road Police Station and made a report to the police. You both spoke to Detective Inspector Hutchinson in the early hours of the morning informing him that you had been involved in the incidents in the club. You were both arrested.

#### **Personal circumstances of Ciaran Gerard Corbett**

[9] You, Ciaran Gerard Corbett, were born on 2 February 1978. You were aged 29 at the time of this offence. You are now aged 31. You left school at age 15 and took up a youth training programme in joinery. You have been employed in various jobs since then and you much prefer to be employed. You have a partner for some 13 years and you have a son. It is apparent from the reports of Mary Cumming, probation officer, and Dr Carol Weir, Consultant Clinical Psychologist, that you have been prescribed anti-depressants and sleeping tablets. You have difficulty in sleeping, difficulty with concentration and you have lost all interests in your former hobbies. It was evident to the probation officer that you remained very shocked and found it difficult to believe that you reacted as you did. You readily acknowledge that your actions have caused great distress to the victim's family. In Dr Weir's opinion you are clearly clinically depressed and you are presently functioning at a very low level. You informed her that you were devastated by what had happened. That you are full of despair and regret. It is apparent that as a consequence 9 months ago you engaged in self harm, taking a kitchen knife and cutting your arm requiring 9 sutures. You have no previous history of violence and when asked why you thought the offence had occurred, given that you were not intoxicated or someone with a history of aggression or violence, you said that you could not think why you had done it and that you usually walk away from fights rather than walking into them. I accept that you are devastated by the events which occurred on 19 December 2007. That you have at present few mental resources due to your depression and that undoubtedly you will find prison very difficult.

### **Personal circumstances of you Michael Anthony Corbett**

[10] You were born on 15 November 1971. You were aged 36 at the time of this offence. You are now aged 37. You are married though separated from your wife. You have 4 children of various ages up to 13 years of age who reside with your wife though you have regular contact with them. You left school at 18 and had intermittent periods of employment but in the recent past you have been in receipt of incapacity benefit.

### **Risk of harm to the public and likelihood of re-offending**

[11] In respect of you Ciaran Gerard Corbett, Mary Cumming, probation officer, has concluded that taking into account that you immediately accepted responsibility for your actions and reported to the police, that you displayed a high level of remorse, insight and understanding of victim issues and that there are no previous indications of violent tendencies that you are assessed as not posing a significant risk of harm to the public and that the likelihood of re-offending is low. I accept that assessment.

[12] In respect of you Michael Anthony Corbett I do not consider that your pose a significant risk of harm to the public. I also consider that the likelihood of re offending is low. You do not have a criminal record for violence and you have demonstrated remorse for your actions together with empathy for your victim's family. You demonstrated this not only by reporting yourself immediately to the police but also when you were first arrested you did not apply for bail for a 3 week period out of sensitivity for the effect on your victim's family of bail being granted. Your counsel has repeated to this court your regret and remorse. I accept that your remorse is genuine.

### **Representations of the victim's family**

[13] I have the benefit of a victim impact report in respect of Ella Coiley prepared by Dr Judith O'Neill, consultant psychiatrist of TMR Health Professionals. Kevin Coiley was born on 15 July 1962. He was 45 at the date of his death. He had been in a relationship with Ella Coiley for about 17 years and they married on 10 July 2006. They were particularly close to and supportive of each other. Both Kevin Coiley and Ella Coiley had children by previous relationships. Kevin Coiley was employed as a van porter at Breezemount Limited in Mallusk. The nature of Kevin Coiley's death was particularly traumatic for Ella Coiley. She attempted to resuscitate him herself. She has frequent, vivid and distressing dreams related to his death. She cannot bear to be alone. She is on anti-depressant medication. She has features of a clinical depressive episode. This court is acutely conscious of the

significant suffering of Ella Coiley and other members of Kevin Coiley's family.

### **Procedural requirements for a custodial sentence**

[14] A pre-sentence report has been made available to me in relation to you Ciaran Gerard Corbett and I have considered it in accordance with the provisions of Article 21 of the Criminal Justice (Northern Ireland) Order 1996. In addition in determining the sentences to impose on both of you I have borne in mind the provisions of Article 19(2) of the Criminal Justice (Northern Ireland) Order 1996. I consider that the offence before me now in respect of you, Ciaran Gerard Corbett, is so serious in its content that only a custodial sentence is justified. I repeat that the result of your unlawful act has been calamitous. You killed an agreeable and pleasant man. You have brought grief and suffering to his family. I will also impose a custodial sentence in respect of you, Michael Anthony Corbett, but I consider it appropriate for the reasons set out in this judgment to suspend that sentence.

### **Sentencing guidelines in relation to the offence of manslaughter**

[15] I have been referred by counsel to the decisions in the Court of Appeal in *R v Ryan Arthur Quinn* (2006) NICA 27 and *R v Stephen Magee* (2007) NICA 21. The case of *R v Ryan Arthur Quinn* sets sentencing guidelines for manslaughter cases in which death results from a single blow. At paragraph [20] of *R v Ryan Arthur Quinn* it is stated:

“We consider that a more suitable starting point in Northern Ireland for this type of offence is two years imprisonment and that this should rise, where there are significant aggravating factors, to six years.”

The starting points of between 2 and 6 years are for a guilty plea. Your case, Ciaran Gerard Corbett, raises yet again the difficult sentencing exercise where it is clear that you did not intend to cause grievous bodily harm but as a result of a single blow a death occurred. In your case it can be said that this was your first and only single blow to any individual but in the event that one blow has caused tragic consequences. I accept the submissions made by Mr McDonald QC on your behalf that there were a number of factors present in the case of *R v Ryan Arthur Quinn* that are absent from your case. In the case of *Quinn* the blow was particularly severe, there was no evidence of genuine remorse, the assault was callous and cowardly and there was an element of deterrence of young men involved in violent disorders on the street.

### **Maximum sentence in respect of the offence of assault and basis upon which sentence should be imposed**

[16] The maximum sentence for a common assault on indictment contrary to Section 47 of the Offences Against the Persons Act 1861 is 2 years imprisonment for an offence committed on or after 28 September 2004, for which see Article 4 (2) (b) of the Criminal Justice (No. 2) (NI) Order 2004 and *R v Massey & Hawkins* [2008] NICC 2 at paragraph [2]. Mr Murphy informed the court that if the second incident had not occurred the charge against you, Michael Anthony Corbett, would have been heard and determined in the District Judges court. The maximum sentence in the District Judges court for common assault would be 3 months imprisonment. The offence which you committed set the scene for the subsequent incident but there were quite clear intervening events, out with your control, breaking the chain of causation. You did not instigate or incite what subsequently occurred. I consider it appropriate to impose sentence on you for the self contained facts relating to the first incident and I bear this in mind when considering whether to suspend the term of imprisonment that I will impose.

**Aggravating features in relation to the offence in respect of you Ciaran Gerard Corbett**

[17] The following aggravating features in respect of you, Ciaran Gerard Corbett, are present in respect of the offence of manslaughter

1. The attack on your victim Kevin Coiley was unprovoked. In arriving at that view I bear in mind that there can be even worse cases where there has been no provocation for instance where an accused has totally randomly attacked an individual for no reason whatsoever.
2. As I have indicated I do not consider that you formed the intention to attack Kevin Coiley upon receiving the telephone call from your brother's partner. Accordingly for the avoidance of doubt I make it clear that the duration of your premeditation was limited. I conclude that you formed your intention as you first started to walk across the back bar towards your victim. That thereafter you walked in a determined and purposively manner to carry out the assault on Kevin Coiley.
3. The deceased had no idea that he was going to be attacked or opportunity to defend himself.
4. The nature of the blow was deliberate. I consider that the blow itself was of moderate force.

5. It was delivered in such a way that you had no regard for the potential consequence namely, that your victim would fall and strike his head.
6. You were a fit, able and sober man aged 29. Your victim was 45 and had consumed a substantial quantity of alcohol.
7. The assault occurred in a public place. Again I emphasise that in taking this feature into account I bear in mind the distinction between a public place such as this social club with the numbers of people in it and a public place such as a main city centre street where there are likely to be a very considerably greater number of members of the public.

### **Mitigating features in relation to the offence of manslaughter**

[18] I accept that you have pleaded guilty at the earliest reasonable opportunity having regard to the need to obtain the entire medical picture in relation to the cause of death and have legal advice in relation to it. The medical issue was obviously a critical matter in your case. All the medical reports that were obtained by your legal advisors in relation to this matter have been made available to me. It is apparent that all the matters raised were properly the subject of enquiry and that steps were taken to deal with that issue. I accord to you the maximum discount available for a plea of guilty. I state in open court, in accordance with the requirements set out in Article 33 of the Criminal Justice (Northern Ireland) Order 1996, that in view of the fact that you have pleaded guilty I am imposing on you a punishment which is less severe than the punishment I would otherwise have imposed.

### **Aggravating features relating to the offender, Ciaran Gerard Corbett**

[19] You have previous convictions but there are no previous incidents of violence. I do not treat your previous record as an aggravating feature.

### **Mitigating features relating to the offender, Ciaran Gerard Corbett**

[20] I take into account your personal circumstances and also I take into account the remorse that you have expressed which has been expressed on your behalf by counsel during the plea in mitigation, which I accept.

### **Consideration as to custody probation in respect of Ciaran Gerard Corbett**

[21] As you, Ciaran Gerard Corbett must receive a substantial period of imprisonment in excess of 12 months I am required by Article 24(1) of the Criminal Justice (Northern Ireland) Order 1996 to consider whether I should impose a custody probation order. 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 the society or because of the risk that he would otherwise pose. The probation report concludes that you do not pose a significant risk of harm to the public. The Probation Officer has also concluded that "there are no issues identified which require Probation intervention." I do not consider that you would have difficulties in re-integrating into the community or that you will need assistance in that respect. Accordingly I do not consider that a period of probation at the end of a period of custody is necessary.

### **Consideration of the offence of assault committed by you Michael Anthony Corbett**

[22] In mitigation you have pleaded guilty, though not at the very earliest stage. You have expressed remorse, which I accept. You have previous convictions but not for violence and in those circumstances I do not consider your record an aggravating feature. The assault was in a public place and you were drunk. I consider both of these to be aggravating features. In imposing sentence on you I bear in mind your lack of involvement in the second incident and the break in the chain of causation between the two incidents. The period you have spent in custody has been a salutary lesson to you and I take that into account also in determining your sentence.

### **Conclusion in respect of Ciaran Gerard Corbett**

[23] Ciaran Gerard Corbett, I sentence you to 2 years and 9 months in prison.

### **Conclusion in respect of Michael Anthony Corbett**

[24] Michael Anthony Corbett, I sentence you to 6 months in prison suspended for a period of 2 years. If you commit any further offence during that 2 year period you should assume that in addition to being punished for that further offence, you will go to prison for this offence for a period of 6 months.

### **Direction**

[25] In all cases where medical reports have been submitted to the court and a term of imprisonment is imposed or a defendant is remanded in custody the practice that I will seek to follow is to direct that copies of the medical reports are sent to the prison authorities to assist in relation to treatment and care. In this case I direct that the medical report of Dr Carol Weir dated February 2009 be sent to the prison authorities.