

IN THE CROWN COURT IN NORTHERN IRELAND

DUNGANNON CROWN COURT (SITTING AT BELFAST)

THE QUEEN

-v-

CONOR McVEIGH

HART J

[1] The defendant has pleaded guilty to a number of charges relating to the death of Gareth Dallas, and to the events of 4 and 5 December 2009, and a single charge in relation to an offence on 28 November 2009 which also involved Gareth Dallas, and is now before the court to be sentenced.

[2] The background to these events is that Gareth Dallas was a heavy drug user, and on 28 November 2009 was undergoing treatment for his addiction in the Addiction Unit at Holywell Hospital. During his time there he formed a relationship with Jade Harrison, who was also undergoing treatment in the Addiction Unit, and who had been admitted a few days before 28 November.

[3] The defendant has pleaded guilty to Count 1, an offence of supplying cannabis to Gareth Dallas on 28 November, contrary to Section 4(3)(a) of the Misuse of Drugs Act 1971. The evidence of Jade Harrison was that she heard Dallas talking to McVeigh by mobile, and asking McVeigh to visit him and to bring a 3 mg bag of "grass" (ie. cannabis). McVeigh came to the hospital as requested and delivered the cannabis, which she and Dallas then smoked on Saturday 28 and Sunday 29 November. This was clearly a serious offence that involved bringing an illicit drug into a hospital, and in particular into an addiction unit designed to assist people undergoing the many problems associated with addiction.

[4] Harrison was discharged from the hospital on Wednesday 2 December 2009, and Dallas said that he would stay on for another week. However he discharged himself on the same day, apparently because his mobile phone

had been confiscated by the hospital staff. He and Harrison had agreed to meet in Cookstown later that week. On Friday 4 December Harrison travelled to Cookstown, where she met Dallas and his step-father, and eventually they went to 36 Tullywiggan Road where Dallas was living at the time.

[5] She described in her police statement how Dallas then arranged for a delivery of cannabis from a supplier, and some 2.8 grams was delivered just before 5.00 pm. He then made up and smoked two cannabis joints which he shared with Harrison.

[6] McVeigh shared the house with Dallas and arrived home from work at about 6.35 pm. It appears that he left the house about 8 pm and returned about 20 minutes later, and it seems likely that he obtained some heroin during that absence. Dallas' step-father and his four year old daughter called round for a while, and then left about the time McVeigh returned to the house.

[7] Dallas then told Harrison that he knew that McVeigh had obtained heroin, and McVeigh then came downstairs and prepared some heroin in a tinfoil trough, which he heated, and then proceeded to inhale the smoke, sharing the trough and the smoke with Dallas and Harrison. This gives rise to Counts 2 and 3.

[8] Harrison described how Dallas told McVeigh that he wanted more heroin and that Dallas contacted the supplier. However, for some reason it was decided to go to another dealer, and Dallas then rang a friend called William McGucken, and asked McGucken to give him a lift into Cookstown. McGucken agreed to do so, dropped Harrison and Dallas off and picked them up a few minutes later. It is clear that during that period Dallas met his supplier and purchased some heroin. McGucken then drove Harrison and Dallas back to 36 Tullywiggan Road where he stayed, joining Harrison, Dallas and McVeigh.

[9] There then occurred the tragic events culminating in Dallas' death. Both Harrison and McGucken described what happened, and although there are significant differences between their accounts in certain details, there is general agreement that McVeigh proceeded to make up a heroin solution, which he placed in a spoon which was then heated. McVeigh may have sucked some of the solution himself through a cigarette tip given to him by Dallas, however the evidence of McGucken and Harrison was that Dallas then filled two syringes with liquid heroin from the spoon, although Harrison implies that it was McVeigh who filled the syringes. Both agree that Dallas then held out his arm to McVeigh, thereby inviting McVeigh to inject the liquid heroin into Dallas' arm. Dallas then went into the living room and lay down on one of the sofas. Harrison followed him into the living room and sat

down on another sofa, and McVeigh then injected her using the remainder of the liquid heroin. This gives rise to Count 5.

[10] McGucken left sometime before 8.30 or 8.40 pm, and Harrison and Dallas both fell asleep under the influence of the liquid heroin which had been injected. Harrison says that she realised that when she woke at 11.10 am the next day Dallas was lying dead in the position in which she had seen him earlier on the sofa. She claims that she had woken earlier at 2.08 am when she spoke to Dallas who answered her, and she believed that he was sleeping when she woke again at 7.00 am.

[11] However, Mr Reid (who appears on behalf of the prosecution with Mr Mateer QC) accepted that Harrison's account must be incorrect because Dr Bentley's conclusion was that a quantity of injected liquid heroin would have brought about a state of increasing depth of unconsciousness within 2-4 hours after the injection. That being the case, it is highly probable that Harrison's account is incorrect, and that Dallas died as a result of heroin toxicity, exacerbated by his having taken Diazepam, sooner than Harrison's account suggests.

[12] McVeigh pleaded not guilty upon arraignment and the trial was listed to start on Wednesday 28 March, but on Monday 25 March the defendant asked the court for an indication of sentence in accordance with the Rooney procedure and I agreed to give an indication. During the course of the hearing the facts were outlined in Mr Mateer's submission, these were repeated by Mr Reid at the hearing of the plea in mitigation, and I have already stated the material facts outlined in that submission. Mr Gallagher QC (who appears with Mr Dillon for the defendant) did not take issue with the prosecution statement of the facts.

[13] Mr Mateer referred me to two relevant decisions, the first being a decision of Weir J in R v Surgenor and Cullen [2004] NICC 26 in which he imposed a custody probation order of four years' imprisonment to be followed by eighteen months probation. In that case, which bears some resemblance to the present case, in that the manslaughter charge was based upon the death of the deceased as a result of a similar injection of liquid heroin, the defendant pleaded guilty, and an aggravating factor was that instead of the defendant and his associate immediately summoning help when the deceased showed signs of being adversely affected by the heroin, there was an unsuccessful effort to revive him by putting him in a bath of cold water for two hours before ringing the emergency services. As against that there were mitigating factors in the form of an early plea, and co-operation with the police during interview. Weir J considered that the appropriate sentence would have been one of five years' imprisonment on a plea, and therefore a higher sentence in the event of a contest would have followed.

[14] In R v Wilson [2008] 1 Cr. App. R. (S) 75 at page 435 the Court of Appeal in England reviewed a number of decisions relating to deaths due to the administration of heroin, and concluded that in relation to manslaughter charges “a sentence in the order of five years after trial, with an appropriate scaling down for a guilty plea and other mitigation” was appropriate.

[15] I am satisfied that these are the relevant decisions in this area, and I consider that as the decision in Wilson is a recent decision, and represents the considered view of the Court of Appeal in an area where the problem addressed by the court is as acute as in Northern Ireland, it is appropriate for me to follow that decision. However, Wilson does not refer to what may amount to aggravating features of particular cases, as were identified in Surgenor and Cullen, and it must therefore be that sentences after a contest could be higher than five years, depending upon any aggravating features in each case.

[16] In the present case I am satisfied that the defendant’s previous record is an aggravating factor. Whilst it contains a number of offences of dishonesty and motoring offences, of particular relevance are the six convictions for possession of class B drugs, one for possession of a class A drug, and a caution. These show that the defendant has been a dedicated drugs user and offender over an extended period of time. A second aggravating feature is that in this case Count 1 relates to the defendant bringing a quantity of cannabis into a hospital. I consider that the sentence on Count 1 should be consecutive to the sentences on the remaining counts to recognise the gravity of that offence, and the fact that it was a distinct offence on a different occasion, and not part of the same series of events which resulted in the death of Gareth Dallas.

[17] As Mr Gallagher QC for the defendant properly observed, there are a number of mitigating factors. The first was that the deceased was already a heavy drugs user. This was confirmed by a statement from his GP, Dr Gilfillan, and by his mother in her victim impact statement to which I shall refer later in this judgment. The second was that it was his heroin which was used on this occasion and it was not supplied by the defendant. Thirdly, the defendant’s plea of guilty is a matter in respect of which he is entitled to credit, although the plea was admittedly made at a late stage. Mr Gallagher pointed out that the defence awaited expert reports on the medical issues in the case. The defendant is entitled to appropriate credit for his plea, although that credit has to reflect the failure of the defendant to make any admissions during questioning, and therefore a lack of co-operation with the police. The Court of Appeal has repeatedly emphasised that the maximum credit is given to those who make full admissions during interview, and therefore co-operate with the police, and who then plead guilty at the first opportunity. The final mitigating factor is that there were significant contradictions between the

accounts of the two prosecution witnesses who were the sole witnesses to what happened.

[18] These offences were committed after the provisions of the Criminal Justice (Northern Ireland) Order 2008 came into force, and I am obliged to consider whether the dangerousness provisions of the 2008 Order apply. I am satisfied that there are no factors in the present case which require me to impose either an indeterminate or an extended custodial sentence.

[19] I have been provided with a victim impact statement by Mrs. Marina Abbott, the mother of Gareth Dallas. In this she describes in vivid and heartfelt terms the impact the death of her only child has had upon her and her family, her parents and her grand-children. Despite the anguish her son's drug habits must have caused her over the years, it is greatly to her credit that she says

"Gareth knew I was always there for him. I always stood by him; I never did and never would have turned my back on him. For this I am very thankful. I feel at this stage I will never enjoy life again maybe this will change through time."

[20] I have also been provided with a pre-sentence report upon the defendant. This describes how he has been a heavy drug user over a lengthy period, although it appears that he may have been able to abstain from drugs for some years when he was married and in steady employment. However, he returned to illegal drug use after he separated from his wife. It is significant that whilst the report records that he appears genuinely remorseful about the impact of his actions that night, he also claims that he is not fully responsible for what happened, as he had been asked to do it by the deceased and Miss Harrison. I consider this suggests that he does not fully accept his responsibility for what happened. It may be that, as Mr Gallagher emphasised the prosecution accept, death was neither foreseen nor inevitable, nevertheless McVeigh bears a heavy share of responsibility for the tragic events of that night, even though it is clear that he was not solely responsible because he gave Dallas these drugs at Dallas' request.

[21] Had the defendant contested these charges then I consider that the appropriate sentence would have been seven years' imprisonment, namely six years' imprisonment on Count 6 and a further one year's imprisonment consecutive on Count 1. Taking into account the mitigating factors to which I have referred I consider that the appropriate sentence is one of five years imprisonment.

[22] This will be made up as follows.

- Count 1 Twelve months' imprisonment.
- Counts 2 and 3 Two years imprisonment.
- Count 4 Two years' imprisonment.
- Count 6 Four years' imprisonment.

The sentences on Counts 2, 3, 4 and 6 will be concurrent with each other, but consecutive to the sentence on Count 1, making a total of 5 years' imprisonment, which, in accordance with the provisions of the 2008 Order, will take the form of a determinate sentence of 2 ½ years' custody followed by 2 ½ years on licence.