

IN THE CROWN COURT IN NORTHERN IRELAND

ENNISKILLEN CROWN COURT (SITTING AT BELFAST)

THE QUEEN

-v-

DIANA LOUISE BECKETT

HART J

[1] The defendant is a 21 year old woman who has pleaded guilty to the manslaughter of Stephen Francis Robinson (whom I shall refer to as the deceased) at 17 Cullaghmore Road, Irvinestown in the early hours of 15 February 2006. Beckett was originally charged with his murder, but on the second day of her trial she asked to be re-arraigned and pleaded guilty to manslaughter, and this plea was accepted by the prosecution. The circumstances leading up to the death of the deceased are not entirely clear, due in large measure to the amount of alcohol consumed by at least two of those involved. I have been provided with an agreed statement of facts by the prosecution and defence. The description of events I give reflects this agreed statement, but I have dealt with some of the matters in greater detail.

[2] It is possible to fix the approximate time span within which these events occurred because a number of 999 calls were made from the deceased's home between 3.21 am and the arrival of the police at 4.05 am, although some of the times to which reference will be made must be mistaken. The chain of events starts at 3.21 am on 15 February when the defendant rang the police in a 999 call saying that the deceased had beaten her and her mother and she wanted the police to attend to arrest him. The police were dispatched to the scene but the directions given by the callers to the police, and later to the ambulance, were vague, and both had considerable difficulty in locating their destination. At 3.38 am a further 999 call was made to the police, probably by the defendant's mother Dorothy Beckett, in which it was stated: "He's been

stabbed I'm sure where he's been stabbed". At 3.43 a 999 call was made to the ambulance service from 17 Cullaghmore Road, apparently by the defendant's boyfriend Patrick Maye, again seeking help as the deceased had been stabbed. At 3.58 a further 999 call was made to the ambulance service, and the police arrived in company with the ambulance at about 4.05.

[3] However a number of calls were also made from the house to Terry Beckett, the former husband of Mrs Beckett. In his statement he described how at 3.46 the deceased rang him saying that the defendant and her mother were fighting, and "You know about this and I'm only learning, would you take the children, I need to get them out of here now". Mr Beckett could hear his former wife shouting in the background. He was so concerned about what he had been told that he said that he would drive from his home in Carrick-on-Shannon, and take his two children by Mrs Beckett, the defendant being his step-daughter. However, the time at which he says this call was received cannot be accurate in view of the call at 3.38 saying the deceased had been stabbed. The call to which Mr Beckett refers was therefore presumably made somewhat earlier than 3.38. Mr Beckett also described how he received a call which he put it about 4.14/4.20 am in which the defendant said "Stephen and mummy are killing each other. I got [N] and [T] in the bedroom". He went on to say that 10 minutes later he got a further phone call from the defendant who was very agitated and shouting "Daddy, daddy Stephen is going to die", I said "What do you mean", she said "There was a knife, a knife". She said that she had not rung an ambulance but that she would do that now. A few minutes later the defendant rang him again and told him that the ambulance was on its way. Again these times must be incorrect.

[4] Mr Beckett's account of what happened, even if the times are incorrect, is nevertheless significant when attempting to piece together the events of that night. Those events commenced with Dorothy Beckett and the deceased going out for a Valentine's night meal at the suggestion of the defendant. The evidence of Nigel McCutcheon shows that both had a good deal to drink that night. He says the deceased consumed three or four small bottles of wine and 5 pints of beer. The post mortem report by Dr Bentley, the Deputy State Pathologist for Northern Ireland, records that forensic analysis established that the deceased had a blood alcohol reading of 172mg per 100 ml of blood, over twice the legal limit for driving, and, in his view, "This may well have produced a moderate degree of intoxication".

[5] Nigel McCutcheon described how there was an argument between Mrs Beckett and the deceased, the deceased remarking to him that he loved Dorothy to bits but "when they took drink they would fight like cats and dogs". Despite the blood alcohol reading and the amount Mr McCutcheon says the deceased had to drink, he described the deceased as still sober when they were leaving, but said that Mrs Beckett was agitated. He said that she

had consumed some seven small bottles of wine, presumably quarter bottles, thereby indicating that she had the greater part of two bottles of wine.

[6] In her statement made to the police the day before the trial Mrs Beckett said that when she returned to the house "I remember saying something to Diana which seemed to get her wound up. It was something petty but I don't know what it was. She just lost her temper for no reason and started roaring and shouting. Me and Stephen went to the bedroom." She went on to describe how the defendant followed them to the bedroom "still roaring and shouting".

[7] The defendant's initial version of events, and one she maintained over a considerable number of interviews, was that she had stayed at home with her boyfriend babysitting the younger children. During that time she probably drank about three bottles of WKD although she said she was sober. She said that her mother was drunk when she arrived home and was being abusive to the deceased about his going with a woman behind her back, she was calling him names and their voices were raised. As the defendant put it her mother was "niggling" at him. She described how her mother and the deceased then went into the bedroom, and after that she heard her mother screaming as if she was being hurt. The defendant said she went down to the bedroom and found the deceased lying on the bed, and her mother sitting on the side of the bed. She then left and shortly afterwards heard more shouting. When she went back down to the bedroom she saw that her mother's face was red and her top was hanging down with the right shoulder over her right arm. The deceased said that her mother had hit him, whereupon her mother said that he had hit her. The defendant saw her mother hit the deceased, who then grabbed her mother by the throat and hair and dragged her from the bedroom. The defendant said that she kicked him on the leg to get him to release her mother, whereupon he grabbed her as well and proceeded to bodily drag both women to the door and throw them out of the house.

[8] She said that he let them back in as the youngest child was by now screaming and crying. When they got back in the altercation between her mother and the deceased continued in the utility room, with him pulling her mother's hair and punching her stomach, whilst her mother punched him back, hitting him on the head. The defendant described how she tried to get them to stop it, then she picked up a knife which was used to cut vegetables from the sink in the back porch. She said that she did this because she was scared for her mother and herself. Her mother grabbed the knife, and the deceased also grabbed the knife and squeezed the defendant's hand so hard that she was forced to drop it to the ground. The deceased and her mother were trying to get the knife from the ground as the defendant left the room. She heard shouting, and when she returned to the kitchen she found the deceased lying on the ground with blood all around his head. She denied that she had stabbed him.

[9] The defendant maintained this version of events until the morning of 17 February, when she admitted that she had stabbed the deceased. At page 218 of the interviews she said:

“Whenever he was beating my mum in the back porch he was really hurting her and she was screaming and really screaming like she was really hurt and I was scared for me mum. He just wouldn’t stop beating her and I says please stop, Stephen please stop it and I was trying to stop it and he wouldn’t stop it he was just getting harder and harder and beating her and beating her and I lifted the knife and I stabbed him cause I thought he was going to kill me mum and kill me and me brother and sister and Paddy (crying).”

[10] Therefore the defendant accepted that she had stabbed the deceased, but said that she was acting in defence of herself, her mother and her step-brother and sister and her boyfriend. The prosecution accepted the plea to manslaughter on the basis that the defendant was guilty of a dangerous act in picking up the knife. The post-mortem report established that there was a solitary stab wound of the chest which had passed through the ribcage into the chest cavity and damaged the thoracic aorta, resulting in rapid and heavy bleeding and causing death.

[11] The evidence of Mr Beckett that the deceased phoned him saying that the defendant and her mother were fighting is corroborated to a degree by Mrs Beckett’s account of the argument starting when she came into the house. It must also be stated that a number of marks and abrasions were found on the face and neck of both the defendant and Mrs Beckett, and the defendant had a swollen lower lip when the police arrived which can be seen in the police photographs. It is agreed that there was a prolonged and vigorous verbal and physical altercation between the deceased, her mother and the defendant sparked off by something said by Mrs Beckett to the defendant when Mrs Beckett and Robinson returned home, and the altercation was inflamed by the amount of drink consumed by all concerned.

[12] I therefore approach the case upon the basis that there was a continuing argument between the defendant’s mother and the deceased when they arrived home, that for some reason the defendant and her mother started to fight, but that at a later stage the deceased and her mother fought between themselves because a broken glass was found in the bedroom. It is accepted by both prosecution and defence that in the bedroom Dorothy Beckett struck the deceased with a wine glass and with the rigid metal pole from a vacuum cleaner. It is also agreed that the defendant became involved in the brawl and

struck the deceased on the face, injuring the little finger of her right hand. After the defendant and her mother were forcibly ejected from the house and later readmitted, the continuing altercation developed into a general melee in the kitchen, in the course of which the deceased was fighting with Mrs Beckett and that was why the defendant picked up the knife.

[13] It is agreed that the defendant took a knife from a drawer in the kitchen and initially held the knife in front of her, pointing it in the direction of the deceased in order to frighten him. On production of the knife, all three became involved in grappling together. The deceased and Dorothy Beckett were attempting to disarm the defendant. During that grappling the defendant wilfully, that is deliberately, inflicted the stab wound that led to the death of the deceased, although the prosecution accept that there is insufficient evidence to establish an intention on the part of the defendant either to inflict grievous bodily harm, or to kill, one or other of which has to be established beyond reasonable doubt to result in a conviction for murder. The prosecution recognise that the nature of the struggle in the confined space of the utility room, the moderate force necessary to penetrate the body to the depth actually achieved, and the track of the wound were such that the injury was fatal. However, to take up a knife and then point it at someone in such a highly charged atmosphere is itself a dangerous act, and when death results the person using the knife is guilty of manslaughter.

[14] The defendant was only 19 and 4 months of age when these events occurred. Unfortunately she had already accumulated a considerable criminal record for such a young person. Between the ages of 15 and 18 she had been convicted of four common assaults, two assaults on the police, resisting police, disorderly behaviour, as well as three offences of shoplifting and one of failing to surrender to bail. As a result, despite her youth, she had been sentenced to several months' detention in the Young Offenders' Centre. Unfortunately, her conduct did not improve whilst she was on remand awaiting trial on the present charges. In September 2006 she committed two offences of theft for which she was placed on probation. On no fewer than four occasions her bail was revoked because she had breached her bail conditions, particularly in relation to drinking and failing to observe other bail conditions. Ultimately she absconded and failed to appear for her trial when it was originally listed on 3 December 2007. However, some months later she voluntarily surrendered to the police and was thereafter remanded in custody. Therefore, not only can she not claim the credit that is extended to people of good character as a mitigating factor, her previous convictions for offences of violence, including assaults, and committing offences whilst on bail and absconding, are an aggravating factor in the case, although because her record is not a substantial one in terms of serious offences the weight to be attached to this factor is less than would be the case were the previous offences of violence of a more substantial nature.

[15] I have the benefit of a very detailed psychiatric report on the defendant prepared on 21 May 2007 by Dr Graeme McDonald, a consultant psychiatrist. Her history to date can be adequately described in the following extract from his opinion:

“Diana Beckett is a 20 year old woman who has led a chaotic life. She has not ever had a stable father figure. She describes being the victim of mild childhood sexual abuse. Her mother appears to suffer from alcohol dependence syndrome. She did not complete formal education and has never worked. In this setting she had an unplanned pregnancy. She gave birth to a son [J] when aged 15. She found herself unable to manage [J] and he was taken into care when Diana was aged 17.

Her adolescence has been characterised by impulsive and criminal behaviour. She has four convictions for assault and also convictions for shoplifting.

She has had difficulty interacting with authority and appears to become sullen and resentful when faced with figures of authority.”

[16] Whilst Dr McDonald concluded that she was not suffering from any mental disorder which would have been likely to impair her responsibility for her actions on the night of the events, he stated:

“She was however, suffering from emotional problems that would have rendered her much more likely to have reacted with impulsive violence on another person.”

[17] I also have the benefit of a helpful pre-sentence report from the Probation Service. This describes in considerable detail her unhappy upbringing, the tensions between herself and her mother during her adolescence, her having given birth to a child when she was 15, and her relationship with that child since. She has a strong bond with the child, although it is in foster care. However, despite the efforts of various agencies to offer her help, guidance and support, the report tellingly says that the defendant’s criminal record “reflects a lifestyle fuelled by alcohol and drugs and devoid of any direction or ambition.” The report also states that the defendant says that she is sorry for all the hurt and damage that her actions have caused, and states that when interviewed

“... it is clear, that for the first time she was focused on the reality of her situation. Her previous ambivalence to this offence, reflected in unwillingness to comply with bail conditions, appears to have been replaced with a sharp, focused, sense of awareness of her current situation.”

The report also indicates that the defendant has responded well to custody, saying that

“Ms Beckett is currently responding well in custody and has begun to think about her past, present and future life, this maybe a consequence of the rigid boundaries imposed in a custodial environment.”

[18] Sentencing in cases of manslaughter presents particular difficulties because the circumstances of individual cases can cover a spectrum of events which are almost indistinguishable from an accident at one end of the spectrum to circumstances at the other which are hard to distinguish from murder. I do not consider that she was entirely, or even predominantly, to blame for the drunken argument which plainly created a volatile atmosphere in which there was aggression by the deceased, her mother, and the defendant herself. Nevertheless, the defendant’s action in picking up and pointing the knife in the direction of the deceased in such a highly charged and volatile situation in a very confined space was fraught with danger. By her plea to manslaughter she has accepted that she was not acting in self-defence, nor in defence of anyone else when the fatal blow was inflicted, whatever may have been the reason for her actions earlier that night.

[19] I have been referred by counsel to a number of authorities in this area of sentencing, and in particular R v Stephen Magee [2007] NICA 21. At [26] and [27] the Lord Chief Justice stated that the following approach should be adopted.

[26] We consider that the time has now arrived where, in the case of manslaughter where the charge has been preferred or a plea has been accepted on the basis that it cannot be proved that the offender intended to kill or cause really serious harm to the victim and where deliberate, substantial injury has been inflicted, the range of sentence after a not guilty plea should be between eight and fifteen years’ imprisonment. This is, perforce, the most general of guidelines. Because of the potentially limitless variety of factual situations where

manslaughter is committed, it is necessary to recognise that some deviation from this range may be required. Indeed, in some cases an indeterminate sentence will be appropriate. Notwithstanding the difficulty in arriving at a precise range for sentencing in this area, we have concluded that some guidance is now required for sentencers and, particularly because of the prevalence of this type of offence, a more substantial range of penalty than was perhaps hitherto applied is now required.

[27] Aggravating and mitigating features will be instrumental in fixing the chosen sentence within or - in exceptional cases - beyond this range. Aggravating factors may include (i) the use of a weapon; (ii) that the attack was unprovoked; (iii) that the offender evinced an indifference to the seriousness of the likely injury; (iv) that there is a substantial criminal record for offences of violence; and (v) more than one blow or stabbing has occurred

[20] In the present case the use of a weapon was an aggravating factor. The defendant's record and her offending whilst on bail are also aggravating factors by virtue of Article 37 of the Criminal Justice (Northern Ireland) Order, 1996. Nevertheless I accept that there are also a number of mitigating factors. The defendant is entitled to credit for her plea of guilty to manslaughter. I am satisfied that her remorse is genuine. I also regard her chaotic life and troubled adolescence as mitigating factors. In all of the circumstances I consider that, subject to the possibility of a custody probation order, the appropriate sentence would otherwise be one of five years imprisonment. As this is a case where the sentence must exceed more than twelve months imprisonment I am required by statute to consider whether a custody probation order is appropriate. Whilst her record of responding to assistance in the past is far from good, she undoubtedly requires the guidance and support of the Probation Service upon her release from prison in an effort to prevent her from committing further offences of any sort in the future. Subject to her consenting I will therefore impose a custody probation order of three years imprisonment and two years probation, the probation element of the order to be subject to the following conditions.

(1) "She shall reside at accommodation as approved by her supervising probation officer during the period of probation supervision."

(2) " She shall present herself in accordance with instructions given by probation staff to participate on an offending focused programme during the

probation period, and while there comply with instructions given by, or under authority of the person in charge.”

(3) “She shall present herself in accordance with instructions as directed by her supervising officer, to participate in alcohol/drug treatment and testing and while there comply with instructions given by, or under authority of the person in charge.”