

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

THE QUEEN

-v-

ROISIN DOYLE

TREACY J

Introduction

[1] The defendant has pleaded guilty to the manslaughter of Kevin Doyle. She was originally charged with his murder but at the commencement of her trial she asked to be rearraigned and pleaded guilty to his manslaughter and the prosecution accepted this plea.

[2] I now come to the issue of the appropriate sentence for the crime committed in the unhappy circumstances I have set out below and to which this defendant has pleaded guilty. I wish to state at the outset that this is one of the most tragic cases I have encountered and one which has posed a significant challenge to me in seeking to reach a disposal which does justice to everyone involved in this sad situation.

[3] In reaching my conclusions I have had the benefit of full, detailed and well considered professional reports, together with victim impact reports. I have read these very carefully and taken full account of all the insights provided there. In the interests of all parties and especially the children of this family I do not propose to rehearse the material in this judgment.

Background to the Incident

[4] Kevin Doyle was 30 years of age at the time of his death and was the father of four young children he had with the defendant. His death was due to a single stab wound to the chest inflicted by the defendant.

[5] In the evening prior to the deceased's killing (Friday 26 September 2008) the defendant was at home with her children and decided to go out for the evening. She contacted a friend, Miss Britten, to babysit. Miss Britten arrived at approximately 9.50pm and the defendant left a short time later. She went to a friend's house in Poleglass where a number of others friends were present, including Carol Ann McClurg.

[6] The defendant remained at the house until about 10.25pm when she and three other girls got a taxi and went to Becketts Bar on the Stewartstown Road. The defendant at that time was wearing dark blue jeans, leather jacket and a black top with only one arm and a pair of black boots. At approximately 1.00am they left the bar together. After chatting outside the bar they began walking home, walking as far as Juniper Park when the defendant and one other girl left the group and headed towards Summerhill Grange. The two walked together as far as Laburnum Hostels which overlooks Summerhill Grange where they parted and the defendant was seen walking down towards her house. Her friend describes her at that time as being in good form and sober. She also states that it was approximately 1.56 a.m. (she recalls sending a text message to her mother shortly after leaving the defendant). The defendant returned to her home at Summerhill Grange expecting to find the babysitter but earlier the deceased (from whom she was separated) had arrived at the house, found the babysitter present, asked where the defendant was and then told the babysitter to go home. She called a taxi and left a short time later, sometime around midnight.

[7] At 2.13am a Mr Rooney, the partner of Carol Ann McClurg, received a call on his mobile phone from the defendant. He handed the phone to Carol Ann McClurg and she states that the defendant was screaming and said something like *"It's madness here, he's been stabbed or somebody's been stabbed"*. She was asking Carol Ann to come to her house. Ms McClurg got a taxi and went to 3 Summerhill Grange and as the taxi approached the house she saw Kevin Doyle sitting on the kerb in what she thought was a drunken state. She went to the house and spoke to the defendant and told her that Kevin was outside. They both went out to where he had been but he had crossed from one side of the road to the other and was on his knees. The defendant was not now wearing the same black top that she begun the evening with but was wearing a short sleeved coloured t-shirt. The defendant was trying to get the deceased to his feet but he was shouting *"Leave me alone"*. The defendant then pushed him and he fell over on his back. At this point Ms McClurg observed

blood on the deceased's t-shirt and that his face was grey. They eventually got the deceased to the house where they placed him on the sofa in the living room.

[8] Ms McClurg told the defendant to phone for an ambulance by which time it was 2.40am. While waiting for the ambulance the defendant lifted a standard sized black handled steak knife from the sofa where the deceased had been lying. She handed that and a fork to Ms McClurg and asked her to put them in the kitchen. At 2.44am the ambulance arrived as did the police. Medical staff found the deceased in the living room. They dressed the wound on his chest and at 2.56am the defendant accompanied him to hospital in the ambulance. Throughout the journey the deceased struggled to breath. At 3.08am he was admitted to A&E at the RVH.

[9] Ms McClurg remained at the house to look after the children where she was joined by the defendant's uncle. He had received a phone call at approximately 2.15am from the defendant who was hysterical - he could only make out the words "*Fight*", "*fight*" and "*Kevin*". He got a taxi and went to the house.

[10] At 6.45am the deceased's condition was not improving and he was admitted to the Critical Care Unit. At 1.30pm on Saturday 27 September Kevin Doyle was pronounced dead.

[11] The defendant phoned Ms McClurg on her mobile on Saturday afternoon and told her that Kevin was dead. Ms McClurg was very upset and the call ended but the defendant rang her back. Ms McClurg told the defendant that she must tell the truth about what happened and the defendant replied "*Carol Ann they have already lost their daddy, they will not be able to handle losing their mummy as well*".

[12] The defendant was arrested on Sunday 28 September 2007 after attending Lisburn Police Station with her solicitor.

Background Family History

[13] The background to this tragic case is an unusual, turbulent and ultimately destructive relationship which began when this defendant was 15 years old and the deceased was nearly 20. The age difference is a significant factor - at the time this defendant was a young girl from an impeccable background, academically capable and with good potential for the future. She became involved in a relationship with the deceased as a result of which she had a miscarriage before her 16th birthday followed by several pregnancies in quick succession. There can be no denying the fact that the defendant's early involvement with a man significantly older than her had the effect of changing her course in life and materially altering her prospects for the

future. There is a suggestion – but no more than that – that the deceased may have been reckless in his attitude towards the defendant’s pregnancies. The undeniable fact is that she did become pregnant and that fact did change her future prospects. However there is also evidence that these parties initially had a good and happy relationship.

[14] The early years of their time together have been described as predominantly good – though from the start there were difficulties arising particularly from the deceased’s tendency to suffer depressive episodes and to engage in self-harm. Unfortunately as time progressed the happy times became less frequent. The turbulence, conflict and destructiveness in the relationship became the stronger and eventually the dominant feature in it. Neither the defendant nor the deceased seemed to have the emotional tools to either improve their relationship or to disengage from it. At the time of the deceased’s death this relationship had been on a steady downward trajectory for a period of about 2 years.

[15] I wish to emphasise that this time was extremely difficult for this defendant, for the deceased and for everyone associated with them. During this time the deceased suffered hugely from the deterioration of his marriage. He had a long history of low spirits and depressive tendencies. He had met the defendant in 1997. In June 1999 his GP notes record that he was suffering from low spirits related to “extensive family problems”. From the outset he had a tendency to high anxiety, low mood, self-harm and suicidal ideas. He is described in one report as “demonstrating little resilience or coping capacity and suicidal behaviours when threatened with significant stress”. He was an unstable person with a tendency to self-harm. He also had a history of engaging in “wrecking behaviour” for example breaking up his flat when under stress. Generally he was a man with a long history of mental difficulties and as the consultant psychiatrist states “his mental state would appear to have been increasingly fragile for many months leading up to the killing”.

[16] I have no doubt that for a significant part of his life and especially in the 18 months immediately preceding his death Kevin Doyle suffered a great deal from the conditions of his life. Many factors fed into his mental fragility ranging from old emotional scars from his childhood through to current severe anxiety and stress at the thought of losing his marital relationship. In the last phase of his life Kevin Doyle was a man under extreme pressure with few natural resources to help him cope. As a result he suffered a great deal at this time.

[17] The defendant came from an impeccable background and had a happy childhood. The early years of her relationship with Kevin she also considered to be happy. However the later years were difficult with the relationship becoming increasingly marked by turbulence, stress and mutual destructiveness. The defendant tried her best “to get on with things” but this

did not always work. There were times when she too gave way to the pressure. For example, in December 2007 she took a serious overdose in response to events in her marriage. She recovered and resumed the attempt to “get on with it” however, increasingly, she felt worn out and detached. Towards the end of this relationship she was a woman on the edge.

Expert Reports

[18] I wish to point out that the defendant in this case has already suffered grievously from her destructive relationship, just as the deceased suffered grievously from it. The relationship was consistently and, I suspect, mutually abusive. The Home Office definition of domestic violence is set out in the report of Dr Kennedy, Consultant Forensic Psychiatrist:

“Any violence between current and former partners in an intimate relationship, wherever the violence occurs. The violence may include physical, sexual, emotional and financial abuse.”

It is apparent from her report that *all* the elements of domestic violence were present in this case to some degree. None of the elements was individually overwhelming but together the blend of elements in this marriage made it extremely dysfunctional and negative for **both** the parties involved.

[19] The reports in this case paint a picture of a truly tragic mismatch of two people each of whom had flaws. The flaws and problems became mutually reinforcing. The marriage was truly destructive for both people. The defendant suffered immensely in this marriage to the point where she attempted to take her own life expressing the view that she had come to a point where she was “only existing”. She developed coping mechanisms involving emotional detachment and withdrawal. The Consultant Psychiatrist stated:

“I think her psychological condition could best be described in terms of repetitive stress reaction and chronic traumatic adjustments.”

And at para.6.6 she notes that the defendant reported feeling “worn out” and “suicidal”.

The Fatal Events

[20] I return now to the events that unfolded in the early hours of Saturday 27th September, and which led to the death of Kevin Doyle. When Roisin Doyle returned home after her evening out with her friends she found that her babysitter was gone and that Kevin Doyle [from whom she was

separated] was present in her living room. An argument ensued in the course of which Roisin Doyle went to the kitchen, picked up a knife and attempted to cut her own wrist. Kevin Doyle then approached and grabbed his wife by her belt. During police interviews the Defendant initially asserted that she then threw the knife at the deceased. She now accepts that she struck the deceased while holding the knife and that it entered his chest and caused the 4-5 cm stab wound that killed him.

Basis of plea

[21] Her plea to manslaughter was accepted on the basis that the deceased died as a result of the deliberate act by the defendant which was intended to harm him but that it was not possible, to the requisite standard, to establish that the blow was inflicted with either intention to kill or cause grievous bodily harm. This is the basis upon which she must be sentenced.

[22] The only aggravating factor present in this case is the fact that a weapon was used. However this fact must be seen in context of the extreme misfortune surrounding the mechanics of the wound that caused Kevin Doyle's death. The knife entered Kevin Doyle's body at a precise point where it severed his mammary artery. The massive haemorrhaging which resulted caused his death. Professor Farnan, in his report at p33 states:

"If the internal mammary artery had not been cut, Kevin Doyle would almost certainly have survived."

And at p37 he states:

"Had the wound been ½ inch to either side, it would have missed the artery and vein, and Kevin Doyle would almost certainly have survived. The only injuries he would then have sustained would have been some relatively minor bleeding and possibly a collapsed lung, and these conditions would have been easily treated with, most probably, no serious sequelae".

[23] At p42 of his report Professor Farnan deals with the force required to cause a stab wound and states:

"... Less initial force is required the sharper the blade and especially when it has a sharp tip. ... least force is required when the knife wound is between points where the skin is tethered, as occurs particularly between the ribs. Thus I would suggest that very little force would have been required to cause this 4-5 cm stab wound between Kevin

Doyle's 2nd and 3rd ribs, as the knife was a steak knife which had been used little, and so would have had a sharp blade and point and it did impact into an area of skin which was tethered between the ribs."

[24] In short it was extremely unlikely that a blow of this level of force would cause the death of a mature healthy man. It did cause death in this case because of the accidental circumstance of where the knife entered the skin. As the expert said, if the blade had entered half an inch either side of its actual location the artery would not have been severed and Kevin Doyle would almost certainly have survived. The fact is that serious misfortune for both parties played a part in the outcome. The knife did sever the artery; the deceased did die; the defendant does accept that she caused the death. This was unexpectedly tragic and I believe the Court can take into account this element of ill chance as a mitigating factor in this case.

Sentencing Parameters

[25] Both Ms McDermott for the defendant and Mr Kerr for the Prosecution agree that the sentencing parameters for a case such as this is between 3 and 7 years imprisonment. The court was referred to a number of authorities¹. Ms McDermott contended that because of the exceptional personal circumstances of the defendant - including the fact that there are four young children, one of whom is autistic, and all of whom are likely to be adversely affected by the imprisonment of their mother, a non-custodial sentence would be appropriate. The reports furnished to the court in relation to the boys emphasised that separation from their mother by her imprisonment would compound the distress the boys suffer from having already lost their father. There is no doubt that these are compelling circumstances especially when set against the overall context.

[26] The prosecution drew particular attention to *R v Cassidy* [2009] NICC 57 where the deceased died as a result of a single stab wound to the chest inflicted by the victim's partner with a kitchen knife. In that case, as here, the Court was invited to impose a non-custodial sentence because of the alleged exceptional circumstances which included the consideration that a custodial sentence would separate the defendant from her children and affect them adversely. The Court imposed a sentence of 3 years imprisonment and 2 years probation holding that despite her personal circumstances the case could not be regarded as exceptional.

¹ *R v Magee* [2007] NICA 21 (9 years imprisonment and 3 year's probation); *R v Beckett* [2008] NICC 10 (custody probation order of 3 years imprisonment and 2 year's probation); *R v Laverty* [2009] NICC 18 (2 year's detention); *R v Brady* [2006] NICC 22 (custody probation order of 4 years imprisonment and 18 months probation supervision); *R v Cassidy* [2009] NICC 57 (custody probation order of 3 years' imprisonment and 2 years' probation).

[27] In my view notwithstanding the compelling personal circumstances of the defendant I am not persuaded that the case is sufficiently exceptional to justify imposing a non-custodial sentence. The sentence imposed in this case must involve a custodial element to reflect the fact that she took a human life.

[28] This is the sorry context in which I come to sentence this defendant – the mother of 4 young boys who have already lost their father. In reaching this sentence I take full account of the suffering this defendant has already endured and the impact of that suffering on her state of mind at the time of the killing. But the fact remains that a vulnerable volatile man has lost his life as a result of the actions of the defendant.

[29] Imposing a custodial penalty in this case may facilitate a period of reflection and recoument for Roisin Doyle. This event brought an end to a destructive relationship. I recommend that she use her time in prison to reflect on that relationship and her actions within it and to reconstruct herself to better face her future after her term when I hope she will have gathered the strands of her life sufficiently to move on and to fulfil some of the promise she showed as a young girl before these sad events changed her life. I recommend that Roisin Doyle should have full access to psychological support services while in jail.

[30] The disintegration of this marriage and all that flowed from it has brought great harm and suffering especially to the parties to the marriage but also to their sons and extended families. It is right that a period of penal retribution should be served so that the families may feel that a price was paid for the unlawful killing of Kevin Doyle. The families, their sons and ultimately Roisin Doyle herself may ultimately benefit from being able to say that that price was paid and that some closure can result.

Conclusion

[31] Having regard to the contents of the various reports including the pre-sentence report I consider that the defendant would benefit from a period of supervision following her release. Accordingly, I propose, if the defendant consents, to impose a custody probation order of 3 years' imprisonment to be followed by two years' probation. If the defendant does not consent to custody probation the sentence imposed will be one of 5 years' imprisonment.