

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Delivered: **1/11/2010**

IN THE CROWN COURT IN NORTHERN IRELAND

**OMAGH CROWN COURT
(sitting in Craigavon)**

THE QUEEN

-v-

EAMONN COYLE

McLAUGHLIN J

[1] I proceed at this stage to sentence you. By virtue of the history of this case I have had far more time to think about it than would ever ordinarily be the case. I have a very clear view of what should happen.

[2] The first thing I have to deal with is the basis upon which sentencing has to be approached and that needs a very clear understanding of what actually happened on this occasion. Both Mr McCollum and Mr McCrudden have addressed this issue by putting forward the respective views of the events. I accept entirely what counsel have said that the normal way to resolve a dispute of that kind would be to conduct what is referred to in legal circles as a Newton hearing and that would be where the judge would simply hear the evidence and then make a finding of fact. It wouldn't be done by the jury but by the judge and for examples its not uncommon for someone to say that when they broke into a house that they only stole £50 and may be the householder says that the person stole say £500. That may be relevant to determine which of those facts is correct and the judge would determine that by having a so called Newton hearing. That is a very simple basic example of what it involves and in this case its not simple and it needs to be dealt with and I consider myself to be fully informed of the facts in this case because I have heard all of the evidence including the evidence in chief of the accused himself and in effect the whole of the effective cross examination of him. So the case was all but finished and all but ready for summing up when we had to discharge the jury. And I am entitled therefore, as I have been invited by

counsel, to take account of all of the evidence that I have heard and reach my own conclusions about it and I have been able to do that very clearly. There is no doubt that in this case Eamonn Coyle did what he tells me he did namely that he saw his grandfather in the helpless state and left the house and didn't summon an ambulance and didn't do what anybody would be expected to do in normal circumstances. But it isn't as simple as that. It is quite clear that Eamonn Coyle is the person directly responsible for his grandfather's death and I have no doubt that his plea of guilty is a pointer to that.

[3] What is quite clear from the evidence of Dr Ingram who was the pathologist is that Mr O'Neill died of strangulation but it is very important once we establish that to recognise that the strangulation that was being talked about isn't what one might call a classic form of strangulation that one might immediately assume on hearing those words. It seems to be established so that I can be sure that what happened here was the person who assaulted Mr O'Neill got him from behind, got his arm around Mr O'Neill's neck and in the crook of his arm, as described by Dr Ingram, and by applying pressure to a frail and elderly man to his throat he was strangled.

[4] That gives rise to important implications because we are dealing with a very young man and we are dealing with an elderly and frail man. Young people tend not to realise just how dangerous such a foolhardy act can be and they tend not to realise just how frail elderly people can be even when they appear to be hail and hearty going about their normal daily routine.

[5] So I am satisfied what happened here was that Eamonn Coyle went to his grandfather's house, entered by the back window, he found his grandfather in the house or his grandfather perhaps arrived home unexpectedly - I don't think we can resolve that - but he went to get money, he had just been to his father looking for money, he was under pressure to pay the rent in this set up he was living in and he got the money and left the house with the money and he handed that money over to pay the rent. That is established and I am satisfied beyond any reasonable doubt that that's what happened here and I am satisfied beyond any reasonable doubt that that is what the jury would have concluded. That would not have ended the matter of course because in this case what we have to focus on is the intention of the person carrying out the act. But I am satisfied that Mr O'Neill died as a result of Eamonn Coyle's actions not his inactions only but his actions in assaulting his grandfather in that way.

[6] It may be, as Dr Ingram raised the possibility, that he suffered an intervening heart attack but that could not be established but the heart attack was entirely secondary to the strangulation. The heart attack would not have occurred had he not been strangled and it was not a heart attack that caused his death - it was the strangulation that caused his death. I have to be very

clear about that in my own mind and I state that I am satisfied beyond a reasonable doubt about that matter.

[7] The plea is put before me on the basis that it is not a case of murder but a case of manslaughter. It is well understood by the public but it is worth repeating that murder is where someone not only kills someone but kills them with the intention of killing them or with the intention of causing them grievous bodily harm and the distinction between murder and manslaughter lies essentially in the intention and I am satisfied that Eamonn Coyle did not intend to kill his grandfather nor did he intend to cause his grandfather grievous bodily harm. I don't think he intended to cause him any harm essentially if he had been able to come in and carry out an act of thievery and leave with the money then that may have happened and no other consequences but the loss of the money. But for whatever reason his granddad was there and this interface took place between the two of them and Mr O'Neill died in consequence and it seems to me that what I have to approach is the case on the basis that this has been an unintended consequence. And it is a tragedy because of that but it is one that carries considerable implications for the accused but enormous emotional damage, trauma for the family, for Mrs Kelly and Mrs Colton from whom I have just heard. I also want to make it absolutely clear that although the sister of Mr O'Neill has not been heard verbally I have read the victim impact statement that emanated from her and I am not in any one way leaving her out of the considerations here. Her voice has been heard albeit in written form but it is nonetheless real. She has had a very bad time and hasn't been able to deal with it perhaps in the same way that his daughters have been able to deal with it.

[8] So where does this all bring us? I have heard quite a bit about Eamonn Coyle. He had a slightly difficult upbringing but no more difficult than a lot of children. He unfortunately came from a home where his parents separated and no doubt had effects on him. I can understand that and it led to perhaps detachment from the father figure that was no doubt otherwise going to be present in his life. It may not have been there at the crucial time when he was going through puberty and into early teenage years. He moved on from regular school to the Omagh Technical College I believe. When he was about 15 or 16 he seems to have fallen into company that was less than desirable or less than his mother would have wished. He obviously started drinking and he may have dabbled in drugs and that kind of unsettled and disorganised lifestyle led to him leaving home. His mother must have been through a very hard time trying to keep him in control and that can't have been easy. It is not easy for any parent dealing with a teenager but when they have these other factors like drink and drugs in the background it becomes an incredibly difficult task as no doubt you will learn yourself Eamonn Coyle when you have to take on the role of parenting. You will see just how difficult it is.

In any event you left home and were living in flatland. I heard a lot about that in the evidence. You were moving about. You didn't even have a settled flat - you seemed to have been sharing and sharing with somebody in one place and then having to move to share with one or two in a different place and that kind of disorganised and chaotic lifestyle almost always leads to trouble where people are of that age and I am satisfied that that's the background that brought you to where you are today.

[9] I have dealt with the factual circumstances and what I take to have been the absence of intention. What I take account of is that, particularly this came from Mrs Kelly in the course of the trial, that you were a frequent caller at the house when she lived there. I think she married in 2005 and that you had a close relationship with your grandfather. Your grandfather had a great degree of affection for you. It's quite clear that your grandfather, as grandfathers would no doubt do commonly, he would give you money occasionally and look out for you and he made it easy for you to come and go in and out of the house when it suited you. And that I think underscores the finding that I have made that this was an unintended consequence.

[10] I have listened to the plea made by your mother and your aunt, the daughters of Mr O'Neill and I have taken account as I have said of the victim impact report which focuses on the reaction of his sister. I take account of your age and I take account of the fact that although you were leading this disorganised lifestyle that you hadn't any criminal convictions except one for shoplifting. You have made the best of a difficult situation since you were arrested. I have detailed reports. First of all the pre sentence report and I am grateful for that and I will come back to that in a moment. I have read the report from the Youth Justice Agency and read the report from the DAISY group as it is called which stands for Drug and Alcohol Intervention Services for Youth and I note that you volunteered to go on that and that your response to it was very positive and you have tried to put your life back on a proper course since this all happened.

[11] I was interested just listening to your mother describing the way you act about the house and I think Mrs Kelly supported this to some degree. Your attitude towards your mother and the wider family circle seems to have improved. You are less surly and that you attend to your room, help out in the house. Well I am sure you are no model necessarily in all of those respects but I suspect that the base of all of that is the fact that you were in custody for 10 months and you were made do things that otherwise you wouldn't have bothered your backside doing and you would have denied your mother if she had attempted to get you to do them. So that's a tribute in my humble opinion to the youth custody provisions that we have and to the officers who helped look after you when you were in custody. You were of course released on bail eventually but I hope that that period will have taught you

something and brought a little bit of discipline and respect into your way of going.

[12] There are aggravating factors in this case which I have referred to in part. This was an attack on a frail man. It was carried out I am certain for the motive of theft or robbery. It was carried out when you had a knife. The knife hasn't been mentioned, there was a knife used. These factors are regarded as serious aggravating factors. So you don't know if this was an unintended consequence. It was an unintended consequence set in a very serious context and that is why when I come to deal with the sentence that has to be dealt with in a particular way.

[13] Since the Criminal Justice (Northern Ireland) Order 2008 came into force on 1 April 2009 in particular in regard to the question of a determinate custodial sentence, or since 15 May 2008 in respect of what we refer to as the dangerousness provisions, the courts have had to go about sentencing in a slightly different way and I have to therefore ask myself certain questions (because the offence was committed on 11 April 2009 all of these new statutory provisions apply).

[14] The first thing I find is that this was a serious offence as defined by the statute. Manslaughter by its very nature is serious and the context of it was serious as well. The next thing I have to determine is that even though this was a serious offence do you pose a risk of serious harm to the broader public? Now that is a very important matter because if you posed a serious threat to other people as a result of your, for example, bad behaviour over an extended period or the way you had been behaving since you were arrested or by the demonstration of same through your criminal record then that would be an entirely different matter.

[15] I have to reach the determination of that issue having regard to the other evidence before me and that is done through the medium of a pre sentence report. In other words it is done by the Probation Service and they use standard models to enable them to profile the person and come to a determination as to whether the person is "dangerous" or poses as we say a risk of serious harm to the public. And they have concluded that you don't and I am satisfied that that is a proper conclusion based on the evidence that we have available to us. The important word is serious.

[16] So this is a serious offence that you have committed but in the context in which I am asked to sentence you, you do not I find pose a risk of serious harm in the future to other people. That has the effect that a so called determinate custodial sentence is available to me and that simply means that instead of getting a term of imprisonment which is indeterminate that I fix a term of custody or imprisonment if that is the appropriate method of punishment.

[17] I am satisfied that this is an offence which is so serious that it warrants a period in custody in detention. But I have to have regard to the sentencing authorities, I have to have regard to your age, I have to have regard to all of the facts that I have tried to outline in the lead up to this point. I have to determine what is called the commensurate sentence. That is what is the appropriate sentence for this young man having regard to all of the factors that we have just been discussing and I have concluded that the commensurate sentence in this case is a term of 3 years in detention. Now I then have to look at this and ask myself how is society best served having regard to the fact that there is no risk of serious harm posed by you. Do I decree that you serve all of that? Do I decree that you serve some of it? If I decree that you serve some of it in custody the remainder is served on so called licence and that means you will be subject to close scrutiny and supervision during the remaining period of your term and that is the way I have decided to approach this case. Whilst three years is the commensurate sentence I have determined that you should serve a period twelve months in custody which will be followed by two years on licence.

[18] I cannot prescribe the terms of your licence. That must be done now by the Department of Justice but I can make recommendations and what I propose to do is recommend that during the period of your licence you should be required to undergo continuous training to acquire life and educational skills. That you should be under close supervision as to your movements and your associations and that the authorities should try to make available such support as it has available particularly along the lines that you have already received and which has brought a good response from you.

[19] So in all of those circumstances that is the sentence which I determine to be appropriate in the light of all of the facts put before me.