

IN THE CROWN COURT IN NORTHERN IRELAND

ANTRIM CROWN COURT (SITTING AT BELFAST)

THE QUEEN

-v-

HENRYK GORSKI

HART J

[1] The defendant has been convicted of the murder of Shirley Finlay in Ballymena some time after 10.00 pm on the night of Monday 18 September 2006 and before he left to go to work early on the morning of Tuesday 19 September. He has been sentenced to life imprisonment and the court must now fix the minimum period the defendant must serve before he can be considered for release by the Parole Commissioners.

[2] By its verdict the jury has accepted the prosecution case that the defendant must have accosted Shirley Finlay some time after she was last seen alive at about 10.00 pm on Monday 18th and persuaded her to accompany him. It cannot be said with absolute certainty where she was murdered, but the forensic evidence provided a very strong circumstantial case that after she was murdered her body was taken from the defendant's flat at 5A Hill Street to the back of the car park at Mount Street, Ballymena where it was found on the afternoon of Tuesday 19th September.

[3] It is unnecessary to recount in detail the evidence which has been given in the course of the trial, other than to say that the evidence of Dr Bentley, the Deputy State Pathologist for Northern Ireland, was that Shirley Finlay had been strangled, and before she was strangled treated with very considerable violence. Dr Bentley described the number of bruises he found to her face and head, and he listed some 22 separate bruises in this area of her body. Some were more substantial in size than others, for example there was an area of faint blue bruising 8 x 12 cms (3 inches x 5 inches) involving the left eye and upper cheek which he described as a "black eye". There were also

multiple bruises of both upper arms which he described as “strongly suggesting fairly forceful gripping of the upper arms”. There can be no doubt that Shirley Finlay was punched or struck repeatedly to the head or face before she was strangled, and at some stage was fairly forcefully gripped on both upper arms. In addition the back of her body made forceful contact with an unyielding surface such as the ground.

[4] When her body was found it was naked and wrapped in a duvet cover deposited behind a low wall at the rear of the car park in Mount Street. Inside the duvet cover and beside her body were a number of items, notably a grey fleece which she had worn on the days prior to her murder, and a towel from which were retrieved a number of fibres which were identified as being indistinguishable from fibres from the carpet of the defendant’s flat in 5A, and from the communal staircase leading from Hill Street up to the entrance to 5A and another flat at 3A.

[5] The remaining forensic evidence pointed extremely strongly to her body having been wrapped in the duvet cover in 5A, carried out onto the balcony of the fire escape at the back, down a flight of metal steps to a flat roof, and thence from the flat roof to the ground. A child’s buggy or pram was found on the flat roof, and paint fragments linked it both to the interior of 5A and the duvet cover. It is clear that the buggy was used in order to help transport Shirley Finlay’s body to where it was dumped by the defendant.

[6] Shirley Finlay was a small person, 5 feet in height and 8 stone in weight. She was therefore physically no match for the defendant, who although a man of medium stature, is clearly a powerful man as demonstrated by his strenuous work in a meat processing factory in Ballymena.

[7] This was a brutal murder and the defendant’s motive can only be a matter of speculation because there was no evidence of sexual contact, but whatever happened there is no doubt that he strangled Shirley Finlay and then dumped her body in the manner described.

[8] I have been provided with a very helpful report prepared by Dr Christine Kennedy, a consultant psychiatrist who has reviewed Shirley Finlay’s medical records at the request of the prosecution. These records reveal that Shirley Finlay had a very complex family background. She had been fostered from an early age and had conduct and emotional problems from a young age. She had reported prolonged sexual abuse, though the records provided to Dr Kennedy are inconsistent as to when this happened and for how long. She had abused solvents, cannabis and had a problematical use of alcohol. In the past a diagnosis of schizophrenia had been made, and as recently as March 2006 she had been prescribed anti-depressants. It is

noteworthy that in 2003 her GP had noted her to be less aware of common dangers.

[9] During the trial several witnesses described how she was seen constantly walking the streets of Ballymena and talking to herself over the period of a year or thereabouts prior to her murder. She was almost always on her own, and indeed a number of witnesses described how she spurned any attempts by them to speak to her. She appears to have been drinking heavily during that time, and was frequently observed drinking cans of beer on the street. There was evidence before the jury from Ashley Johnston that Shirley Finlay's heavy drinking had coincided with some deterioration in her mental health. Shirley Finlay was therefore an unfortunate individual who was becoming increasingly isolated. What Dr Kennedy aptly described as "a constellation of problems" led Dr Kennedy to conclude that Shirley Finlay should be regarded as being a vulnerable individual at the time of her death, a conclusion amply vindicated by the description of her lifestyle portrayed to the jury.

[10] I have been provided with a pre-sentence report upon the defendant, but the information therein largely duplicates what is contained in the police records to which I am about to refer. The author of the report describes how the defendant has been assessed as presenting a risk of serious harm to others, a conclusion I consider borne out by the nature of the crime. However, in reaching this conclusion the PBNi relied in part upon the allegations of sexual assaults made by his ex-partner. As the defendant has been acquitted of these charges this is not a matter to which I can have regard, except in respect to his being on bail on those charges at the time he committed this murder, a matter to which I shall refer later.

[11] The records supplied to the Police by the Polish authorities contain a description of the offence, and also contain a helpful description of the circumstances of the offences themselves. The records show that the defendant has a number of previous convictions in Poland for offences of dishonesty but I do not consider that they are relevant to a charge of this nature. He also has a conviction for an assault on a youth who appears to have been one of a group causing a disturbance in the street on New Year's Eve whom Gorski beat up when the youths did not desist, for which he received a sentence of 6 months imprisonment suspended for two years. Mr Weir QC (who appears for the prosecution with Mr Neil Connor) submitted that this was akin to an offence under s. 18 of the Offences against the Person Act, 1861. However, the sentence was one of six months imprisonment suspended for two years, and I do not consider that this conviction, whether viewed in isolation or taken in conjunction with the other convictions, can be regarded as being of sufficient gravity to amount to an aggravating feature of the case. The convictions do mean that the defendant cannot be regarded as having a clear record, and there are therefore no mitigating circumstances.

[12] The Court of Appeal in the case of R v McCandless and Others [2004] NI 269 stated that when fixing the minimum term of imprisonment to be served by a defendant who has been convicted of murder before that defendant can be considered for release courts in this jurisdiction should apply the guidelines contained in the *Practice Statement (crime: life sentences)* delivered by Lord Woolf CJ in 2002. See [2002] 3 All ER 412. This prescribes that in certain circumstances a higher starting point of 15/16 years should be adopted. Mr Hopley QC (who appears for the defendant with Mr Devine) did not dispute that this was a higher starting point case, and I am satisfied that the higher starting point of 15-16 years is appropriate in this case because there were two features which make the murder of Shirley Finlay especially serious. The first is that she was a particularly vulnerable individual for the reasons I have already described. She was becoming increasingly isolated and her mental health was deteriorating. The second is that she was subjected to considerable violence before she died, as can be seen from the brief description I have given of her injuries. I am satisfied that these two features require me to adopt the higher starting point of 16 years imprisonment.

[13] In addition there was an attempt to dispose of her body in a fashion that would deflect suspicion from the defendant and from his flat at 5A. It was callous in the extreme to strip her naked and then leave her body in the car park. I consider that this is an aggravating factor of the case. I consider that a further aggravating factor is that the defendant was on bail at the time, although he has since been acquitted of the offences alleged against him when the complainant declined to give evidence against him. Article 37(2) of the Criminal Justice (Northern Ireland) Order 1996 states that the court:

“Shall treat the fact that [the offence] was committed on bail as an aggravating factor.”

The fact that the charges against the defendant in respect of which he was on bail at that time resulted in an acquittal is not in my opinion a valid reason for disregarding the clear words of the statute, nor was there any suggestion to that effect by counsel. Committing an offence whilst on bail shows that the defendant took advantage of being granted his liberty in order to commit this very grave crime.

[14] Taking all of these aggravating features into account I consider that the appropriate minimum term that the defendant should be ordered to serve before he is considered for release by the Parole Commissioners is one of 20 years' imprisonment. The minimum term will include the time spent on remand on this charge. I have been informed by Mr Weir QC that the defendant has not been served with a deportation order and it is therefore unnecessary for me to consider the question of deportation.

[15] In conclusion I must pay tribute to the extremely thorough and wide-ranging forensic examinations carried out by a number of experts, and this reflects great credit on the tenacity and thoroughness with which the police investigated this murder. Those who were responsible for its oversight and conduct at that time, together with the officers and forensic scientists who all played a part in this investigation, are to be commended for their painstaking efforts which brought the defendant to justice.