

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

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THE QUEEN

v

KEOGHAN GERALD FRANCIS McGUIGAN

Icos No: 05/61078

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HART J

[1] The defendant is before the court to be sentenced for the murder of Patrick Keenan in his home in Newry some time on Saturday 26 June 2004. Before proceeding to fix the minimum term of imprisonment to be served by him it is appropriate that I should pay tribute to the exhaustive enquiries made by the police that ultimately led to his prosecution and conviction. When suspicion fell upon him he was interviewed at length and produced a detailed account of how he acquired the red Mercedes car which was found in his possession and which was central to the case.

[2] At that time there was insufficient evidence to justify prosecuting the defendant, but the police put in train exceptionally detailed investigations over a substantial period of time, investigations which enabled them to disprove every aspect of the defendant's initial account to the police as to how he came to acquire the car. Had it not been for the thoroughness and perseverance which plainly marked this enquiry the defendant might not have been brought to justice, and it is right that those who were responsible for, and intimately involved in, these investigations should be publicly commended for their work, as should those members of the public who were prepared to assist the police with their enquiries and give evidence.

[3] Patrick Keenan was murdered as the result of what was described during the trial as a particularly sustained, bloody and violent attack on him. He was attacked with a heavy object and was dragged to the position in

which his body was found, that is with most of his body on the bedroom floor but his upper body, shoulders and head against the bed. No murder weapon has ever been found.

[4] The moving and sincere witness statements made after the trial by his widow Kathleen, daughter Sandra and grandson Mark as to the grief and pain caused to them and the whole family caused by this brutal murder serve to remind us of the shattering impact of such a crime on a family. This family was clearly a particularly closely-knit one, as demonstrated during the trial by their accounts of the way in which they were constantly in each other's company, even in the case of Mrs Keenan who had been separated from her husband for some years, but remained on close and friendly terms with him.

[5] By its verdict the jury must be taken to have accepted that the defendant murdered Mr Keenan in order to acquire the red Mercedes car which he acquired a short time before, and of which he was so proud. There can therefore be no doubt that the defendant kicked open the door of the house intending to acquire the red Mercedes, and, however it came about, violently attacked Mr Keenan and took the car, and unsuccessfully tried to find its registration documents.

[6] Although the defendant does not have a substantial criminal record, it is a significant one. On 8 September 2004 he was sentenced to 2 years imprisonment suspended for 2 years for assault occasioning actual bodily harm committed on 14 August 2003. It would seem that he was awaiting trial for that offence when he committed this murder. That is an aggravating factor in the case. Earlier in 2004 he had entered the flat of Rosemary Patterson, with whom he had been in a relationship, and she woke with her child beside her to find him standing over her. He swung a mallet at her head but she moved her head and he missed. He was convicted of a number of offences in relation to that episode on 4 February 2005 and his case was then adjourned for sentence. The next day, 5 February 2005, he entered her premises with intent to burgle and was subsequently sentenced to 6 months imprisonment. He was ultimately sentenced to 2 months imprisonment for the offences committed on 1 February 2004.

[7] Although Mr Barry McDonald QC, who now appears on behalf of the defendant with Mr Tom MacCreanor, submitted that the defendant's record was not an aggravating factor, I have no doubt that these were demonstrations of the violent and vicious nature which caused him to murder Patrick Keenan. Throughout the lengthy questioning by the police, and the trial, the defendant displayed no genuine remorse whatever.

[8] Mr McDonald informed the court that the defendant intended to appeal against his conviction and, as is also stated in the Pre-Sentence Report, continues to deny that he committed this murder. He was therefore inevitably

constrained in what he could say on behalf of the defendant. He said that the defendant had been sexually abused in his childhood, attempted to commit suicide on a number of occasions, and had been admitted to Daisy Hill Hospital several times. The plea and sentence had been adjourned for a month to enable the defendant to be psychiatrically examined, however Mr Mc Donald stated that he was not relying on any psychiatric evidence.

[9] In R v. McCandless and others [2004] NICA 1 the Court of Appeal in Northern Ireland said that courts in this jurisdiction should follow the Practice Statement issued by Lord Wolff CJ when fixing the appropriate minimum sentence to be served by a defendant sentenced to life imprisonment before he can be considered for release by the Life Sentence Review Commissioners under the provisions of Article 5 of the Life Sentences (Northern Ireland) Order 2001.

[10] The Practice Statement provides that there should be a normal starting point of 12 years, with a higher starting point of 15/16 years. Mr McDonald QC conceded that on the prosecution case the higher starting point applies in this case. The Practice Statement describes the circumstances in which the higher starting point should be applied as follows.

“12 The higher starting point will apply to cases where the offender’s culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases would be characterised by a feature which makes the crime especially serious, such as:

- (a) the killing was “professional” or a contract killing;
- (b) the killing was politically motivated;
- (c) the killing was done for gain (in the course of a burglary, robbery, etc);
- (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness);
- (e) the victim was providing a public service;
- (f) the victim was a child or otherwise vulnerable;
- (g) the killing was racially aggravated;

- (h) the victim was deliberately targeted because of his or her religion or sexual orientation;
- (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing;
- (j) extensive and/or multiple injuries were inflicted on the victim before death;
- (k) the offender committed multiple murders”.

[11] The Practice Statement goes on to provide that the starting point selected may be varied upwards or downwards to take account of aggravating or mitigating factors which relate to either the offence or the offender. Amongst the aggravating factors listed in the Practice Statement are:

- (1) the fact that the killing was planned;
- (2) the murderer arming himself or herself with the weapon in advance.

[12] In the present case I adopt the higher starting point of 15 years. I am satisfied beyond reasonable doubt that the defendant murdered Patrick Keenan in order to acquire the red Mercedes car. In his evidence the defendant said that he was “a car fanatic”, and I have no doubt that his desire to acquire this car led him to carry out this murder. In addition Mr Keenan suffered extensive injuries. The evidence of Dr Curtis was that he had been struck at least six times with great force, and the photographs which show the extent of the bloodstaining in the bedroom provide graphic evidence of the violence used. Mr Keenan was vulnerable in two respects. He was plainly either asleep, or at least lying on the bed preparing to sleep, when he was dragged from the bed. In addition, he suffered poor psychiatric health. During the trial his wife said he suffered from manic depression, and there was evidence that he had been released from St Luke’s psychiatric hospital in Armagh 6 weeks prior to his death.

[13] In addition there are the following further aggravating factors. The entry to the house was clearly planned, and as the murder was committed with a heavy blunt instrument and nothing was found to be missing from the house it appears an irresistible inference that the defendant went armed with some heavy object which he then used to batter Mr Keenan to death. I am also satisfied that the defendant’s criminal record and his propensity towards violence should be regarded as an aggravating factor in the case. I do not consider that there are any mitigating factors in the case.

[14] Taking all of these factors into account I consider that the minimum term which the defendant should spend in prison before he can be considered for release is 20 years. This period will include the time spent on remand following his arrest.