

Neutral Citation No.: [2009] NICC 9

Ref: **WEI7401**

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

Delivered: **29.01.2009**

IN THE CROWN COURT IN NORTHERN IRELAND

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BELFAST CROWN COURT
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THE QUEEN

-v-

KRISTOPH EMMANUEL ALAUYA
—————

Bill No 08/017160
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WEIR J

[1] Mr Alauya, you have pleaded guilty on the first count to the murder of Grace Moore, in the second count to her rape and in the third count to the theft of personal and household items from her home. It is now my responsibility to sentence you for those offences. I will in due course deal with the second and third counts but for the first count, that of murder, the law prescribes only one penalty, that of life imprisonment, which I duly pass upon you.

[2] It is then my duty to fix the minimum term which you must serve before you can begin to be considered by the Parole Commissioners for release from prison. The law prescribes that that minimum term shall be such period as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it, which in this case are the rape of Ms Moore and the theft of her possessions.

[3] Before turning to the legal principles that govern the assessment of that minimum term, I shall describe in brief the circumstances leading up to, surrounding and following the commission of the offences. On 17 November 2006, a Friday evening, Mr Moore drove his daughter Grace to the house of a

girlfriend. The two had arranged to attend a concert at the Odyssey Arena, the tickets for which had previously been bought by the friend as a present for Grace's birthday. The two friends got ready together and left by taxi for the Odyssey where they met friends and had something to drink before enjoying the concert. After it ended at about 10.30 pm they were collected by arrangement by a taxi driver known to them and taken to "Skye", a bar and nightclub in Howard Street, Belfast where they arrived just after 11.00 pm.

[4] In the nightclub the girls met a group of black men of whom you were one. Grace got into conversation with you and thereafter danced with and talked to you for the rest of that evening in the club while her friend danced and chatted with another of your group. At the end of the night, around 1.50 am on the Saturday morning, Grace and her friend left the club with you and three of your acquaintances and travelled by car to the Ormeau Road where Grace's friend and one of your acquaintances left the car in an unsuccessful attempt to obtain a late night carry-out from the side door of a public house. While they were out of the car it drove off without them. You and Grace were dropped off at Bedford Street while the other occupants of the car went on to another late night club.

[5] It appears that you and Grace must then have made your way, probably by taxi, to her home. The time of your arrival is not known nor is there any eyewitness account available as to what transpired there that resulted in her rape and murder. What is known is that about 4.20 am on that Saturday morning you flagged down a taxi about half a mile from Grace's home and asked to be taken to the home of one of your acquaintances off the Ormeau Road. On the way there you asked the driver to take you to buy food and you were recorded on the CCTV of the garage shop where you bought it. The taxi driver noticed that you had a number of bags in your possession. When you arrived at your acquaintance's home he asked you about Grace to which you replied, "She's at home, she's alright."

[6] Later that day you again travelled by taxi, this time to an address off Lisburn Road and there left bags later found to contain loud speakers and a DVD player confirmed as having been taken from Grace's home. Some days later while cleaning his car the second taxi driver found two cheque books down the back of the rear seat. These too belonged to Grace.

[7] The police immediately commenced a commendably careful and thorough enquiry and when you next evening returned to "Skye" nightclub you were recognised as the man who had been there in the company of Grace on the previous evening and the police were alerted. They brought you to the Police Station where you denied ever being at Grace's home, a claim that was easily disproved by forensic findings that linked your DNA with material found in the house in addition to her items of property found in the house to which you had brought them. When those findings were later put to you you

changed your account to a claim that you had been in Grace's flat and had gone to bed there but had woken to find that she was not there. You claimed that you had not gone into the kitchen but you did admit taking items from the flat.

[8] Why you claim not to have gone into the kitchen is not difficult to understand. In the kitchen, while you were ransacking the house, removing carefully the loud speakers that had been screwed to the wall of the sitting room and bagging the stolen items to carry away, lay the body of Grace Moore. She had been stabbed twice in the neck and strangled. I do not wish to add to the distress of the family by again describing the scene in detail but no one who has seen the police photographs could fail to be appalled by the callous manner in which her semi-naked body had been left spread-eagled and uncovered on that kitchen floor. That you could have gone round methodically ransacking her home after raping, killing and then leaving her body in that state I find impossible to comprehend.

[9] The view for anyone entering that kitchen, even as a professional accustomed to serious crime scenes, would have been affecting enough. In this case the terrible discovery was made by Grace's daughter, then aged 16, who returned to the flat at lunchtime on the Saturday having spent the previous night staying at the home of a school friend. On finding the hall door unlocked she entered the flat where she first noticed electrical items missing from the sitting room and then, on entering the kitchen, was confronted by the scene that I have in outline described. She then ran screaming into the street where the attention of her grandparents, who live a few doors away, was attracted. Her grandfather, Grace's father, accompanied by a neighbour went to the flat and also witnessed the terrible situation in the kitchen.

[10] By reason of my concern as to the possible effects on this family of, not alone the loss of a mother and a child in these dreadful circumstances, but also of the father and daughter having witnessed the aftermath, I particularly asked the prosecution to ensure that victim impact assessments were obtained from a clinical psychologist as I have for some time been concerned that the quality of victim impact reports provided by the prosecution does not match that of reports obtained for the defence. In the event they obtained excellent reports from Dr Ian Hanley, Consultant Clinical Psychologist, which have given me a very clear and moving picture of the effect of your crimes. This was a close-knit family with Grace in one home, her parents a few doors away in theirs and her daughter effectively living between the two homes as domestic requirements dictated. Mr Moore is a man with an excellent working record who has striven all his life to provide for his wife, daughter and granddaughter. As he said to Dr Hanley when describing the closeness of the family relationship, "I'm her father as well as her grandfather". Again, I am not going to intrude upon what remains of this family's privacy by

dealing at length with the effect of these crimes upon the three family members most clearly affected as detailed by Dr Hanley but, although he finds them to be providing each other with much-needed support in coming to terms with and adjusting to the fact of Grace's murder, the effect upon them has been and continues to be very significant.

[11] You, Alauya have also been the subject of helpful and detailed reports from Dr Loughrey, Consultant Psychiatrist, and Dr Davies, Consultant Clinical Psychologist. From those I have learned that you are now 23 years of age having been born in Nigeria on 11 April 1985. You were 21 ½ years old when you committed these crimes. Apparently your childhood was characterised by extreme poverty and you were subjected to violence within your family and also witnessed extreme instances of violence in the community where you lived. You appear to have had a reasonable secondary education and, having a sister living in Dublin and another in the USA, moved to Dublin at about the age of 16 to make a new life with the hope of enrolling at university to study mechanical engineering. Your status was that of an asylum seeker and your ambition to study seems for that reason to have been thwarted. At the age of 18 you married an Irish woman some years older than yourself with whom you have a child but from whom you have for some time been estranged. From the description you have given Dr Davies you have led a dissolute life, having fathered four children in Dublin by four different women and become addicted to crack cocaine which led you into various criminal activities.

[12] The most serious of those crimes are two for which you have been convicted and which are the only two that I intend to take into account in sentencing you. Each was the hijacking of a taxi driver followed by his robbery and assault. These offences were committed on two consecutive days; 13 and 14 May 2005. On the first occasion you were accompanied by another man and the driver was threatened with a firearm while on the second you were alone and threatened that driver with a firearm. On 28 May 2005 you were arrested and charged and you pleaded guilty at Naas Circuit Criminal Court on 23 October 2005. Thereafter you were given bail to enable you to attend a residential drug rehabilitation course which, by your own account to Dr Davies, you failed to complete and instead returned to Dublin where you again took up with your old associates and resumed the abuse of drugs. On 14 November 2006 you were due to return to court at Naas but failed to do so and a bench warrant for your arrest was issued by His Honour Judge O'Shea. You decided to flee the jurisdiction of the Irish courts and came to Belfast where you imposed yourself upon some fellow countrymen living here. It was thus that you came to be in "Skye" nightclub on 17 November when Grace and her friend went there after their evening at the concert. She of course had no way of knowing anything about your domestic, social or criminal backgrounds or why you came to be Belfast. Had she

known anything of those matters I have no doubt she would have given you the wide berth that you deserved.

[13] Dr Davies describes you as “a plausible individual, who has good communication skills and who possesses no little insight.” He says that there is no evidence to suggest that you suffer from psychiatric illness, mental handicap, neurocognitive impairment or acquired cognitive injury. He says that it is apparent that you idealise aspects of your life and your own sense of self and described to him an idealised version of yourself, frequently using words such as “loving”, “loyal”, “friendly” and “good” to describe yourself. He also says that this belief that you are “a good person” is extremely resilient and allows you to re-interpret your behaviour so that this belief is maintained. Anything that contradicts that belief, and that is impossible to re-interpret, is either denied or blocked out. For example, when on 12 January 2009 you saw Dr Davies for the second time after your pleas of guilty to these charges, you said in relation to the murder, “I must have done it” but also, and repeatedly, “I’m not the kind of person who would do something like that”. In relation to the rape you said that you were, “sure I wouldn’t do something like that”. You were however prepared to admit to him unequivocally your guilt of the theft of Grace Moore’s possessions.

[14] Dr Loughrey concludes that, while he holds to a diagnosis of multiple alcohol and drug abuse with no indication of learning disability, psychosis or major mood disorder, it seems clear that there are obvious concerns about your dangerousness to others, especially females, that do not arise from any specific psychiatric illness. These are matters that no doubt the Parole Board will investigate in some detail when in due course they come to consider whether it is appropriate to authorise your release.

[15] The determination of the minimum, and I stress the word “minimum”, period that you must serve before the release provisions can apply to you is to be determined by reference to Article 5 of the Life Sentences (Northern Ireland) Order 2001. As I have earlier said, my task is to specify the part of the sentence that is appropriate to satisfy the requirements of retribution and deterrents having regard to the seriousness of the offence and any offences associated with it. The principles to be employed by me in making that determination have been specified by the Court of Appeal in *R v. McCandless and Others* [2004] NI 1 as being those contained in the English Practice Statement on Life Sentences set out at [2002] 3 All ER 412 and I am accordingly bound to and do follow that guidance.

[16] I am indebted to Mrs McKay for the prosecution and to Mr O’Donoghue QC who appeared with Mr Farrell in your Defence, for their well-focused and realistically-expressed written and oral submissions. There was in fact a large measure of agreement between them as to the correct approach to the variables contained in the Practice Statement and that

congruity of view between prosecution and defence has considerably assisted me in my task.

[17] In the first place Counsel agreed that this is plainly a “higher starting point” case. There was not complete agreement as to the precise factors which make it such but I am satisfied that there was clear evidence of sexual maltreatment in the form of the admitted rape before the killing. That feature is sufficient of itself to bring the case into the higher category but I am also satisfied, on the authority of the Court of Appeal in *Attorney General’s Reference No 6 of 2004 (Conor Doyle)* [2004] NICA 33, that there is a second relevant characteristic namely that your victim was vulnerable, being as Kerr LCJ put it in that case at para [30], “a woman living alone who was no match in physical strength to the offender. She would have been quite unable to defend herself against the ferocity of his attack on her . . . Like many unfortunate women she was at the mercy of a male partner of superior strength.” I therefore take as my starting point the higher term of 16 years.

[18] I turn next to consider which, if any, aggravating feature exists. Accepting Mr O’Donaghue’s enjoiner to avoid “double counting” anything in respect of the rape which has already been engaged as a factor leading to the selection of the higher starting point, I conclude that the cold-blooded ransacking of Grace Moore’s home and the theft of her personal and household possessions as she lay dead upon the floor of her kitchen is a significantly aggravating feature, arising as it does from an “associated” offence within the meaning of Article 5(2) of the Order, namely the theft charged in count three.

[19] As to aggravating features relating to the offender, your previous convictions by confession of the violent robbery of the taxi drivers committed within the jurisdiction of the courts of Ireland is clear evidence that the present offences of violence were not an isolated aberration so far as you were concerned, even if infinitely more serious in their outcome than those earlier offences. As I have said, I do not take into account the other examples of your previous criminality that you have described to Dr Davies.

[20] The Practice Direction deals at paragraph (18) with what it describes as “very serious cases” in which a substantial upward adjustment may be appropriate in the most serious, for example those involving a substantial number of murders (which obviously is not this case) or if there are “several” factors identified as attracting the higher starting point. In this case Mr O’Donoghue identified one such factor while I have identified two. The Concise Oxford Dictionary defines “several” as “more than two but not many”. I conclude that this is not a case for a substantial upward adjustment.

[21] What mitigating factors relating to the offence exist? Mrs McKay fairly accepts in agreement with Mr O’Donoghue that there is no evidence of pre-

meditation. So far as mitigating factors relating to the offender are concerned, Mr O'Donoghue points to your pleas of guilty and to what he described as "clear evidence of remorse or contrition". True it is that you eventually pleaded guilty in a piecemeal fashion to the three counts against you after the trial had begun, initially to the theft, then to the murder and finally to the rape. None of those pleas could be described as "timely" and to the theft and the murder you had no workable defence whatever yet you held out until after the trial had begun. I therefore do give you some minimal credit for your belated pleas of guilty which had the effect of saving court time and sparing the family the need to hear all the evidence over a period of weeks.

[22] As to remorse and contrition, I regret that I cannot accept Mr O'Donoghue's submission that there is "clear evidence" of these. As the Court of Appeal observed in *R v. Quinn* [2006] NICA 27 and affirmed in *R v. McCartney* [2008] NIJB 373 at para [27] -

"It is frequently difficult to distinguish authentic regret for one's actions from unhappiness and distress for one's plight as a result of those actions."

Bearing those observations in mind I look hard for indications of remorse and contrition but see none in any of your behaviour after the commission of this terrible rape and murder. All your actions, from ransacking the house and removing property, to buying food on your way into Belfast, to going back to the same club on the following night, to denying your presence in the house to police, to changing your story to an incredible account when confronted with the forensic evidence and culminating in the "drip-feed" approach to your pleas of guilty - all point convincingly away from any demonstration of contrition or remorse. This conclusion is reinforced by the dissembling approach taken to Dr Davies when he asked you about your pleas of guilty to the rape and murder as I have earlier recounted. The only matter pointing in the opposite direction is Dr Davies' assertion that "there was evidence to suggest that he experiences a degree of remorse". With great respect to Dr Davies I cannot discern his basis for that conclusion. My assessment is that what you feel is sorry for yourself and not for what you have done to Grace Moore, her parents and her daughter. That conclusion is not displaced by Mr O'Donoghue's account, which I entirely accept, of your tearful state when you instructed him during a legal consultation that you had decided to plead guilty to the then remaining count of rape. Indeed, Mr O'Donoghue was characteristically realistic when he said to the court that, while he had been instructed to apologise to the court and to the family for all the offences, he appreciated that that instruction might seem "somewhat hollow".

[23] Having regard to all the matters that I have discussed and seeking to give effect to the requirements of Article 5(2) of the Order, I order in relation to count one that the release provision shall not apply to you until you have

served a term of 22 years from the date upon which you were first taken into custody. I make two further points which I hope that the Press will convey to their readers, listeners and viewers as part of their journalistic responsibility to accurately and fairly report proceedings. The first is that there will be no remission on that period of 22 years, you will have to serve that entire period before being eligible for consideration for release by the Parole Commissioners. Secondly, whether and when the Parole Commissioners decide to release you after those 22 years have expired will be a matter for them to decide in the light of all the information available to them at that time.

[24] On the second count, that of rape, I sentence you to 10 years imprisonment and on the third count, the theft, I sentence you to 2 years imprisonment, those terms to be concurrent with the minimum term in count one. Each of those sentences reflects a reduction for your pleas of guilty, more so in the case of the rape.

[25] As I am required to do, I have considered whether the making of a custody/probation order on counts two or three would be appropriate. In view of the minimum term to be served by you on count one I have concluded that no useful purpose would be served by offering you any custody/probation order.

[26] I further order that you sign the sex offenders' register for life.