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Judgment: approved by the Court for handing down | *Delivered:* **26.01.2011**
(subject to editorial corrections)

IN THE CROWN COURT IN NORTHERN IRELAND

THE QUEEN

v

WILLIAM MAWHINNEY
Bill No 10/42486

WEIR J

[1] Mr Mawhinney, you have been found guilty by a jury of the murder on 28 May 1995 of your then partner, Lorraine Mills. For that offence there is only one sentence permitted by law, namely that of life imprisonment which I now pass upon you.

[2] It is also my responsibility, in accordance with Article 5 of the Life Sentence (Northern Ireland) Order 2001, to determine the length of the minimum term that you will be required to serve in prison before you will first become eligible to have your case referred to the Parole Commission for consideration by it as to whether, and if so when, you are to be released on licence. I make it clear however that if and when you are released on licence you will for the remainder of your life be liable to be recalled to prison if at any time you do not comply with the terms of that licence.

[3] I wish further to make it clear to you and to the public that a minimum term is not the same as a fixed term of imprisonment. A fixed term of imprisonment may, if a prisoner is of good behaviour, attract remission. You will receive no remission for any part of the minimum term that I am now about to determine and I hope that, should the Press report these sentencing remarks, they will be careful to make this important distinction clear to their viewers and readers.

[4] The prosecution case against you was, in summary, that on the day in question Lorraine Mills was at the home in Staffa Drive, Ballymena that you shared with your young children, A and B. Ms Mills did not live at the same address but at a flat in the same area because as a result of her alcohol

addiction she was not able to care for the children unsupervised and Social Services were concerned about her being left with them on her own. The care of the children was complicated by the fact that B had serious medical problems from birth for which very particular and regular care was required on a daily and ongoing basis.

[5] There is no dispute in this case that on the morning when Ms Mills died she had been taking a bath in your house at Staffa Drive. Nor is it disputed that she was at the time of her death very heavily intoxicated. The concentration of alcohol in her blood, as sampled at autopsy and which may somewhat underestimate the actual level prior to death, was an extraordinarily high 552mg per 100ml so that she must have been seriously disabled by alcohol at the time of her death. The cause of death was freshwater drowning.

[6] Your case is that you found Ms Mills dead in the bath while that of the prosecution was that you approached her while she was in the bath in this highly intoxicated state and forcibly drowned her. It is implicit in the jury's verdict that they accepted the prosecution case and rejected yours.

[7] I approach the task of setting the tariff by reference to the guidance provided by the Court of Appeal in R v McCandless [2004] NI 269. I have had the benefit of helpful submissions from Mr Lyttle QC for the defence and Mr Murphy QC for the prosecution in relation to the proper application of the McCandless principles to the present case. Both agree that this is a case where the normal starting point of 12 years is applicable.

[8] Mr Lyttle however submits that the Court ought to reduce that starting point because you were provoked in a non technical sense by prolonged and eventually unsupportable stress. Counsel pointed to the difficult circumstances created for you by B's condition which were undoubtedly aggravated by the deceased's serious alcohol problem and her consequent erratic and at times difficult behaviours. There is evidence of your exemplary care of B from the social worker responsible for your family at the time and of the deceased's unfortunate actions when drunk provided by neighbours and others who have no axe to grind. You have no relevant criminal record and have a good working history. It is of course implicit in your continuing denial of the murder that there is no evidence of remorse or contrition on your part nor, equally plainly, can there be any reduction for a plea of guilty. In your favour is that there is no evidence from which premeditation on your part could be concluded.

[9] On the other hand Mr Murphy points out that, while not in the view of the prosecution to such degree as to attract the higher starting point, the undisputed level of intoxication affecting the deceased at the time of her death rendered her vulnerable as did the fact that she was bathing at the time

and he relies upon those circumstances as aggravating factors. I accept that submission as well-founded.

[10] I take account of the pre-sentence report which contains much helpful detail on your background and points out that your siblings and father have turned their backs upon you so that you are effectively without family or friends in Northern Ireland. I have noted that you have volunteered to work with the Samaritans in the prison and fulfil a worthwhile role as a Listener for other prisoners at risk of self-harm or in despair and you deserve credit for that. At the same time I pay close attention to an articulate letter from your daughter A who describes the effects that the death of her mother have had upon her throughout her childhood and which still continue after the passage of 15 years.

[11] My overall conclusion is that the mitigating factors are finely balanced with the aggravating factors. I have accordingly decided that the appropriate minimum period of imprisonment that you will be required to serve before the release provisions will apply to your case is one of 12 years, to date from the day upon which you were taken into custody.

[12] What if any further period you will spend in prison thereafter will be for the Parole Commission to determine. I direct that it is to receive a copy of these sentencing remarks.