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Judgment: approved by the Court for handing down (subject to editorial corrections)*	***Delivered:*** **27/11/2020**

IN THE CROWN COURT FOR THE DIVISION OF BELFAST

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THE QUEEN

-v-

CHRISTOPHER ROBINSON

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[1] On 6 March 2020, after a lengthy trial, the Defendant Christopher Robinson was convicted of the murder of Adrian Ismay and of causing an explosion with intent to endanger life. Both charges arise out of the attachment of an improvised explosive device to the underside of Mr Ismay's Volkswagen van while it was parked outside his home during the early hours of 4 March 2016 and the subsequent detonation of that device later that same morning as Mr Ismay drove the van to work. Mr Ismay worked as a Senior Prison Officer in the Training Branch of the Northern Ireland Prison Service at the time of his death.

[2] The detonation of the improvised explosive device which had been attached to the underside of his vehicle beneath the driver's footwell propelled shards of shrapnel into the driver's compartment where Mr Ismay was seated. The moment of the explosion was caught on CCTV. Mr Ismay suffered serious leg injuries. He required surgery to debride his leg wounds and initially appeared to make a good recovery. He was discharged from hospital subject to review. However, on 15 March 2016, his condition suddenly deteriorated at home and he was urgently re-admitted to hospital. His condition continued to deteriorate and he suffered cardiac arrest, leading to his death. A post-mortem examination revealed that as a result of the injuries he received at the time of the explosion, he developed a DVT (deep venous thrombosis) which migrated proximally and resulted in the occurrence of a fatal PE (pulmonary embolism).

[3] In my earlier judgment in this matter, I set out in detail the Defendant's role in the murder of Mr Ismay. I have no doubt that the Defendant knew in advance the nature of the attack which was going to be carried out. The Defendant knew that this bomb attack, if successful, would result in the death of Mr Ismay or the infliction of serious injury upon Mr Ismay and this was the intended outcome of his actions. His concerns about the fixation of the improvised explosive device to the underside of Mr Ismay's vehicle prompted him to search the internet for information relating to the magnetic permeability of aluminum. He was intimately involved in the targeting

of Mr Ismay as the victim of this attack over a lengthy period of time. The Defendant repeatedly checked out Mr Ismay's online profile and went so far as to check up on the opening times of a large supermarket located opposite one end of Hillsborough Drive. The Defendant knew in advance what type of attack was going to be carried out. He played an integral part in the carrying out of this attack. He had an intimate role in securing, making available, facilitating the use of and rendering inconspicuous by the addition of a poppy sticker the vehicle used to transport the bomb and the bomber who attached the bomb to the underside of Mr Ismay's vehicle to and from the scene. He was the driver of this vehicle when it was being actively used on the night in question to transport another person involved in the attack across Belfast, before and after the attack.

[4] The Defendant knowingly took steps to minimise the chances of his intimate and inextricable involvement in the attack upon Mr Ismay being uncovered by turning off his mobile phone at particularly key stages of his journeys that night, by deleting entries from the memory of his mobile phone relating to voice calls and SMS messages, by putting his SIM card and the battery of his phone beyond the reach of the Police, by arranging with his brother for the CCTV system of the Ardmoulin Hostel to be disconnected at key stages of the operation and the system settings of the CCTV system to be subsequently changed so as to dramatically reduce the period of retention of images, by sending a coded SMS message to his brother, and by the telling blatant and obvious lies (contained in a pre-prepared statement provided to the Police during interview under caution) about his movements on the night in question and about him not knowing that Mr Ismay was the victim of the attack until he was informed by the Police at the time of his arrest.

[5] Having found the Defendant guilty of the offence of murder, the court imposed upon Christopher Robinson the only sentence permitted by law for that offence, one of life imprisonment. It is now the responsibility of the court in accordance with Article 5 of the Life Sentences (Northern Ireland) Order 2001 ("the 2001 Order") to determine the length of the minimum term that Christopher Robinson will be required to serve in prison before becoming eligible to have his case referred to the Parole Commissioners for consideration by them as to whether, and if so, when he is to be released on licence. I make it clear, however, that if and when he is released on licence, he, for the remainder of his life, will be liable to be recalled to prison, if at any time he does not comply with the terms of that licence. It is also the responsibility of the court to sentence the defendant in respect of the second count of causing an explosion with intent to endanger life.

[6] Following the Defendant's conviction on 6 March 2020, the matter was adjourned to allow the Defence to obtain a medical report from Dr Loughrey, Consultant Psychiatrist and to allow Victim Impact Statements to be obtained from the widow and two of the three adult daughters of the late Mr Ismay. The medical report was made available in September 2020 and I heard the Plea in this case on Friday 6 November 2020 in the absence of Victim Impact Statements. I made it clear at that time that I would allow Mr Harvey QC for the defence an opportunity to

make further submissions if he wished to do so upon receipt of the Victim Impact Statements. No other material in the form of pre-sentence reports was made available to the Court. If any such material had been sought by the Defence, every opportunity would have been provided to the Defence to obtain such material and to produce it to the Court. It is clear from Dr Loughrey's report that the Defendant does not accept the verdicts of the Court and made no expression of remorse for the death of Mr Ismay.

[7] I wish to acknowledge the comprehensive and helpful written submissions prepared by Mr McDowell QC, Mr Magee QC and Ms Cheshire for the Crown, supplemented by the concise and focused oral submissions of Mr McDowell. I also wish to acknowledge the compelling submissions put forward by Mr Harvey QC with his customary high quality of oral advocacy. I gained great assistance from these various submissions.

Victim impact

[8] Before determining the appropriate minimum sentence in this case it is important that I highlight the Victim Impact Statements I have received. I have read the detailed statements from the late Mr Ismay's widow Sharon Ismay, and two of his three adult daughters Tori Moody and Sarah Cupples. His third daughter Samantha, suffers from Down's Syndrome and her mother who cares for her has eloquently described the impact her father's murder had on Samantha. These three statements are simply heart-wrenching in how they manage with dignified reserve to convey just how deeply they all loved Mr Ismay and how intensely he loved, in fact, adored them. Each of these statements in their own individual and eloquent way brings home to me the utterly devastating impact that Mr Ismay's death has had not only on them but on other members of the family. The description of events in the immediate aftermath of the attack on Mr Ismay, his subsequent readmission to hospital, his death and all that has occurred to each of them since that time are all intensely personal accounts and only the hardest and coldest heart of stone would not be deeply affected reading them and anyone of normal sensitivity could not but readily perceive how each of the authors of those statements and those referred to therein have been utterly devastated by this murder and their lives have been altered irretrievably. They will endure the cruel impact of the tragic loss of Mr Ismay for the rest of their lives. These statements, with quiet dignity bring home to me the damage that Mr Ismay's death has caused to their lives and I take this fully into account in this sentencing exercise. At the same time I recognise that the loss of Mr Ismay's life cannot be measured by the length of a minimum term prison sentence.

[9] I consider it only appropriate that I pay tribute to the unstinting community service which, despite his family commitments, Mr Ismay enthusiastically engaged in. He gave so much of himself to others. He was engaged in training in the Prison Service. He was heavily involved with the Community Rescue Service and the St John's Ambulance. He lived to train, help and guide others. He was a decent, warm,

generous and loving human being and our society is the poorer for his loss. If only there were more like him. His legacy is his example of unstinting and enthusiastic community engagement; reaching out to and engaging with all, irrespective of background.

Determination of minimum sentence

[10] The Defendant has already been sentenced to life imprisonment. I must emphasise that he will remain subject to this sentence for the rest of his life. Any decision to release him from custody following the expiry of the minimum term imposed by the Court will be taken by the Parole Commissioners. He will only be released at that time if it is considered safe to do so. If released, the life sentence remains in place and he will be released on licence which will continue for the rest of his life. A recall to prison is possible at any time.

[11] As I have already indicated, under Article 5 of the 2001 Order this Court must fix the minimum term that the Defendant must serve before the Parole Commissioners will be able to consider whether it is safe to release him on licence.

The relevant legal principles

[12] Article 5(2) of the 2001 Order provides that the minimum term:

> "… shall be such part as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or the combination of the offence and one or more offences associated with it."

[13] The legal principles that the court should apply in fixing the minimum term are well established.

[14] In *R v McCandless & Ors* [2004] NICA 1, Carswell LCJ giving the judgment of the Northern Ireland Court of Appeal held that the *Practice Statement* issued by Lord Woolf CJ and reported at [2002] 3 All ER 412 should be applied by sentencers in this jurisdiction who are required to fix tariffs under the 2001 Order. See paragraph [10] of his judgment. I do not intend to unduly lengthen this sentencing exercise by setting out *in extenso* the provisions of the P*ractice Statement.* However, I wish to make it clear that in my deliberations on the issue of appropriate tariff I have applied the principles and guidance to be gleaned from the *Practice Statement* and I have been greatly assisted by guidance given by the former Lord Chief Justice in *R v McCandless* and by the present Lord Chief Justice in the case of *R v Greer* [2017] NICA 4 paragraphs [14] to [17] where Morgan LCJ considers the culpability of a Defendant convicted of murder where it could not be established that he was the gunmen or the driver of the vehicle who transported the gunmen to the scene. It is clear from the Lord Chief Justice's judgment that each case is fact specific and in

some cases the culpability of the director of a crime is greater than that of the principal. What is important in a case such as this is not the precise role played by the Defendant but whether the identified role was integral to the execution of the crime and in this instance I am convinced, as I have clearly stated above, that the Defendant played an important and integral role in planning and carrying out the terrorist operation which resulted in the death of Mr Ismay and, in such circumstances, there is no reason to choose a lower starting point than one which would be chosen for the individual who had actually planted the device under Mr Ismay's vehicle. The question now to be addressed is what is that appropriate starting point?

[15] When one considers the *Practice Statement,* it is immediately obvious that the normal starting point of 12 years referred to in paragraphs [10] and [11] is entirely inappropriate and patently inadequate to meet the gravity of the crime or reflect the culpability of the Defendant. The higher starting point of 15/16 years referred to in paragraph [12] is the appropriate starting point but it is just a starting point because such a tariff would still be inadequate to meet the gravity of the crime or reflect the culpability of the Defendant. It is clear that one has to progress to paragraphs [18] and [19] of the *Practice Statement* before one finds passages which encapsulate and describe the gravity of offending that is clearly evident in this case. It is important that I do quote from these two paragraphs.

> "Very serious cases
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> 18. A substantial upwards adjustment may be appropriate in the most serious cases, for example, those involved in a substantial number of murders, or if there are several factors identified as attracting the higher starting point present. In suitable cases the result might even be a minimum term of 30 years (equivalent to 60 years) which should offer little or no hope of the offender's eventual release. In cases of exceptional gravity, the judge, rather than setting a whole life minimum term can state that there is no minimum period which could properly be set in that particular case.
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> 19. Among the categories of case referred to in paragraph 12, some offences may be especially grave. These include cases in which the victim was performing his duties as a prison officer at the time of the crime or the offence was terrorist…murder… In such a case, a term of 20 years and upwards could be appropriate."

[16] Further valuable guidance is obtained from consideration of the judgment of Morgan LCJ in the case of *R v Wootton and McConville* [2014] NICA 69, particularly at paragraphs [21] to [25]. Referring to paragraph [21], I note that the present case can properly be described as a carefully planned terrorist operation and that unlike the Defendant *McConville*, the Defendant in this case was clearly involved in the planning of the offence. I note from paragraph [22] that it is important to ensure that when examining the aggravating factors surrounding the offence, there is no double counting once a case is placed in the "very serious" bracket. Indeed, Mr Harvey QC was at pains to remind me to avoid any double counting of aggravating features and I have been scrupulously careful to avoid doing so. However, when one carefully reads paragraphs [23] and [24] of the Lord Chief Justice's judgment in *Wootton and McConville,* it is clear that the terrorist murder of a police officer or a prison officer in the execution of his or her duties calls out for a strong deterrent sentence because these "public servants should be protected by way of deterrence having regard to the obligations and risks which they take on for the benefit of the community." Following on from this, the Lord Chief Justice, speaking for the Court, reached the following conclusion:

> "[25] For those reasons we consider that the tariff in this case required an uplift beyond 20 years because it was both a terrorist attack and an attack on a police officer."

[17] Mr Harvey QC urged me to accept the proposition that the murder of a prison officer by means of an under vehicle improvised explosive device in the environs of his home when he had not yet commenced his actual duties as a prison officer but was on his way to work, could be distinguished from the murder of a prison officer while actively engaged in his duties as such. He argued that the former scenario did not represent an additional aggravating feature of the crime whereas the latter scenario did. With respect, I cannot accept that proposition for the following reason. Mr Ismay was murdered solely because he was a prison officer and his murder was perpetrated in pursuance of a twisted republican terrorist ideology. In our troubled society prison officers and police officers have been regularly targeted at home or off duty simply because in those environments, they are deemed to be easier targets. In such circumstances, the need for deterrence can be no less acute and obvious. Further, Mr Ismay was murdered by means of planting an improvised explosive device under his vehicle which was parked outside his house. That bomb was planted under that vehicle with the aim of killing Mr Ismay. However, those that planned and executed that terrorist operation were perfectly content to see other members of Mr Ismay's family killed or seriously injured. What if Mrs Ismay or some other family member who happened to be staying in the house at that time had sought a lift with Mr Ismay that morning? It is clear that the perpetrators were perfectly at ease exposing others to the risk of injury and death simply to ensure that they were able to effectively strike at their principal target. Such callous disregard for the lives of others in such an attack is clearly an aggravating feature which places

such a killing on a par with the killing of a prison officer during the actual execution of his duties.

[18] In this context, I note the provisions of section 34(4) of the Counter-Terrorism Act 2008 which mandate that where a Court determines that an offence has a terrorist connection, that determination must be treated as an aggravating factor and must be stated as such in open Court. However, for the avoidance of doubt, I do not consider that the provisions of section 34(4) in the context of this case require me to factor in an additional degree of aggravation over and above that described in the preceding paragraphs.

[19] I note that the Defendant has a criminal record amounting to 17 previous convictions. This record has had no significant bearing on my deliberations in this part of the sentencing exercise.

[20] I have carefully considered the contents of the medical report provided by Dr Loughrey, Consultant Psychiatrist, dated 4 September 2020 and I note that Dr Loughrey offers a diagnosis of complex post-traumatic stress disorder resulting from childhood sexual abuse and other later trauma and stressors with a concomitant history of alcohol abuse and cannabis misuse. Whether this report gives rise to a matter of mitigation will be addressed below but in the present context, there is one respect in which the report from Dr Loughrey comes to the aid of the Defendant and that is how it subtly and indirectly offers an explanation as to how and why a person with the complexities, deficits and vulnerabilities exhibited by the Defendant could and would allow himself to be used by other sinister individuals and become intimately involved in the murder of Mr Ismay.

[21] This issue did not form part of Mr Harvey's plea because the Defendant does not see himself in this almost pathetic light but it is clear that others who are not before the Court and who presently remain at large, no doubt continuing to pursue their terrorist aims, made use of the Defendant with all his complexities, vulnerabilities and deficits to further those terrorist aims. The term of imprisonment referred to in paragraph [22] below fairly takes account of this issue and without this issue being brought to the attention of the Court, the extent of the upward adjustment for aggravating features in this case would have been somewhat greater.

[22] Having full regard to all the matters set out above, I am convinced that the higher starting point in this case must be increased to meet the gravity of the crime and the culpability of the Defendant and that an uplift to beyond 20 years is required and that prior to taking into account any matters than can legitimately be considered as having a mitigating impact on the issue of culpability, the appropriate minimum term would be 22 years. I now propose to deal with the issue of mitigation.

[23] Put bluntly, there is really nothing by way of personal mitigation in this case that would give rise to a need to factor in a reduction from the figure set out in the previous paragraph. The Defendant expresses not one scintilla of remorse or regret

for his actions. He continues to deny any involvement in the killing of Mr Ismay. In any event, personal mitigation is of little importance in offences of this nature. See, in particular *R v Cunningham and Devenney* [1989] NI 350 per Hutton LCJ at pages 5 and 7 and *Attorney General's Reference (No 6 of 2004) (Conor Gerard Doyle)* [2004] NICA 33 per Kerr LCJ at paragraph [37]. As already referred to, the medical report provided by Dr Loughrey, Consultant Psychiatrist, dated 4 September 2020 offers diagnosis of complex post-traumatic stress disorder resulting from childhood sexual abuse and other later trauma and stressors; but this diagnosis and the symptomology described in detail in the report, coupled with a previous history of alcohol abuse and cannabis misuse in no way goes to explain or offer any excuse for his actions.

Minimum tariff

[24] I have carefully considered all that Mr Harvey QC has had to say on the Defendant's behalf. I note his close relationship with his mother and I note that her state of health is poor and that this is a source of distress to the Defendant. I note examples where he has in the past engaged in some activities which would appear to be geared to protecting the vulnerable and those at risk of attack in his community; but these matters cannot result in any reduction in the applicable tariff in the circumstances of this killing. Taking all relevant matters into account, the minimum tariff which the Defendant Christopher Robinson must serve before he can apply for release on licence during his life sentence is one of 22 years.

[25] On the basis of information provided to me by the Prison Service, the Defendant is entitled to the following credit in respect of time already served before the imposition of the life sentence:

Christopher Robinson – 447 days.

Second Count

[26] The Defendant falls to be sentenced on the second count of causing an explosion with intent to endanger life. Since the Defendant has been convicted of a specified offence, the Court must give consideration as to whether there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further such offences – see Article 15(1) of the Criminal Justice (Northern Ireland) Order 2008. In making this assessment the Court may take into account any information about the offender which is before it. Since the Defendant is now serving a life sentence and cannot be released unless it is deemed safe to do so by the Parole Commissioners, I do not consider in those circumstances that there is a significant risk to members of the public arising from the conviction on count 2 and that the Court can deal with this offence on the basis of a determinate custodial sentence. Accordingly, I impose a sentence of imprisonment of 20 years in respect of count 2 with this sentence to run concurrently with the life term imposed. In the event that it is considered necessary to do so I

would, in accordance with Article 8(2) and (3) of the Criminal Justice (Northern Ireland) Order 2008, specify the custodial period as being one half of the term of the sentence.

[27] Finally, a determination of a terrorist connection under section 30 of the Counter-Terrorism Act 2008 activates the notification requirements set out in Part 4 of the Act in section 47 and the information sought in section 47 must be notified to the PSNI within a period of 3 days from today's date.