

R v Currie

COURT OF APPEAL (CRIMINAL DIVISION)

CAMPBELL J16 DECEMBER 1994

16 December 1994 CAMPBELL J

At the Crown Court sitting at Craigavon on 4 June 1993 Geoffrey Currie having pleaded not guilty to the murder of Wendy Guy on 20 January 1993 changed his plea to admit his guilt of her manslaughter and he was sentenced to 6 years imprisonment.

He now appeals against this sentence on the grounds that it is manifestly excessive and wrong in principle because:

- (i) The trial judge failed to accord to Currie proper and reasonable discount in respect of his plea of guilty to manslaughter.
- (ii) The trial judge failed to attach any or sufficient weight to the exceptional points which arose in mitigation including in particular the evidence of the mother of Wendy Guy.

Wendy Guy who was twenty at the time of her death lived at 101 Greenhill Park, Lurgan and Geoffrey Currie who was twenty-nine, had been living with her there for two years. Wendy Guy had a two and a half year old daughter, Ashlene, who was the child of a previous relationship and she too lived at 101 Greenhill Park.

In the middle of January 1993 Samuel Currie, an older brother of Geoffrey Currie whom he looked upon as a father, began a relationship with Wendy Guy and a few days prior to the 20 January 1993, the date of the offence, Geoffrey Currie asked his brother if there was anything going on between them. His brother replied "nothing yet" and later he suggested that the three of them should discuss the matter on the following day.

On Sunday 17 January 1993, Wendy Guy told Geoffrey to be out of the house by the following day however he asked his brother Samuel to intervene on his behalf on the day following and as a result she relented and permitted him to remain until the weekend.

During the early evening of Tuesday 19 January 1993 Currie and Wendy Guy were getting on well and she cooked him an evening meal for the first time in five days. Later that evening Samuel Currie and his sister Ann arrived to visit them and they were accompanied by a friend Jim Bell. Wendy sat beside Samuel on the sofa and flirted with him and this led to an argument between Wendy and Geoffrey Currie after the visitors had left and before going to bed.

At 8.00 am on the following morning, Wednesday 20 January, Wendy Guy asked Geoffrey Currie to go downstairs and bring her up a glass of juice. Currie said in an

interview with the police that as he poured the juice for her in the kitchen he opened a drawer and pulled out a knife which he had gone to get and as he did so he noticed a letter in the drawer. He told the police that he had gone to get the knife to go up and intimidate her. When he saw the letter he recognised the handwriting as being that of his brother Samuel and in this letter, which he read, Samuel expressed his love for Wendy and her child. Currie said that he put the letter back in the drawer, grabbed the knife and having hidden it down the back of his underpants he ran upstairs. On reaching the bedroom he handed the juice to Wendy and as she drank it he pulled out the knife "to scare her". He said that he thrust it towards her and that the handle flew off and he went on to describe how he stuck the knife into her neck. Currie said that when the knife fell Wendy called him a "no good bastard" and told him to leave the house by 2.00 pm. He replied that she could move Sam in and she responded by saying "me and Sam had wonderful sex on Sunday" and on hearing this Currie claimed that he went a total blank, but it is clear that he strangled her with his hands.

The police officers who were interviewing him asked him how she died and he told them that he had choked her as she lay on the floor. He described having trailed her off the bed and, after they had scuffled and skirmished about, sitting on top of her and catching her by the throat. He then demonstrated to the officers how he had choked her with his thumbs on the centre of her throat and his fingers around the side of her head. He told them that when he realised that she was dead he hugged her and kissed her and told her that he loved her.

At his trial he told the jury that it was on his way to the kitchen that he decided to get a knife and that he did not remember the act of strangling her and that he could remember only his hands coming away from her neck.

About 9.00 am after he had hugged and kissed her Currie washed and then picked up Ashlene who had been asleep in her bed in the house. He took her to the playgroup which she attended and at which his sister Ann assisted. He asked Ann to take Ashlene back to her house when the playgroup ended and he said that Wendy would come and collect her daughter there.

On leaving the playgroup Currie went to the home of Mrs Guy, the mother of Wendy. Although she was not at home he removed Tylex tablets from a coffee table and Paracetamol tablets from the kitchen.

From there he went to an off-licence in Lurgan where he bought four tins of beer, some Coke and a quarter bottle of Vodka and took them back to 101 Greenfield Park. He said that on his return to the house he looked at Wendy's body and lifted it and cuddled her and then went downstairs and took the ten Paracetamol tablets and left the house and returned to the playgroup where he saw his sister Ann. She said that he was crying when he reached her and that he told her that he had taken a couple of pints with a mate in the Institute in Lurgan and asked her to read the letter from Samuel to Wendy that he had found earlier in the kitchen drawer. He banged his fist on a chair and told his sister that he could not take any more. She attempted to calm

him and he left her to go and ask Wendy's mother to see if she would put him up. Before leaving he told his sister that Wendy was at home and that she would call at his sister's house before going out with Samuel.

Currie did not go to Mrs Guy's house but returned once again to the house in Greenfield Park where he wrote a note to Mrs Guy, which he brought to a shop where he bought an envelope and then he posted it to her. In this note which was accompanied by photographs and was delivered to Mrs Guy on the following day he wrote;

"I loved her and could not leave her. My brother Sammy caused everything. If he had stayed away everything was OK. I found hi (sic) letter he sent to her on Tuesday 19th January and I left it to the finder of us. I left it with Ann. Signed Geoffrey Currie 10.45 am Wed 20th Jan 1993 PS I killed her at 8.45 am and I still love her."

After he had posted the envelope containing the note and the photographs he returned once more to Greenfield Park where he sat on the bed in the room where Wendy was lying for a couple of hours or so and he said that during this time he took 100 to 150 tablets. It is not in dispute that Currie did take an overdose of paracetamol and that he did make a fairly determined attempt to take his own life. After the couple of hours he spent in the house he then left it for the final time and he met his sister Ann and his brother Samuel as he walked towards his sister's house. He gave them the key of 101 Greenfield Park and they went to the house and raised the alarm. Meanwhile Geoffrey Currie had telephoned the police from a call box and told them "I have murdered my girlfriend and if you don't get someone up quick there will be another murder".

The report of the autopsy shows that Wendy Guy died from manual strangulation and that a projection on her hyoid bone in the upper part of the front of her neck had been fractured. Her injuries indicated the forcible grip of a hand or hands. There was an abrasion across the front of her neck associated with a superficial incision less than 1/4" long at its front end. This could possibly have been caused by the blade of a knife having been lightly applied to the neck but the wound caused was quite trivial. Bruising was found to the top and front of her right shoulder and faint bruising was seen on the front of her lower abdomen and abrasions to both elbows.

During the plea in mitigation Wendy's mother, Mrs Guy gave evidence. She said that she was sure that the appellant loved Wendy and the child and on being asked about her understanding of his feelings she responded by saying that she believed that he was heart broken and that she wished him well.

In sentencing Currie, the learned trial judge accepted that Currie had been deeply attached to Wendy Guy and that he had been devastated by the prospect of losing her to his brother and that on the evening before her death she had provoked Currie by her behaviour towards his brother. He referred to his being further provoked by things that she had said to him on the morning of her death and by the discovery of the letter that his brother Samuel had written to her. The learned trial judge referred

to the evidence of Mrs Guy which had impressed him, to Currie's less than happy background and to the fact that he looked upon his brother Samuel as a father figure. He mentioned also Currie's good work record and that he had a clear criminal record.

The judge spoke of the lack of detail in Currie's account of the killing in the witness box, and compared this with the detailed account that the appellant had given to the police and concluded that he had been less than forthright in court. He stated that this should not and did not influence the court to a heavier penalty but that it illustrated that it would be unwise for the court to deal with him on the basis that not only did he not intend to harm Wendy Guy but that he was unaware of doing so – a view which this court considers was entirely justified.

In his submissions on behalf of the appellant, Mr Eugene Grant advanced two main points. The first was that the level of provocation to which the appellant was subjected by the deceased was high whilst the level of the appellant's deliberation to kill her was low. The second point was that the learned trial judge should have made a substantial reduction in the sentence because of the exceptional evidence of the victim's mother who stated that she was satisfied that the appellant had a genuine love for Wendy and for the child and had genuine remorse for what he had done. Mr Grant made the further point that the goodness and forgiveness which Mrs Guy had shown towards the appellant could be regarded as being representative of the attitude of the concerned public, and because of her exceptional attitude the judge would have been right to reduce the sentence below that which would normally be imposed for such a crime.

We do not accept those submissions. Whilst the appellant was seriously provoked, his reaction was extremely violent and was not immediate, because before strangling Wendy Guy in the bedroom he took a knife from the kitchen which he thrust towards her and which inflicted the superficial wound on her neck. Therefore this was not a case where the violence used towards the victim followed instantaneously after the provocation.

We further consider that the very forgiving attitude shown by Mrs Guy cannot operate to reduce the sentence below that which the learned trial judge imposed. The appellant killed a young woman, and for that the public interest requires that he be punished, notwithstanding the forgiveness of the mother of the victim. As Lord Lane CJ stated in *R v Taylor* (1987) 9 Cr App R(S) 175 at 176:

"There are two objects in view which the sentencer must have in mind: first of all the necessity to ensure that the criminal expiates his offence. For that of course a term of imprisonment is almost always necessary. Secondly, although to some extent where there is provocation it may seem illogical, it has got to be a lesson to other people that if possible they should keep their tempers and not be provoked in such circumstances. Bearing those two matters in mind, the judge then has to determine what the least period is which will reflect those two matters."

Mr Grant referred to the statement of the learned trial judge in sentencing that:

"The authorities suggest three to seven years for cases involving manslaughter as a result of provocation."

Mr Grant submitted that in the light of the matters which he had put forward and having regard to the range stated by the judge, the sentence of 6 years imprisonment was too high. Courts often impose sentences between 3 to 7 years for manslaughter as a result of provocation, but 7 years is not the maximum of the range. In *R v Michael Malachy Murray* (1993) (unreported) this Court in upholding a sentence of 10 years imprisonment for manslaughter under provocation, in its judgment at page 7 referred to *R v Shaw* [1984] 6 Cr App R(S) 108 at 109 where Griffiths LJ (as he then was) stated:

"The only ground upon which this appeal is urged before this Court is that seven years should be considered to be the maximum sentence that a court should pass for manslaughter on the ground of provocation, no matter how tenuous the judge may have to regard the provocation. It is right that there have been cases in which the Court has reduced the sentence for manslaughter on the ground of provocation from 10 to seven years, but no authority has been cited to this Court to show that sentencing policy has so hardened that seven years should in all cases be considered to be the maximum sentence that the court should impose for a killing which has been reduced to manslaughter on the ground of provocation. The circumstances of cases vary infinitely, and the person best suited to weigh up the appropriate punishment is the High Court Judge who presides over the trial and hears how the matter develops."

and to the later case of *R v Hussey* (1989) 11 Cr App R(S) 460 where Watkin LJ said at page 462:

"Cases of manslaughter vary infinitely. Therefore, so does the punishment for it. In *Naylor* (1987) 9 Cr App R(S) 302, in giving the judgment of the Court I stated, at p 305:

'In cases of provocation, such as reduce murder to manslaughter, sentences in the region of seven years, plus or minus two or three years, are usual. There are rare sentences reported, however, in excess of that!'"

and this court continued in *Murray*:

"As we have stated we consider that this was a bad case and we are in respectful agreement with Griffiths LJ that sentencing policy has not so hardened that seven years should in all cases be considered to be the maximum sentence for a killing which has been reduced to manslaughter on the ground of provocation. As Griffiths LJ stated, the High Court Judge who presided over the trial and who heard how the matter developed is the person best suited to weigh up the appropriate punishment, and we consider that McCollum J, having heard all the evidence, was entitled to

conclude that the case was a bad one which called for a severe sentence of ten years imprisonment".

We consider that a sentence of 6 years imprisonment for the strangulation of this young woman, albeit done under provocation, is neither wrong in principle nor manifestly excessive. It is a proper punishment for the taking of a young life and should operate as a deterrent to other persons. The appeal is accordingly dismissed.

Appeal dismissed