

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

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THE QUEEN

v

JOHN EDWARD HUGH HOLMES, ALAN VICTOR WILTON  
AND CHANEL WILTON

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**WEIR J**

[1] John Holmes, you have pleaded guilty to the manslaughter of Stanley McAuley. Alan Wilton, you have pleaded guilty to doing an act which had a tendency to pervert the course of justice and Chanel Wilton has pleaded guilty to aiding and abetting that act of her father. It is now my responsibility to sentence each of you for those offences.

[2] On the late evening of 14 April 2013 you Holmes, then aged 32, were drinking in the East Belfast Working Men's Club ("the Club"). Also present in the Club was Stanley McAuley ("the deceased") who too was drinking. Various independent witnesses who were present noticed that there was some tension between the two of you and that the deceased approached you more than once in an antagonistic fashion. This is confirmed by CCTV footage from within the Club. Nothing more happened within the Club but when you left and began walking along Chamberlain Street the deceased was seen to leave and follow behind you.

[3] A fight broke out between the two of you at or near the entrance to an alleyway off Chamberlain Street and then continued in that alleyway. Both of you were highly intoxicated, probably to roughly the same extent, at a little above or below 300mg, almost four times the drink driving limit. The Prosecution has accepted that the blows initially struck by you were in self-defence but your attack on the deceased then went significantly beyond anything justified by way of such self-defence. It is upon that basis that the Prosecution has accepted your plea to

manslaughter in place of the murder charge that you initially faced and upon that basis that you have pleaded guilty to manslaughter.

[4] Chanel Wilton had also been in the Club with a friend and the two of them left on foot shortly after you, Holmes, and the deceased. She saw fighting between the two men with punches being exchanged around the face. The fight then moved into the alleyway and when she and her friend came up to it the deceased was on the ground while you Holmes were continuing to attack him. Chanel Wilton attempted to separate the two men but without success and received some minor injuries and bloodstaining to her clothes in the process. Eventually Holmes' father arrived having apparently been phoned by his son to his home nearby as he was leaving the Club and the assault upon the deceased was then brought to an end. You and your father walked away leaving the deceased lying in the alleyway struggling for breath. Chanel Wilton and her friend also left the scene. A taxi driver had seen the fight while passing and on returning to the area a few minutes later stopped on seeing the deceased lying face down in the alleyway and attempted CPR. An ambulance was summoned but on its arrival there were no signs of life.

[5] Chanel Wilton called her boyfriend and asked him to collect her which he did, bringing her to her father's house near Crossgar. You, Alan Wilton, on hearing that your daughter had been in proximity to this fight and as a result had received bloodstaining to her clothes, decided to obstruct the police investigation into your daughter's part in these events by disposing of the clothing that she had been wearing. Moreover, you attempted to send the police on a false trail by substituting other clothing of hers that she had not worn on this night and telling the police where they could find it. The CCTV footage from the Club showed your daughter wearing quite different clothing and Chanel Wilton very properly and promptly told the police that her father had taken her actual clothing away.

[6] Meanwhile you Holmes presented yourself at Strandtown Police Station about 2 hours after the incident. You were not fit for interview at that time due to your intoxication and when interviewed later that day and the next day in the first four interviews you made "no comment" to questions, apparently on the advice of a solicitor who was present to represent you. However in subsequent interviews you wisely gave an account of what had happened claiming that you had acted in self-defence and expressing regret for the deceased's death. By contrast, when you Alan Wilton were interviewed by police you answered "no comment" to every question put to you in each of your five interviews. Moreover, when earlier spoken to by police by telephone while you were abroad on holiday you said to the officer "you think that you are the big man, I will see you when I get home."

[7] The injuries sustained by the deceased were extensive and far beyond those that might be thought attributable to proportionate self-defence. You Holmes deny that you kicked the deceased although a witness says that she saw you do so. However the pathologist has not clearly established affirmative evidence of kicking

and the Prosecution therefore does not positively assert that you did kick the deceased. The cause of death was blunt force trauma to the head associated with acute alcohol intoxication and obesity. There was no significant traumatic brain injury to explain the death. The pathologist's conclusion was that whilst the head injuries sustained in the assault would not of themselves have been considered life-threatening they did, in combination with the deceased's obesity and extreme intoxication, result in his death. It is not possible to calculate the proportion which each factor contributed to that death.

[8] I have received two helpful Victim Impact Reports prepared by Dr Michael Paterson, Consultant Clinical Psychologist, relating to the deceased's partner and their three children and to the deceased's father. Both record in poignant detail the pronounced effect which these senseless events have had upon the members of the entire family circle. This is yet another case illustrating the combination of the ready availability of alcohol and the modern tendency not simply to engage in what used to be called a "fair fight" from which both parties could walk away with cuts and bruises but rather to persist with the violence until one party to the fight has been rendered insensible and, not infrequently, either dies or is permanently disabled. This violence has not only resulted in a pointless death but will permanently blight the lives of the many who have been affected by it.

[9] Holmes, apart from one matter of particular concern to which I will shortly return, you have a relatively minor criminal record. Your upbringing was unexceptional and while your most recent relationship has failed due to your present circumstances you have a 9 year old son from an earlier relationship who visits you in prison. Your family, while shocked by this offence, have remained supportive of you. Your days at school were also unexceptional and although you left at 16 without qualifications you have always been in steady employment and were employed on the day of these events when, ironically, you were apparently "celebrating" your birthday with an all day drinking spree.

[10] The matter of particular concern to me in your criminal record is your conviction on 14 March 2013, exactly one month before the present offence, of an assault occasioning actual bodily harm in a fast food restaurant for which you received a 3 month sentence of imprisonment suspended for 18 months. I entirely agree with the Probation Officer that it is of concern that you committed the present offence so soon after this suspended sentence had been imposed.

[11] The Probation Officer noted that you expressed remorse for this death during your interview, as you had to the police, and that you appeared visibly distressed when discussing with probation the impact of the death upon both families. Significantly, and notwithstanding that recent previous conviction, the Probation Service has concluded that you do not meet the threshold of posing a significant risk of serious harm to others. The Prosecution has not sought to advance any contrary opinion.

[12] Coming to the question of the appropriate sentence to be imposed in your case Holmes, I have had considerable assistance from Mr Murphy QC for the Prosecution and Mr Gavin Duffy QC on your behalf. There was in fact a large measure of agreement between them as to the relevant factors to be considered and as to the range of possible sentences. Both agreed at the outset, that, as has often been observed, the infinitely variable range of circumstances pertaining to manslaughter cases means that the range of possible sentences is also necessarily wide. Sir Anthony Hart has sought to identify broad categories of manslaughter cases and the historic ranges of sentence for each in the course of his valuable paper for the Judicial Studies Board of March 2011.

[13] As to the particular circumstances of the present offence counsel agreed:

- (i) The blows struck by you went beyond what was necessary or proportionate in self-defence.
- (ii) Although the offence was committed in a public place that should not be treated as an aggravating factor as the location was not of your choosing.
- (iii) That you did not initiate this violence and that your initial blows were struck in self-defence.
- (iv) The Prosecution does not contend that your intoxication or that of the deceased should in this case be an aggravating factor given that the deceased initiated the violence.

Therefore, in summary, the Prosecution did not identify any aggravating factors relating to the offence.

[14] I have concluded that this is by no means a “one punch” case as that term is understood in the reported cases because the number and distribution of the multiple injuries found by the pathologist on the body of the deceased indicate a sustained attack involving the head, the face, the back, the chest, the abdomen and both upper and lower limbs of the deceased. It is in that respect dissimilar to the case of R v Rush [2008] NICA 43 which was relied on by Mr Duffy and where the defendant who was acting in response to an attack by the deceased struck him “several blows of moderate severity”. I acknowledge the proper concession by Mr Murphy that this is not a case squarely within the “substantial violence” group of cases. I have concluded that the correct starting point is one of 8 years. I give you credit for admitting your involvement at the earliest opportunity and for indicating through your legal advisers a willingness to plead guilty to manslaughter once the medical and toxicology positions had been established and also for your indications of remorse which I am satisfied were genuine. I therefore sentence you to 6 years’ imprisonment, 3 of which will, under the legislation which I am obliged to

implement, be custodial and for which you will receive no remission except for time already served and thereafter the remaining term of 3 years will be spent on licence. During that licence period I direct you to participate in the PBNI RESOLVE programme and for that purpose to present yourself in accordance with the instructions of your Probation Officer to the PBNI Programme Delivery Unit at such location as you may be directed and to participate actively in the RESOLVE programme and to comply with all instructions given by or under the authority of the person in charge.

[15] Before leaving your case Holmes I wish to deal with the suspended sentence of 3 months' imprisonment imposed upon you just one month before the night of this fatality on 14 March 2013. I order that that 3 month sentence imposed at Laganside Magistrates' Court be activated consecutively to the custodial element of the sentence I pass today.

[16] Now I turn to deal with you, Alan Wilton. You were initially charged with aiding and abetting your daughter Chanel in perverting the course of justice. The reality of the situation was, as I have already described, the reverse. It was you who decided to seek to pervert the course of justice and who took it upon yourself, not merely to take away and dispose of the clothes that Chanel was wearing that night but also to substitute other clothes that you foolishly thought the police might believe were the clothes she had actually worn. You have never said what became of the actual clothes and therefore the police have never had access to them for forensic examination. You behaved in an arrogant and dismissive manner when police contacted you on holiday and made "no comment" interviews when they subsequently had the opportunity to speak to you face to face. You are 49 years old with a relatively minor criminal record, mostly for motoring offences and dishonesty. I note however that you appear to have some animus against the police having been convicted of three assaults upon them as well as one charge of resisting the police. I have received glowing references concerning your work with young people from across the community in the world of boxing and it is clear to me that that work has been and remains an important part of your life and a valuable asset to the young people concerned and the wider community.

[17] However, I cannot ignore the fact that your entirely unwarranted interference with this serious police investigation into the death of a man in violent circumstances has resulted in your daughter ending up in the dock alongside you. Had it not been for your ill-conceived and executed scheme I have no doubt that Chanel would simply have provided her actual clothing to the police and that that would have assisted in eliminating her from suspicion of involvement in the death. Instead of that your action caused the finger of suspicion to be pointed in her direction and led to her being charged with the serious criminal offence which she now faces. That is your doing and I hope you will come to see the harm you have caused her by your high-handed and arrogant behaviour.

[18] Counsel for Prosecution and Defence agree that the authorities establish that the offence with which you are charged normally merits a custodial sentence unless there are exceptional mitigating circumstances. I see no such circumstances in your case – quite the reverse. I take as my starting point a sentence of 12 months' imprisonment. I allow you some limited credit for your belated plea of guilty and also give you credit for ultimately accepting the greater share of responsibility for this deception and also for your work in the community. Accordingly I sentence you to 9 months' imprisonment.

[19] Lastly I deal with Chanel Wilton. I indicated following the hearing of submissions last week that I had then decided not to impose a custodial sentence upon her. Since that date she has become unwell and a medical certificate confirms that she is unable to attend court today. I do not consider that it is necessary to adjourn sentence in her case and I therefore proceed to deal with her in her absence with the agreement of her counsel.

[20] I have already dealt at some length with Miss Wilton's involvement in this matter. I have concluded that had her father not interfered to obstruct the police but rather acted as a responsible father ought to have done by encouraging her to explain her involvement and provide her clothing to the police, advice which I am sure she would have followed, she would not now be facing the charge of aiding and abetting her father. Her mental health is not strong and the Consultant Psychiatrist, Dr Bunn, considers that imprisonment would have a harmful effect upon her. I conclude in all the circumstances including her plea of guilty that the imposition of a custodial sentence would be quite disproportionately harsh. I therefore propose to deal with the charge that she faces by imposing upon her a conditional discharge for a period of 12 months. That means that if she keeps out of trouble for the next 12 months she will hear nothing further about this matter.