

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

THE QUEEN

-V-

STEPHEN HUGHES

AND

SHAUNEEN BOYLE

TREACY J

Introduction

[1] Stephen Hughes and Shauneen Boyle you have, after a long trial been unanimously found guilty by the jury of the murder of Owen Creaney. I have already sentenced you to the only sentence permitted by law for the crime of murder, namely life imprisonment. It is now my responsibility to determine the period that each of you will have to serve before you become eligible to have your case considered by the Parole Commissioners, which body will thereafter have the responsibility of determining when, if at all, either of you will be released.

[2] There is an important point, which I want to emphasise to each of you, and through the Press to the general public, and that is that the period I shall fix will not qualify for any remission. Consequently, you will be required to serve, in its entirety, the tariff periods that I determine.

Factual Background

[3] The detailed evidence in this case was given in public before the jury over many weeks. The Prosecution, at the sentencing hearing last week, again set out the

salient features of the case. Accordingly, I will not rehearse all of the facts but instead provide a brief summary.

[4] In the early hours of 3 July, after the consumption of what must have been a very considerable volume of alcohol, the two defendants and Owen Creaney went to the house of the first defendant, Stephen Hughes, at 140 Moyraverty Court. The evidence established that there Owen Creaney was assaulted that morning, receiving extremely serious injuries to his chest and head. The assault appears to have commenced in the living room, where all three were present and then moved to the hallway where Owen Creaney was subjected to a savage and merciless attack causing catastrophic injuries. Those injuries were summarised in a document that had been earlier furnished to the court.

[5] These injuries were as follows: there were 29 injuries to his face and head; nine injuries to the legs; 24 injuries to the chest and trunk; five injuries to the back. The injuries included a fracture of the breastbone, seven fractured ribs on the right side, eight fractured ribs on the left side, damage to the heart and significant brain damage.

[6] The brain injuries included brain haemorrhaging or bleeding, a traumatic nerve fibre injury due to acceleration/deceleration of the head, tissue bleeds to the white matter of the brain and a tear of the back part of the white matter, known as the splenium.

[7] Mr Creaney was then taken upstairs, at which stage he was still alive. Despite the fact he was gravely injured and obviously in need of medical attention neither of the defendants summoned a doctor or ambulance. The unfortunate Mr Creaney survived upstairs for a number of days during which, given the nature of his injuries, he must have been in very considerable pain and suffering.

[8] Owen Creaney's body was discovered by police on 5 July 2014 compacted into a green refuse bin outside 140 Moyraverty Court.

[9] Hughes blamed Boyle for the assault and Boyle blamed Hughes, a so-called cut-throat defence. Both separately made admissions to third parties of their involvement in the assault. At the trial both gave evidence, each blaming the other and denying any participation in the assault. Entirely contrary to the case Hughes had made on oath to the jury over a number of days he admitted to the Probation Officer, in the pre-sentence report, to punching and kicking the victim a number of times. These admissions were accepted by Mr Irvine QC, on behalf of Hughes, and Mr Irvine confirmed that they were not being challenged. Indeed, Mr Irvine contended that this was, although very belated, some evidence of remorse.

[10] On the other hand the co-accused, Boyle, still maintains that she did not participate in the fatal assault on the deceased. However, it is clear that the jury concluded that she and Hughes both directly participated in the fatal assault and did

so intending to cause at least grievous bodily harm.

Fixing the Appropriate Tariff

[11] R v McCandless [2004] NI 269 remains the leading authority in this jurisdiction on the principles to be applied when the court is fixing the appropriate tariff in a life sentence case. The practice statement introduced by Woolf LJ and adopted by our Court of Appeal substituted a higher and normal starting point of respectively 15/16 and 12 years, these starting points to be varied upwards or downwards by taking account of aggravating and mitigating factors.

[12] The court in McCandless emphasised that the process is not one of fixing each case into one of two rigidly defined categories in respect of which the length of the term is firmly fixed. The practice statement is intended as guidance and the starting points are points at which the sentencer may start on his journey towards the ultimate goal of deciding upon a right and appropriate sentence.

[13] Carswell LCJ stated in McCandless:

“[9] The *Practice Statement* set out the approach to be adopted in respect of adult offenders ([2002] 3 All ER 412 at 413–415, [2002] 1 WLR 1789 at 1790–1792 (paras 10 to 19)):

‘The normal starting point of 12 years

10. Cases falling within this starting point will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para12. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph.

11. The normal starting point can be reduced because the murder is one where the offender’s culpability is significantly reduced, *for example*, because:

- (a) the case came close to the borderline between murder and manslaughter; or
- (b) the offender suffered from mental disorder, or from a mental disability which lowered the degree of his criminal responsibility for the killing, although not affording a defence of diminished responsibility; or

- (c) the offender was provoked (in a non-technical sense), such as by prolonged and eventually unsupportable stress; or
- (d) the case involved an overreaction in self-defence; or
- (e) the offence was a mercy killing. These factors could justify a reduction to eight/nine years (equivalent to 16/18 years).

The higher starting point of 15/16 years

12. The higher starting point will apply to cases where the offender's culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases will be characterised by a feature which makes the crime especially serious, such as:

- (a) the killing was "professional" or a contract killing;
- (b) the killing was politically motivated;
- (c) the killing was done for gain (in the course of a burglary, robbery etc.);
- (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness);
- (e) the victim was providing a public service;
- (f) the victim was a child or was otherwise vulnerable;
- (g) the killing was racially aggravated;
- (h) the victim was deliberately targeted because of his or her religion or sexual orientation;
- (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing;

- (j) extensive and/or multiple injuries were inflicted on the victim before death;
- (k) the offender committed multiple murders.

Variation of the starting point

13. Whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary the starting point upwards or downwards, to take account of aggravating or mitigating factors, which relate to either the offence or the offender, in the particular case.

14. Aggravating factors relating to the offence can include:

- (a) the fact that the killing was planned;
- (b) the use of a firearm;
- (c) arming with a weapon in advance;
- (d) concealment of the body, destruction of the crime scene and/or dismemberment of the body;
- (e) particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time.

15. Aggravating factors relating to the offender will include the offender's previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than to risk.

16. Mitigating factors relating to the offence will include: (a) an intention to cause grievous bodily harm, rather than to kill; (b) spontaneity and lack of pre-meditation.

17. Mitigating factors relating to the offender may include:

- (a) the offender's age;

- (b) clear evidence of remorse or contrition; (c) a timely plea of guilty.

Very serious case

18. A substantial upward adjustment may be appropriate in the most serious cases, for example, those involving 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 would 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.

19. Among the categories of case referred to in para12, 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 a terrorist or sexual or sadistic murder or involved a young child. In such a case, a term of 20 years and upwards could be appropriate."

[14] The approach in McCandless requires the Court to identify:

- (i) the starting point;
- (ii) the **aggravating** factors of the *offence*;
- (iii) the **aggravating** factors of the *offender*;
- (iv) the **mitigating** factors of the *offence*; and
- (v) the **mitigating** factors of the *offender*.

[15] There are two other points that need to be borne in mind. First that the practice statement is intended to be only guidance and should not be mechanistically or inflexibly applied. Secondly, the court must always stand back and ask itself whether the term that the process yields is a just and fair level of punishment to reflect the elements of retribution and deterrence.

The Appropriate Starting Point

[16] As far as the starting point is concerned in this case the prosecution and counsel for Mr Hughes accepted that the starting point is the higher starting point of 15 to 16 years. Mr Kearney QC, for Boyle, submitted that the normal starting point

of 12 years should apply to her.

[17] I reject that submission. The higher starting point is appropriate in this case because:

- (i) the victim was vulnerable both as a result of his disability and his level of intoxication;
- (ii) there was evidence of cruel treatment by failing to call any medical assistance, resulting degradation and prolonged pain and suffering;
- (iii) the victim was attacked by two people and was lying defenceless on the ground; and
- (iv) the extensive injuries that were inflicted before his death.

The Aggravating Factors of the Offence

[18] The prosecution identified three such factors which they set out in their short skeleton argument: concealment of the body in the wheelie bin; failure to seek any medical assistance and, thirdly, the cleaning up and destruction of the crime scene.

[19] Mr McCollum QC, however, agreed that since failure to seek medical assistance had been counted in as a factor in identifying the higher starting point that it would be double counting to count it again as an aggravating feature.

The Aggravating Factors of the Offenders

[20] Both offenders have previous records, however the record of Hughes is much more serious than that of Boyle. The factual detail underpinning their records are before the court and were also before the jury. Hughes's most relevant convictions include four serious assaults, three assaults on the police and one common assault, all of which were dealt with at the Magistrates' Court.

[21] Boyle has a history of convictions for violent/aggressive behaviour, mostly directed against the police. These were all dealt with at the Magistrates' Court. The presentence report states that her convictions have been influenced by factors which include substance abuse, mental/emotional health issues and negative peer associations.

The Mitigating Factors of the Offence

[22] I accept that the following mitigating factors apply to both defendants: one, an intention to cause grievous bodily harm and; two, spontaneity/lack of premeditation.

The Mitigating Factors of the Offenders

[23] So far as mitigating factors in respect of the offenders are concerned, I take

into account the background of each defendant. Hughes, now aged 30, was educated in a special unit of his local school, had ongoing literacy and numeracy deficits and a diagnosis for Attention Deficit Hyperactivity Disorder, (ADHD). He struggled academically and has never been employed in any capacity. Prior to custody he was in receipt of Jobseekers Allowance and Disability Living Allowance.

[24] The court has also been furnished in his case with a very detailed and helpful report from Dr Bownes, Consultant Forensic Psychiatrist, which indicates that Hughes has exhibited features in keeping with a diagnosis of moderately severe dissociative personality disorder as defined by the international classification of mental and behavioural disorders. He has also exhibited features consistent with a diagnosis of mood disorder, that is to say dysthymia, as defined by the international classification of mental and behavioural disorders and he has also exhibited features, in Mr Hughes's case, that are in keeping with moderately severe alcohol and polysubstance dependency syndrome, as defined by ICD-10 of the international classification of mental and behavioural disorder.

[25] Ms Boyle is a 25 year-old single woman. I take into account the rather dysfunctional and sad background reflected in the presentence report. I note that her family were relocated to Liverpool under the police protection scheme when she was eight years old and that she has never been in full-time employment and has not had any employment since the age of 19 due to her mental/emotional health difficulties.

[26] She has an extended history of abuse of both alcohol and illegally obtained drugs and she is described in the probation report as a damaged and vulnerable young woman who has displayed poor self-esteem and self-worth. Since she was first known to the Probation Board in 2009 she has made several attempts on her life which have seen her being admitted to Craigavon Area Hospital.

[27] It is also noted that she stated to the Probation Officer her remorse for her involvement in what occurred, the suffering of the victim and the impact upon his family. The staff at the MUST Hostel and her Sentence Manager at Hydebank Wood have also stated that she has expressed remorse and regret to them.

[28] This however, has to be seen in the light of her continued denial that she was involved in physically assaulting the deceased notwithstanding the unanimous verdict of the jury and her admission to a witness that she had physically assaulted the deceased. An admission which she accepts she made but which she claimed was factually false and untrue.

[29] However, she must be sentenced on the basis of the jury's finding that she directly participated in the assault on Owen Creaney with the intention to cause grievous bodily harm.

[30] The court has also been furnished with a detailed victim statement from the

mother of the deceased on behalf of the family members. I checked with the prosecution that the family had no objection to making public the victim statement. I understand there is no objection and I propose to set out significant portions so that the defendants and the general public have a greater understanding of the impact of this crime on the family of the deceased.

[31] In the victim statement Mrs Creaney said:

“On Saturday 4th July 2014 our lives changed forever. Our loving son, brother, uncle was murdered in the cruellest way possible and left us, his family with a life sentence and sadness that we will all carry to our graves.

Shauneen Boyle and Stephen Hughes need to understand the impact of their evil. From what happened at 140 Moyraverty Court in July 2014 and throughout the intervening two and a half years where we lived through the challenging criminal justice process.

Never in our wildest dreams did we ever think that this would happen to us. Words cannot express how horrific it was for us to endure the five week trial detailing the exact suffering inflicted on our wee Owen. We, along with our wider family, attended Court every day, forced to listen to the denial of Hughes and Boyle. We had to listen to what they did to Owen, how he died, the horrific injuries inflicted on him, how he lay for two days without any form of medical attention and was then callously thrown into a wheelie bin like a piece of rubbish.

This was our son, who we loved, and was a member of our family for just 40 short years. Our lives will never be the same again. We have to live through birthdays, anniversaries, Christmases, family occasions which he should be at but will never be at again due to the selfish actions of the two people convicted of his murder. Instead of being able to see and speak to our son we can only visit his graveside, this is devastating. Our family has been robbed. Throughout this process Owen was the victim with no voice and we, as a family, felt we too have no voice and really welcome this opportunity to speak for Owen.

Owen was a much loved member of our family. There will forever be a hole in all our lives. Owen has just celebrated his 40th birthday on 28th June 2014. Little did

we know that that was to be his last birthday with us. Just six days after celebrating his milestone birthday he would be murdered.

Owen's twin sister, Shirley, passed away on 27th August 2015, just over a year after Owen was murdered. Our lives were again turned upside down. I know Shirley lived with her own regrets about what she could have done differently that night. I know she tried frantically to contact Owen in the days after she had been with them. Owen and Shirley had been together all their lives and she found it extremely difficult to cope after losing Owen.

Her 41st birthday, the first without Owen, was so hard for her. Her health deteriorated and she died with a broken heart. In the space of two years I and my family had buried two much loved members of our family.

Owen had his own health issues but was still able to live on his own causing no harm to anyone. The saying, he didn't have a bad bone in his body describes our wee Owen. He was a very trusting person and he trusted Hughes and Boyle. To this day we have not heard of any good reason as to why Hughes and Boyle took it upon themselves to be Owen's judge, jury and executioner, no one has the right to do this. Owen, unlike his killers, was kind, thoughtful and would not have hurt anybody, I can say this without any fear of contradiction. As I listened to the evidence given by both in the witness box even when Owen was being attacked he never said a cross word and never fought back. The truth is Owen would not have been fit to fight back. Owen was seven stone in weight, registered disabled and could walk with the aid of his rollator, he was an easy target for them.

The lies of Boyle and Hughes further compounded our hurt and pain. At the end of the trial they could still not tell us his, his family, why. I watched them both unable to express any remorse for their actions. I hope that every day Hughes and Boyle live with the consequences of their actions and maybe someday will face up to their cowardly attack on Owen, who was not able to defend himself. They both claimed to be Owen's friend but neither of them was prepared to protect Owen or help him when he needed it most. There were three in the

house, two of them cowardly bullies who viciously attacked my son knowing that he was not able to defend himself. I and the rest of our family have to live with this every day.”

She goes on to say:

“The night of Saturday 4th July 2014 will never leave me. I relive through the horror with every detail of the trial. I heard the gruesome details of what happened to my son. As I returned home from the trial each evening my mind would be going over what I heard, the lies which were told and my heart felt like it was being ripped in two over and over again.

Since Owen’s death I have had strangers come to me just to say how polite and respectful he was. One lady said to me that even when she met Owen walking up the street with his rollator he would always have stepped to the side to allow her to pass, that was our wee Owen, if he could have helped you he would. I remember one time Owen phoning his Dad to ask for a pound and when he asked what he needed the money for he said that a neighbour needed a pound to buy his dog food. That was Owen. We, his family, knew most of all of his kindness. Owen still gave me money every week to help with my bills even though he did not live with us anymore.”

She then refers to counselling that she has received. She said she had attended counselling to help her deal with what had happened and had tried to come to terms with the horror of what had happened. She makes it clear that she will never get over what happened.

Then, finally, in the final paragraph the family says this:

“Since Owen was killed we were focused on getting justice for Owen and that has been done. I have no personal satisfaction in seeing Hughes and Boyle serve life in prison, unable to see their children, but at the end of the day they have to face the punishment for the murder of our wee Owen.

After the verdict was given I went to Owen’s grave and said: ‘son, you have justice now’.

Our family is full of thanks and gratitude for the 11 members of the jury who also had to endure the horror of what happened to Owen. Whilst we have lived through the worst evil anyone could inflict on our family we have also seen the very best in people, whose support has helped us immensely. Even in our darkest days we were heartened by the kindness of both family and strangers. The support we have felt from our family, the community in Lurgan, the PSNI, victim support and the prosecutorial team has made the process that bit easier for us. Wee Owen's short life enriched the lives of so many people. He will never be forgotten and may he now rest in peace."

[32] The court was also provided with a report from Mrs Creaney's GP, Dr McCluskey and in it he refers to the fact that Mrs Creaney had been attending him on a regular monthly basis since the murder of Owen and that she had attended bereavement counselling, which has not been able to help her to deal with the death of her son. She has been unable to move on with her life due to these events. She has become depressed, for which she is on treatment. She has lost interest in engaging with friends and in her normal interests. She becomes weepy and struggles to get through her days. She describes her life as just existing.

[33] As Dr McCluskey points out this is a life sentence for Mrs Creaney who not only had to deal with Owen's death but also the death of Owen's twin sister almost a year after the murder of Owen.

[34] He, in his final paragraph of his report, says that her life and the life of the family has been shattered.

[35] I should also remind myself that all of the counsel in this case, both for the prosecution and the defence, have rightly paid tribute to the calm and dignified approach of the family during the entire trial, which must have been very, very difficult for all of them and that that calm, dignified manner manifested itself even when the verdicts in this case were announced.

[36] I also want to make it clear that in arriving at the appropriate tariff in this case, I have fully taken into account the contents of the victim statement.

Conclusion

[37] I do not propose to distinguish between the defendants in terms of their culpability for the offence or their role in the murder. They were both convicted by the jury on the basis that they each directly participated in the assault intending to cause grievous bodily harm.

[38] Hughes, having taken into account all of the matters which I have set out the minimum period that you must serve before you can ever be considered by the Parole Commissioners for release is one of 15 years.

[39] In your case Boyle, your criminal record is not as bad as that of Hughes and I fix your minimum term as one of 14 years.