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REGINA

-V-

STEPHEN MAGEE

**BEFORE
MR JUSTICE DEENY**

**ON
9 MARCH 2006**

AT

NEWTOWNARDS COURT NO 1

**TRANSCRIPT PROVIDED BY:
OFFICIAL COURT REPORTER**

1 **THE JUDGE:** Stephen David Anthony Magee the facts of this matter have
2 been outlined by the Crown Counsel in open court this
3 morning and I do not propose to go into them very extensively.
4 You are here because of the tragic events that took place at
5 Erinvale Terrace, Banbridge, Co Down on 15 July 2004. You
6 went to this house where your former girlfriend lived in the
7 early hours of the morning. You have told those who have
8 interviewed you that you were under the influence of alcohol
9 and cannabis and diazepam but as your Counsel quite rightly
10 accepted, by implication, that does not excuse this in any way
11 but it serves as a warning to every other person tempted or
12 giving way to the abuse of these substances to know the tragic
13 consequences that can follow all too often from such abuse.
14 You pushed your way into this house, perhaps because of
15 something unwisely said by your former girlfriend about the
16 young men who were in that house. You struck Christopher
17 Finnegan with a broomstick, without any provocation. He and
18 one or more friends then pursued you out the back or
19 attempted to pursue you out the back door of the house. You
20 returned into the house. Tragically two of the young men also
21 returned back in to the house as well. I must accept the
22 evidence in this case, that the deceased Christopher Finnegan
23 had picked up a knife in the kitchen of the house and on the
24 weight of the evidence that he did have it with him. But it is
25 clear that, although angry and upset understandably at your
26 assault upon him, he did not strike you; you had initiated the
27 original row, you had armed yourself with a larger and as we
28 know all too well now, lethal knife and though you gestured at
29 one another it was you that struck him and it is upon your
30 head that the guilt of this tragedy lies. There is some confusion

1 about the events but I do have to accept the contention
2 cogently put forward by your Counsel Mr McDonald QC that
3 this was not a case of a deliberate pursuit of somebody with a
4 knife in an unprovoked way. There was a confrontation but it
5 was one that you had initiated without any justification.
6 Christopher Finnegan was only 17 at this time. I note that he
7 had been educated at the Bridge Integrated College at
8 Loughbrickland and that he had just obtained useful
9 employment in Newry. I have read the statements of his two
10 parents, they are very moving documents and I fully accept the
11 great distress to them and the great loss that they have suffered
12 and will continue to suffer. However it is my duty to take into
13 account the factors in your favour as well as the factors against
14 you. In your favour I must take into account that you yourself
15 had an exceptionally difficult upbringing and this is well set
16 out in a number of the documents including the pre-sentencing
17 report from the Probation Service of Northern Ireland. You
18 were effectively abandoned by your father when a young child,
19 your mother had great difficulty coping, you yourself seem to
20 have committed your first offence at the age of 13 and spent
21 much of the intervening period in one Institution after another.
22 You have attempted suicide on occasion. It is clear that you
23 have very little control over your temper, given the number of
24 assaults that you have been involved in. But I take into
25 account that there is nothing in your previous record involving
26 a knife or weapon, it would appear. I take into account the
27 important evidence of the Deputy State Pathologist here. He
28 says that there was a solitary stab wound. It passed through
29 the fleshy part of the left upper arm and the armpit into the
30 left side of the chest cavity of this young man and tragically it

1 severed the aorta, a key blood vessel and his death followed
2 relatively rapidly. I also note that the Pathologist's comment
3 that if the weapon had a sharp tip, which seems likely in the
4 circumstances, it would have required no more than a
5 moderate degree of force to inflict this would. I reject your
6 claims to the police that you flicked this knife at this young
7 man, clearly there was more force than that used, but it was a
8 blow to the arm and it was a blow, apparently, that may not
9 have been of more than moderate force. It seems to me that
10 the Crown were behaving properly in accepting your plea to
11 manslaughter in the light of those facts and in the light of the
12 witness statements which do indicate that Christopher
13 Finnegan had tragically picked up a knife also which he had
14 with him. I take into account in your favour that you are a
15 person of low IQ and maybe less well able to judge some of
16 these situations than other people. I take into account as an
17 important fact that you have pleaded guilty to this charge of
18 manslaughter when the Crown agreed to accept it. The courts
19 do take such matters into account for a number of reasons.
20 Firstly it reduces the stress to the witnesses giving evidence in
21 the trial and the stress to the family of what might have been a
22 relatively prolonged trial. It reduces the possibility, although I
23 think that was a remote one in this case, of you escaping this
24 conviction. It saves the time of the courts so that other matters
25 can be dealt with and it also allows you to indicate a degree of
26 remorse and your Counsel legitimately drew attention to the
27 remorse you had expressed to the police and subsequently to
28 the Consultant Psychiatrist and through him to the court and I
29 take those factors into account. But against you I have to bear
30 in mind that you did initiate this, you used a knife, you inflicted

1 the fatal wound. I have considered previously and again this
2 morning cases to which Counsel drew attention and other cases
3 which the Attorney General has thought fit to refer to the
4 Court of Appeal in England where sentences were thought to
5 be too lenient. There clearly is a range of sentences here but
6 the Crown are entitled to point to the aggravating factor of
7 your very bad record. You are still a young man but you have
8 been guilty of a number of serious assaults and repeated
9 assaults and it is my duty to take that into account. It is also
10 my duty to consider what is the best way of protecting the
11 public in the future from you and it seems to me that one
12 aspect of that would be a prolonged period of Custody
13 Probation in which you would be supervised by the Probation
14 Service. I note that you have told the Probation Service and
15 your Counsel has reiterated your consent to that. Do you
16 consent to Custody Probation?

17 **THE DEFENDANT:** Yes.

18 **THE JUDGE:** Then I note that you do. This is not an easy option. If you fail
19 to co-operate with the Probation Service when you are finally
20 at liberty, which of course is going to be in the future, you will
21 be returned to the court. This Order should assist you in
22 reintegrating to society at the end of your custodial sentence.
23 A custodial sentence is clearly required here and a lengthy one
24 but I take into account what has been said. The conclusion I
25 have reached is that the proper sentence is one of 9 years
26 custody with 3 years probation. If you had not consented to
27 that Order I would have imposed a sentence of 10 years'
28 imprisonment. I direct further that as conditions of your
29 Custody Probation Order you shall present yourself in
30 accordance with instructions given by the Probation Officer to

1 **participate in the Violence Programme of the Probation Board**
2 **for Northern Ireland and while there comply with all**
3 **instructions given by or under the authority of the person in**
4 **charge. Secondly you will undergo any drug or alcohol**
5 **counselling treatment as directed by your Probation Officer.**