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(subject to editorial corrections)**

Delivered: 12/05/2017

IN THE CROWN COURT FOR BELFAST

THE QUEEN

-v-

ORHAN KOCA

TREACY J

Introduction

[1] Orhan Koca, you have pleaded guilty to the murder of Eamonn Magee. I have already sentenced you to the only sentence permitted by law for the crime of murder, namely life imprisonment. Under the governing legislation I am now required to fix the minimum term that you must serve before you can be considered for release. This court is not fixing the total term that you must serve. It is determining the minimum period that you must serve before your case can be considered by the Parole Commission whose responsibility it will then be to determine when, if at all, you will be released. I make it clear to you, and through the press, to the general public that the period I shall fix today, unlike determinate sentences, is not subject to normal remission rules. Consequently, you will be required to serve the entire tariff period that I shall determine in accordance with the relevant sentencing guidelines set by law.

Background

[2] Eamonn Magee was born on 7 April 1993. He was a promising young boxer and student. He died at the age of 22 when he was stabbed to death at the Summerhill Drive/Park area of Belfast at around 2.30am on Saturday 30 May 2015. He had been at 23 Summerhill Drive, the home of his girlfriend Courtney Ward, that Friday evening.

[3] A pizza had been ordered and when it didn't arrive, Eamonn called the delivery man to see where he was and went outside to look for him. The delivery man could not find the right address. Outside, perhaps a few steps from the back door, Eamonn Magee was attacked and stabbed repeatedly and killed.

[4] When he did not return Courtney Ward went outside to look for Eamonn and found him lying on the road a short distance from her home. He was not moving and she could see blood. There were other men present and she heard one of them calling the ambulance.

[5] The cause of death was multiple stab wounds to the chest as follows:

- (i) Upper right chest, a deep wound of 14cm in length.
- (ii) Lower right chest, another deep wound of 17 cm in length.
- (iii) Midline of the upper abdomen, a wound of roughly 3cm depth.
- (iv) Left upper thigh, a wound about 12 cm deep.
- (v) Left thigh, a wound about 15 cm deep.
- (vi) Right buttock a wound about 11.5 cms in length.

[6] The order in which the wounds were inflicted has not been established. The first two, as listed above, were the most serious: (i) would have been fatal in a very short period of time and (ii) without prompt medical attention would most certainly have been fatal on its own.

[7] It is clear that Orhan Koca murdered Eamonn Magee because of his connection to and relationship with Courtney Ward.

[8] Courtney Ward was married to Orhan Koca. They have 3 young children and the family home had been 23 Summerhill Drive. Their relationship broke down in late 2014 and, for a time the parents still lived in the same house but they were living separate lives. Eventually by March/April 2015 Orhan Koca had moved out of the family home.

[9] Courtney Ward had started going to a gym around January 2015 and that is where she met Eamonn. From around April time they were in a relationship and were serious about each other.

[10] Orhan Koca was very possessive of his wife and was an aggressive man if he thought Courtney was attracting the attention of another man.

[11] In 2015, whilst still living under the same roof Orhan was checking up on what she was doing and watching who she was with through Facebook. He opened a Facebook profile using a false identity which he used to monitor Courtney's Facebook profile and that of her friends, in particular Eamonn Magee. He created the false identity so no one would know he was watching Courtney and checking who she was with.

[12] At one point he came across photographs on Facebook of Courtney with her boss. He saved the photos to his phone and accused her of having an affair with him. He told her he would kill her boss. This was at the start of May 2015. Four weeks before he murdered Eamonn Magee, Orhan Koca had searched for and seen photos of Eamonn and Courtney on Facebook and questioned Courtney about this. He had saved the photos to his phone. He repeatedly searched on Facebook about Courtney and Eamonn Magee in May 2015 right up to 28 and 29 May 2015, the days before the murder.

[13] On Friday morning 29 May, when Orhan Koca was at the family home to take their children to school, he questioned Courtney about Eamonn again. This time Courtney told him she did not love him anymore and that she was in love with someone else. He asked who and if it was Eamonn but she would not say. When she told him she had been seeing this person for 3 months he stormed out. Within 24 hours Eamonn was dead.

[14] The movements of Orhan Koca from the morning of Friday 29 May are as follows:

- (a) he took his son to school;
- (b) then went to work in Mo's barbers shop, Lagmore area of West Belfast; and
- (c) around tea time he went to work an evening shift at Becketts Bar on the Stewartstown Road.

[15] When the bar closed on Friday 29 May Orhan Koca changed out of his black work clothes and into a pair of blue jeans. He left the bar around 1am telling the night security man Patrick McLaughlin he had left his phone in a mate's house and that he would be back in 10 minutes to half an hour. He returned to the bar between 2.50-3.50am, after attacking Eamonn Magee, went upstairs changed out of his jeans and put on black trousers again. Orhan always kept a pile of clothes behind the bar using them when he stayed over as blankets to keep him warm. He hid his blue jeans upstairs in the bar, then came downstairs and slept in the bar that night.

[16] During a search of Becketts Bar on 31 May the police found the blue jeans hidden behind an upstairs bar area. The jeans were spattered with blood, predominantly on the front. When the inside front pockets and waistband areas were forensically tested what was found matched the DNA of Eamonn Magee.

[17] The prosecution submitted that it was "no coincidence" that one of three new knives purchased for a new chef at the bar happened to go missing around the material time. This knife has never been recovered and it has not been established to the criminal standard that the defendant took that knife or that it was the murder weapon.

[18] On the morning of 30 May Orhan Koca left the bar and went to work in Mo's Barbers in Lagmore and it was there that he was arrested that same morning. He had left his phone at the barbers on Friday when he left to go to Becketts and police were able to seize this phone on 30 May 2015 and to have it analysed. An analysis of his phone showed that:

- (i) On 30 May 2015, at roughly 9am (less than 7 hours after Eamonn had been killed) he deleted photographs he had previously saved of Eamonn Magee and Courtney Ward - at interview he told police he just did not want to see them anymore.
- (ii) In the month of May 2015 he had made frequent searches on his phone relating to Eamonn Magee, Courtney Ward and their friends. The last recorded searches on 28 May started at 23.30 hours, and ended on 29 May at 00.15 hours.
- (iii) Eamonn Magee was a name he most frequently searched for.
- (iv) That he had saved photos on his phone of Eamonn, Courtney and their friends and also photos of Courtney and her boss, all from May 2015.

[19] The defendant was interviewed at length on many occasions. He stated he knew nothing about the death of Eamonn Magee. He gave a false account of his movements and actions. He denied all allegations.

[20] Eventually, Orhan Koca did plead guilty to the murder of Eamon Magee. It is clear from the evidence and the plea that he went to Summerhill Drive after his work in the early hours of the morning. At the time the attack happened he was armed with a bladed weapon and he had changed out of his work clothes into the blue jeans later found at the bar. When Eamonn innocently stepped out of the house to look for the pizza man Orhan Koca brutally attacked and murdered Eamonn Magee. I accept that on the evidence the proper inference is that the attack happened inside the back yard area of the house and continued out onto the roadway with Eamonn Magee sustaining multiple stab wounds.

Sentencing

[21] The prosecution furnished the court with a number of cases for the assistance of the court which in particular have involved death by stabbing.

[22] In setting the minimum term which the defendant must serve before he is eligible for release (Article 5 of the Life Sentences (NI) Order 2001), the principles set out in *R v McCandless & Ors* [2004] NICA 1 are applicable. The case sets out the Practice Statement issued by Lord Woolf CJ [2002] 3 All ER 412. The principal

sections of the Practice Statement are set out at paragraphs 10 to 19 thereof as follows:

“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 para 12. 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 cases

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 para 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 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."

[23] As paragraph 12 identifies, the higher starting point will apply where the offender's culpability is exceptionally high. The prosecution submitted that given there were extensive/multiple injuries inflicted, as per sub-paragraph (j), the higher starting point is a matter that falls appropriately for the court's consideration. (See R v Robinson [2006] NICA 29.) They also submitted that this is an intention to kill case.

[24] Paragraph 13 of McCandless deals with the variation of the starting point. The prosecution contended that the following aggravating features were present - he was armed in advance with a knife; the offence was planned, he attempted to conceal his clothing namely the blood spattered jeans and got rid of the knife; the offence occurred in the context of the defendant's jealous and aggressive behaviour towards his wife.

[25] It has not been established that the knife that was used was the knife that went missing from Becketts Bar. Plainly however the defendant was armed at the time of attack. He told the probation officer that when he arrived at Ms War's address he saw a light on and what appeared to be a man in the house. He stated that he was afraid that this man might be an intruder who might harm his children and went round to the back garden where he lifted a blade from broken garden shears for self protection stating as he did so the victim left the house and walked into the back garden. He said he panicked and lunged towards the victim stabbing him once in the leg. At this point he claims to have lost self control and could not recall the subsequent sequence of events. He claims he ran back to Becketts Bar, discarding the blade nearby. When challenged by the probation officer he denied that he had waited in the garden for the victim to come out or that he intended to kill the victim with the blade. He denied taking any blades from Becketts Bar. He admitted that he was looking for a weapon, which he stated was for self protection. He also claimed that he did not know who the victim was at the time of the incident, believing him to be an intruder and that he only intended to frighten him off to protect his children. However, he acknowledged to the Probation Officer that at no point did he check on the well-being of his children or his wife and that he did not enter the house at all but ran away from the scene immediately after the assault. He denied that the killing had been planned beforehand. The probation officer noted that the defendant "could provide no rational explanation why he went round to his

wife's home at such a late hour or why he failed to contact his wife to let her know that he intended to visit." The probation officer observed that his failure to alert the family to his presence when he arrived at the house or to raise the alarm if he believed that there was an intruder in the house "raises further questions about the plausibility of his account." The probation officer stated, "while there are obvious difficulties in determining some of the facts of this case it remains clear that by his own admission the defendant engaged in an unprovoked violent attack using a blade against a 22 year old defenceless man, which resulted in his death." The defendant's account to the probation officer of the circumstances giving rise to the murderous assault is a wholly implausible, self-serving and mendacious account advanced for the first time when he was being interviewed by the probation officer in April of this year. I am satisfied that this was a pre-meditated and planned murder which was both brutal and sustained and where the intention was to take life. Mr Harvey QC, on behalf of the defendant, submitted that it had not been proved beyond reasonable doubt that the weapon used in the attack was the kitchen knife that had gone missing from Becketts Bar. There is no doubt that the co-incidence of this missing knife and the tragic events that unfolded suggest that this may well have been the knife used in the attack. However, the knife was never recovered and it has not been established beyond reasonable doubt that the missing knife from Becketts Bar was the one used in the attack. Wherever the knife came from I am satisfied that the attack was planned, albeit not necessarily for a prolonged period in advance of the attack, and that he had armed himself with a knife in furtherance of that plan. Mr Harvey made the further point that the defendant could never have known in advance that Eamonn Magee would exit the house in the circumstances in which he did. This would appear to be correct and therefore leaves open the question what his true intention was when he was outside that house in the very early hours of the morning armed with a knife. The defendant has never given a full and truthful account of the events of that evening save for the fact that he, very belatedly, following several changes of representation, pleaded guilty to the murder in the face of overwhelming evidence that he was the perpetrator.

[26] Notwithstanding that this was not a timely plea of guilty the prosecution acknowledge that it was of substantial benefit to the prosecution and spared the family of Eamonn Magee from the stress of a contested trial and the distressing evidence that would inevitably unfold. Accordingly, I accept, as was urged upon me by both the prosecution and the defence that the defendant is entitled to discount for his plea, albeit late, but not the full discount which would have been afforded for a timely plea.

[27] The defendant is a 34 year old man with no previous criminal record either in Turkey or Northern Ireland. He appears to have been a caring father. And he clearly still had feelings towards his wife despite their separation and was jealous of her and aggressive towards any other males who appeared to be interested in her. Mr Harvey pointed out that at the time of the murder the defendant had lost his wife and three children, he had lost his home and he was a foreign national, isolated and

with no family in Northern Ireland. The defendant was a hard-working man, holding down jobs in both Mo's Barber Shop and Becketts Bar. At the material time he had been rendered homeless and was residing at various addresses in Belfast including Becketts Bar. The defendant was, during the lifetime of the marriage, shown to be a jealous individual who could not countenance other men showing an interest in his wife. Plainly the separation from his wife and children was difficult for him and he had spent time following her movements and her contacts on Facebook, particularly her contact with Eamonn Magee.

[28] Whilst these considerations may provide some context for the tragic and murderous event which unfolded and the court does take them into account, they are of little weight having regard to the gravity of the crime to which he has pleaded guilty.

Conclusion

[29] Orhan Koca armed himself in advance and went to the house in Summerhill Drive with the intention to kill. He inflicted multiple serious stab wounds on the deceased. The attack was unprovoked and the underlying motive was jealousy. He disposed of the murder weapon and attempted to conceal his blood spattered trousers. The only mitigating factor in this case is his belated plea. Had he not pleaded guilty I would have fixed the minimum term at appreciably more than the term that I propose to impose. This is because the defendant is, as the prosecution accept, entitled to credit for his plea of guilty which was of considerable benefit to the prosecution and which inevitably spared the family from the distress of a contested trial.

[30] Whatever sentence the court imposes it cannot undo the destruction of the promising young life of Eamonn Magee. The court in a murder case is limited to applying the law appropriately and taking full account of all the relevant considerations and materials, as set out by the law. These materials include the three victim impact statements from the Magee family which I have taken into account in full.

[31] I determine, in accordance with the guidance contained in the applicable case law, that the minimum term that you must serve before you can be considered for release is one of 14 years. As previously pointed out this term attracts no remission and is the actual term that you must serve before you can be considered for release.