

IN THE CROWN COURT IN NORTHERN IRELAND

IN THE CROWN COURT FOR TYRONE AND FERMANAGH

SITTING AT BELFAST

THE QUEEN

-v-

ANTHONY JOSEPH QUINN

WEIR J

[1] Anthony Joseph Quinn, you have pleaded guilty to the manslaughter of Declan Quinn, a plea that has been accepted by the prosecution, and it is now my responsibility to sentence you for that offence.

[2] The circumstances preceding the death of the deceased were unusual and reflect little credit on anyone concerned in them. They stem from a fire on 16 July 2011 which destroyed a garden shed containing a motorcycle. The owner of the shed believed, though there is no evidence to support his belief, that you had set fire to the shed. He went to your father's home to remonstrate. Sensibly your father did not answer the door and the caller left. Sometime later, while walking in Dungannon town, he met the deceased and his brother Seamus, cousins of yours. A plan was formed to return to your father's house in Seamus' Mercedes car to again seek to confront your father about your supposed misbehaviour. On arrival there the deceased kicked your father's door in and burst into the house with his two companions. It seems that the deceased had a hammer with him and it is suggested that the others also had implements with them, some say a sledgehammer or a spade and some mention a handgun. Only a hammer was ever recovered.

[3] Your father was inside the house with two friends and there followed some form of altercation. Your father telephoned to your grandmother's home, possibly before entry had actually been effected, and you took the phone and say that you heard the sounds of the door being forced.

[4] You responded to your father's appeal for help by taking your grandmother's car, although you were then disqualified from driving and may indeed never have held a driving licence or passed a driving test. On arrival at the house you left the car but then saw the deceased and his two companions emerging so you got back into it and drove off. Seamus gave chase in his Mercedes while the other two followed on foot. Onlookers saw the two cars driving as though they were racing with the Mercedes alongside your car on its wrong side of the road. You managed to effect a handbrake turn and drove back the way you had come to be confronted by the deceased who was standing about the middle of the road with, according to a bystander, his arms raised. The evidence as to what implement the deceased had at that time is by no means clear and you yourself have given various inconsistent accounts. It seems to me likely that the deceased in fact had a hammer as that was recovered at the scene and not a handgun as you may, or may not, have believed at the time. In either event you were as I say confronted by the deceased and the third man some short distance behind him on the road. The prosecution accept that you were faced with a situation where, as you told the police at interview, you were acting and thinking very quickly having been pursued in one direction by the Mercedes and, having turned, then facing two further persons one of whom had an implement in his hand which was capable of being launched at you as you approached.

[5] Your response, which I accept was formed on the spur and in the heat of the moment, was the grossly negligent one of ducking down below the steering wheel while continuing to drive, blindly, in the direction of your two pursuers. You struck the deceased while he was either on the road or in a hatched area which at the point of impact separates the two carriageways. The impact severed the deceased's spinal column causing him irreversible catastrophic injuries from which he died on 18 July 2011 after the family agreed that his life support should be terminated. You did not stop after the impact but drove on. All this resulted from a fire in a garden shed.

[6] I have received two victim impact statements from the deceased's mother and his brother who is a clergyman. The letters are dignified in their tone and content and both highly articulate. They contain no hint of recrimination against you for what is clearly their deeply felt loss which has been enhanced by the loss of two other siblings of this deceased, one before and one subsequent to the son concerned in this incident. Both Mrs Veronica Quinn and Reverend Joseph Quinn went to the scene and had to witness the most upsetting sight of the deceased lying gravely injured on the roadway. Father Quinn had the painful duty of administering the Last Rites to his brother. The sole redeeming feature of this tragedy is that the deceased was a registered organ donor and his family supported his wishes by allowing his body parts to be used in order to help, they understand, no less than eight others waiting for transplants. This aspect appears to have afforded the family some small comfort.

[7] You, Quinn, were 21 at the date of this offence and are now almost 24. You are the eldest of three children. So far you have made very little of your life although I have been told that you have for some years wanted to become a farrier and I have received a letter which indicates a willingness to offer you an apprenticeship in that work. I hope that you accept that opportunity when you are free to take it up as at present you appear to have little other direction. Your driving history in Northern Ireland prior to this offence was not the most serious, being characterised by two instances of speeding and one of careless driving. You also have no less than five previous convictions for being without a driving licence which is why I am caused to wonder whether you have ever passed a driving test. Your other previous convictions unrelated to motoring are relatively minor. I also have details of your criminal record from the Republic of Ireland which indicates some prior convictions of a similar motoring nature in that jurisdiction and you were at the time of the present offence disqualified from driving both here and in the Republic.

[8] I have had the benefit of a report on you by Dr Maria O'Kane, consultant psychiatrist, amplified by helpful oral evidence from her. She reports an incident when at the age of 13 you were in a car with your father which was fired upon and when he reacted as you did in this incident by ducking down below the steering wheel and fortunately he survived. It appears that you received help from child psychiatry services following that, although I note that you told the probation officer that you do not think you benefited from the counselling and that you partly attribute your commission of the present offence to unresolved issues relating to that incident. Dr O'Kane records that you report flashbacks to it. She has concluded that you are suffering symptoms of post-traumatic stress due to the death of your cousin in the present incident. You also have a history of some misuse of alcohol and drugs. In Dr O'Kane's opinion you require treatment for your symptoms of PTSD for your substance misuse and your tendency to impulsivity. She found you to be deeply remorseful for what happened although, again, the probation officer who interviewed you has recorded that you failed to fully acknowledge or accept personal responsibility for your offending and justified your actions by stating that you were placed in a difficult position whereby you had no other option but to drive with your head down. You did however acknowledge the impact of your behaviour upon your family and that of the deceased.

[9] In her oral evidence Dr O'Kane stated that the specialist help you require is more readily available in the community than in prison. She felt that you would require either EMDR or CBT for your PTSD and also appropriate treatment for your substance misuse. She considered that you are likely to require about eighteen sessions for the PTSD probably spaced over the course of a year. She agreed with Mr Mateer QC that your tendency to impulsive behaviour is likely to continue until your condition has been treated and also agreed that your offending behaviour can be seen to be centred around your driving.

[10] It is acknowledged that the variety of circumstances and of culpability for the offence manslaughter is very wide and that sentences vary accordingly across a wide range. It is agreed between defence and prosecution that your case falls within the category sometimes described as “negligence” or “unlawful act” manslaughter for which the range of sentences upon a plea of guilty has commonly been between one and four years’ imprisonment. It is accepted that you gave an account of your version of events at police interview and that your legal advisors indicated from the outset that if a plea of guilty to manslaughter were indicated as acceptable to the prosecution it would be tendered. It was in fact immediately tendered as soon as that indication had been given. The prosecution therefore properly accepts that your plea is to be treated as though tendered at the first opportunity and I give you credit accordingly and for the fact that as a result the family of the deceased has been spared the ordeal of trial at which upsetting details would inevitably have had to be recalled.

[11] As to where the sentence should lie on that range there was, understandably, a difference of view between prosecution and defence. I have had regard to the guidance to be had from the aggravating and mitigating features identified in the authorities on dangerous driving causing death, but they are not directly applicable because of the singular nature of the facts of this case. However, in my view this was a serious case of bad driving involving as it did deliberately driving blindly at about 30 mph or somewhat more in the direction of two men whom you knew to be on the road. Leaving aside the issue of dangerousness to which I shall shortly turn, I consider that while taking full account of all the mitigating factors urged upon me by your counsel, Ms McDermott QC, both orally and in writing, this is as Mr Mateer submitted a case towards the higher end of the scale of culpability and therefore sentence for manslaughter in this category.

[12] Turning then to the issue of dangerousness, it is submitted by Mr Mateer but contested by Ms McDermott that this is a case in which a finding of “dangerousness” on your part would be appropriate with the enhanced sentencing consequences that flow from such a finding. In assessing this question the legislation permits me to take in account all of the information before me. In your case there is the disturbing information relating to your driving subsequent to the present offence, namely on 25 April 2012. On that date you were seen by police driving in the Armagh area. They knew you were a disqualified driver and tried to stop you but you sped off in a dangerous manner, driving on the wrong side of the road, mounting the pavement and pulling out in front of opposing traffic. In the course of the incident you struck the rear of another car but still failed to stop and then drove at speeds of 50 mph and upwards through major road works. Eventually you evaded the police who discontinued the pursuit. You were then later seen again in another area where police again tried to stop you and only succeeded in doing so by deploying a “stinger” device to deflate your tyres. You lost control of the car and struck another car causing its driver minor injuries before your car came to rest on top of a crash barrier. Arising from these events and the subsequent investigation you were

convicted of a catalogue of traffic and drugs offences on 9 October 2012. Those offences were committed while you were on bail for the present offence.

[13] The Probation Service has carried out a careful analysis of your extensive criminal records both here and in the Republic of Ireland most of which relate to road traffic offences. In short, they conclude that you are at a high likelihood of re-offending, that you have continually evidenced your inability to adhere to sanctions imposed by the court and they assess you as presenting a significant risk of serious harm to the public. That assessment has been re-examined as recently as 24 March in the light of Dr O’Kane’s report and the Probation Service has re-affirmed its earlier assessment. It seems to me that the probation assessment is amply supported by the available evidence. It further seems to me that Dr O’Kane’s assessment in her report that she “does not believe that you present an on-going risk of serious physical harm to the public *based on this incident*” is inadequate, simply because there is ample material from your driving behaviour subsequent to the present offence to show that you have learned nothing and made no alteration in that behaviour since causing the death of the deceased in this case. That that is so I find alarming and it underscores the absolute need for you to receive the treatment that Dr O’Kane considers necessary.

[14] However, as Ms McDermott points out, it is not sufficient for me to conclude, as I do, that there is a significant risk to members of the public of serious harm occasioned by the commission by you of further offences. For me to be able to proceed to pass any form of enhanced custodial sentence the legislation requires that such further offences must be “specified” offences which means those specified in Schedule 1 to the 2008 Order. Everyone agrees that the danger you undoubtedly pose derives from your attitude to and manner of your driving and no other form of criminality. The only three specified driving offences in Schedule 1 are causing death or grievous bodily harm by dangerous driving or by careless driving when under the influence of drink or drugs or aggravated vehicle-taking causing death or grievous bodily injury. While it is of course possible that death or grievous bodily injury may result from your future driving if you carry on as you have done in the past I am unable to conclude, as the statute requires, that there is a significant risk that you will commit one of those specified offences. The Court of Appeal in R v Owens [2011] NICA 48 at para [15] has emphasised in adopting the guidance in the English case of R v Lang and Others [2005] EWCA Crim. 2864 on this aspect that:

“The risk of serious harm occasioned by the commission of further specified offences must be significant. This was a higher threshold than a mere possibility of occurrence and could be taken to mean noteworthy, of considerable amount or importance.”

[15] With some considerable reluctance I therefore conclude that the statutory threshold for the imposition of an extended custodial sentence has not been

established as in my view such a sentence would be highly appropriate in your case. Indeed Ms McDermott observed with characteristic realism in the course of her submissions on the “dangerousness” question that if the legislation had referred merely to the risk of your committing further offences and not to “specified” offences as defined she would not be making submissions against the imposition of an extended custodial sentence.

[16] I therefore proceed to sentence you for the present offence without imposing an extended custodial sentence. In doing so I do not take into account your 2012 offences because they are not previous convictions except for the purpose of assessing the extent of your remorse for your actions in causing the death of the deceased in the present case. If as Dr O’Kane believes you are remorseful you have not evidenced the fact by your subsequent driving behaviour. It may be that you will be better able to control your driving behaviour when you have received the treatment you require.

[17] I sentence you to three years’ imprisonment which I am obliged by legislation to apportion between a custodial element of eighteen months’ imprisonment for which you will receive no remission followed by a period of eighteen months’ on licence under the supervision of the Probation Service. I recommend that the following conditions be included in that licence:

- (1) That you must present yourself in accordance with the instructions given by your probation officer to attend and participate actively in the PBNI “Thinking Skills” programme and comply with the instructions given by or under the authority of the person in charge.
- (2) That within seven days of your release from prison on licence you must arrange with a family doctor to be referred for alcohol and drug treatment and to Mental Health Services for CBT or EMDR treatment as may be advised.
- (3) That you must consent to details of any treatment provided being disclosed to your probation officer.
- (4) That you must reside in accommodation approved by your probation officer and comply with any electronic monitoring restrictions that he or she considers appropriate.

[18] I further order that you be disqualified from driving any motor vehicle for a period of six years and that you pay the appropriate offender levy.