

IN THE CROWN COURT IN NORTHERN IRELAND

SITTING AT BELFAST

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THE QUEEN

v

SHAUN PATRICK JOSEPH HEGARTY

and

CIARAN NUGENT

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**WEIR J**

[1] Shaun Hegarty and Ciaran Nugent, you have both pleaded guilty to the murders of Karen Smyth and Finbar McGrillen and I have sentenced each of you to the only sentence permitted by law for the crime of murder, namely life imprisonment.

[2] It is now my responsibility to determine the periods that each of you will have to serve in prison before you become eligible to have your cases considered by the Parole Commission which will thereafter have the responsibility of determining when, if at all, either of you will be released. I make it clear to each of you and, through the press, to the general public that the periods that I shall fix will not qualify for any remission and that you will be required to serve every day of them.

[3] The circumstances surrounding these murders are truly shocking. You Hegarty had been in a relationship with Ms Smyth and had been staying with her at her home in Drumaness while on bail for another matter. On 8 December 2013 Ms Smyth complained to the police of your behaviour towards her and indicated that she was no longer willing to have you in her home. The police arrested you and charged you with a number of offences and the next day, 9 December, you were interviewed by the police about these matters. You made a "No comment" response to all questions and were released on bail pending further enquiries as at that stage

Ms Smyth had declined to make a statement to the police as to what had happened. Importantly, one of the conditions of bail upon which you were released was that you should make no contact with Ms Smyth.

[4] Following whatever had passed between you, Ms Smyth went to stay with a friend, Mr McGrillen, at his home off Ravenhill Road in Belfast. No doubt she imagined that she would be safe there. However, you found out where she was staying and in breach of your bail condition decided to go there with Nugent from your flat in North Belfast in the early hours of 12 December. You claimed that at that stage you thought Ms Smyth had returned to Drumaness and that only Mr McGrillen would be in the Ravenhill flat but that seems highly unlikely to me given that you set off uninvited at about 3:40 am, that Nugent did not even know Mr McGrillen and that you had to walk into Belfast and out to Ravenhill which took you about 45 minutes. When you arrived at about 4:25 am, hardly the hour for a social call on anyone, Ms Smyth and Mr McGrillen were there. Ms Smyth refused to let you in and said she would ring the police. You say that this made you angry because you knew that you were on bail and should not be anywhere near Ms Smyth and in anger you lifted a brick and, smashing the window of the door, climbed through it and went upstairs into the flat where you pursued Ms Smyth and Mr McGrillen to the bedroom, punching them to the head and body a few times. You say you grabbed Ms Smyth round the throat with the left hand and pushed her down onto the bed. You say:

“I didn’t intend to strangle her or stop her breathing. I was throttling her but wasn’t intending on causing her serious harm or to kill her, I was just angry.”

[5] Which of you did what and when to your victims is not clear. Each of you has sought to minimise his part by blaming the other for the injuries caused during the approximately two hour period between 4:25 am and your next sighting by CCTV on the Ormeau Road at 6:44 am when you were walking together citywards. It is however possible to describe the nature and extent of the injuries that were caused as found by Dr Ingram of the State Pathology Department when he carried out autopsy examinations on both deceased.

[6] In relation to Mr McGrillen he found the cause of death to be “blunt force injuries to head, neck, chest and abdomen”. Mr McGrillen was of slim build weighing 10st 4 pounds and was approximately 5’ 7” in height. His death was a result of injuries he sustained in an assault. The significant external injuries were principally confined to his head. There was bruising of his right cheek, right ear, a laceration of the cheek, bruising of the left ear and 3 ragged lacerations of the pinna. These were as the result of punches, kicks or both.

There were bruises on the under-surface of the scalp and injury to the underlying brain consistent with an accelerated fall or the head having been struck forcefully onto an unyielding surface. There were small bruises on the back of the knuckle of

the left ring finger and between the knuckles of the left index and middle fingers which could have been sustained if he struck something, or somebody, shortly before his death. There were also two bruises on the back of the wrist. There were chemical burns consistent with being caused by a caustic substance, such as bleach, on the right cheek, the upper and lower lips, the chin, the nose and the chest. Dr Ingram was of the view that these had almost certainly occurred after death.

Internally, there were six lacerations of the liver, several of which were deep. These had bled heavily leading to the accumulation of blood in his abdomen. While there were not any significant injuries on the outside of the body in the area of the abdomen the lacerations of the liver were, in Dr Ingram's view, almost certainly as a result of stamping, kicking or such like. There were bruises in the soft tissues of the chest as well as fractures of seven of the right ribs, one in two places, and a fracture of the second left rib. The injuries to the right ribs are likely to have affected Mr McGrillen's ability to breathe effectively. There were two fractures of the small bones of the voice box in his neck. Dr Ingram was of the view that these are the type of injury that one sees in homicides where the neck is forcibly grasped by a hand, or hands although the nature of the injuries suggest that the fractures in the voice box may have been the result of a blow rather than the neck being forcibly grasped.

In summary, Dr Ingram states that Mr McGrillen had sustained blunt force trauma to his head, neck, chest and abdomen as a result of multiple blows. The lacerations to his liver are very likely to have been a major factor in his death and would have proven fatal on their own, but given the severity of the other injuries he concluded that death was a result of their combined effects.

A report was obtained in relation to blood alcohol levels in Mr McGrillen's body and there was no alcohol present at the time that he died.

[7] In relation to Ms Smyth Dr Ingram found the cause of death to be "blunt force trauma of the head, neck injuries and blunt force trauma of the chest and abdomen." She was 40 years old, weighed 9st 13 pounds and was approximately 5' 6" in height.

Her significant external injuries like those of Mr McGrillen were confined to the head. These included a large laceration at the back of the scalp, a clean cut laceration or possible incision through the right eyebrow, two incisions or clean cut lacerations of the bridge of the nose, fractures of the nasal bones, a clean cut laceration or possibly an incision through the margin of the right nostril, a superficial laceration of the right cheek, bruising of both upper eyelids, a probable incision of the left cheek, a laceration or incision of the left side of the upper lip, a bruise and superficial laceration on the right side of the upper lip, bruising on the inner aspect of the lower lip and a ragged laceration of the left side of the lower lip. Dr Ingram thought some of these could have been caused by a bladed weapon such as a knife. The laceration or cut at the back of the head was due to either a heavy fall or a blow from a weapon. Other injuries were caused by blows, such as punching.

Under the surface of the scalp there was bleeding over the brain known as subdural and subarachnoid haemorrhage. This was associated with some swelling of the brain. The neuro-pathological findings in relation to the brain suggest that what was found was consistent with an accelerated fall or the head having been struck forcefully against an unyielding surface.

There was also an incision on the outer aspect of the left elbow caused by a bladed weapon, a bruise on the inner part of the left elbow and bruises on the right elbow and right forearm. There were bruises on the right shin and ankle and a bruise on the chest. There were chemical burns consistent with being caused by a caustic substance overlying the jaw on the right side and at the margins of the nostrils. In Dr Ingram's view these were caused after death.

There were serious internal injuries within the chest and abdominal cavities as well as injuries to the neck. There were three bruises within the chest wall and there were a total of twenty rib fractures undoubtedly sustained according to Dr Ingram as a result of stamping, kicking or such like. These fractures would have seriously affected Ms Smyth's ability to breathe and on their own could have killed her. One of the fractured ends of the ribs had punctured a small hole in the diaphragm.

She had blood within her abdomen and there were tears of the liver, three lacerations of the left kidney, lacerations of the attachment of the bowel and stomach and other bruising. These abdominal injuries were also consistent with having been caused by stamping or kicking, would also have been life threatening on their own and, in the absence of proper medical treatment, could have proved fatal.

On her neck there were 3 bruises within the muscles at the front of the neck and bruises in the soft tissues at each side, more marked on the right, and fractures of the bones of the voice box and the neck. The injuries suggested that her throat had been forcibly grasped. That may only have been done momentarily as there was no haemorrhaging in the eyes. Grasping of the neck may have caused the other fractures in that area, although there was a fracture through the thyroid cartilage in the neck which is apparently uncommon in strangulation and raises the possibility of a blow to the neck, which possibility is supported by bruising in the soft tissues on each side of the neck. The fractures may therefore have been due either to a blow or to grasping or both.

Dr Ingram summarised the injuries to Ms Smyth thus:

"She had sustained blunt and sharp force trauma of the head along with injuries to the neck and blunt force trauma of the chest and abdomen. It would not seem unreasonable to consider that death was as a result of the combined effects of these injuries."

Forensic analysis showed that she had some alcohol in her body but the concentration was quite low. There was also the presence of some drugs but the drugs did not contribute to her death.

[8] It may therefore be seen that both victims received many serious injuries in what must have been a determined and sustained attack or multiple attacks over a period of time. Neither you Hegarty nor you Nugent made any attempt to get help for your victims even though you both deny that you meant them to suffer serious injury or death. It was not until the afternoon of Friday 13 December when a newspaper delivery boy reported that he had found the broken door of Mr McGrillen's flat that police were alerted and went to the scene. There they found the victims' bodies lying in the living room on a duvet. The floor around their bodies was covered in blood, a bottle of bleach was beside them and a mop was lying across them. Items of male and female clothing, a man's wallet and a woman's handbag, were found soaking wet in the kitchen sink and in the bath. Efforts had clearly been made to clean up the blood.

[9] On Saturday 14 December you Hegarty went to the police station with your solicitor when you were arrested for these murders. At interview you made no admissions but rather handed over a prepared statement in which you denied any part in the murders and said that you had visited Mr McGrillen's flat on Wednesday 11 December when you had admittedly smashed your way in and then sat smoking cannabis and talking until you left at lunchtime that day. This was an entirely false account which no doubt you thought would satisfactorily explain away any finding of your blood within the flat.

[10] However, the police did not believe your account and after you had been remanded into custody at Maghaberry prison telephone calls from you to your mother and letters that you wrote were intercepted from which it was clear that you had participated in these murders but that you would not be taking the blame by yourself and would not be "covering for him", a reference to you Nugent. You Hegarty did not in fact plead guilty to these murders or even give any account of what had happened until your trial was about to commence when, in an effort to effect a reduction in your sentence by belatedly offering to assist the police by giving evidence against Nugent, you made a self-serving statement on 28 May 2015. The prosecution did not accept that the statement correctly set out your respective parts in this matter nor did they regard you as someone who would be a witness of truth and therefore declined to accept your proffered assistance in the trial of Nugent who had not by then yet pleaded guilty.

[11] You, Nugent, have been similarly uncooperative until the very last moment. You pleaded not guilty when the first jury was sworn in your trial and only after a difficulty had arisen leading to the discharge of that jury and a second jury had been sworn did you alter your plea. You were arrested on 19 December and throughout 16 interviews you either made no comment or denied being at Mr McGrillen's flat. Eventually, at the seventeenth interview, you produced a prepared statement in

which you admitted “going for a dander” with Hegarty although you did not know where you were going or why. On arrival at the flat you said Hegarty smashed the window but that you could not say what then had happened. You denied any involvement in murdering or assaulting the victims and said:

“I cannot say what he did, because I cannot be a tout. If I did my life would be over.”

In later interviews you added nothing of substance to your account of what had happened in the flat. You did not admit to being inside it much less that you helped to clean it after the assaults.

[12] This remained your position for almost 18 months until, on 9 June 2015, your senior counsel Mr Duffy QC and Mr Murphy QC for the prosecution entered into an “agreed basis of plea” on foot of which you finally pleaded guilty. The terms of that agreement are as follows:

“The defendant, Ciaran Nugent, pleads guilty to the murders of Finbar McGrillen and Caron Smyth. The basis of plea is that Nugent went to McGrillen’s flat with Hegarty as part of a joint enterprise. Nugent anticipated that a serious assault, causing grievous bodily harm would be executed by Hegarty when he was to arrive at the flat. In accompanying Hegarty in that knowledge and remaining with him as he broke into the flat and while he caused GBH, Nugent assisted and encouraged the infliction of GBH upon the occupants. That assault resulted in the deaths of the deceased. Nugent then remained in the aftermath and assisted in efforts to clean the scene.

This is a higher starting point case of 15/16 years (double murder and extensive injuries upon both victims). Aggravating features include the use of bleach and destruction of crime scene by use thereof that would have to be reduced to reflect: (i) Guilty plea, (ii) Lesser role (iii) Anticipation of GBH not death.”

[13] It is not clear to me how the prosecution has determined for the purposes of this agreement that your part in these murders was restricted to accompanying Hegarty to the flat in anticipation that there would be a serious assault falling short of causing death by Hegarty upon arrival there and that your involvement was restricted to encouraging the infliction of the injuries rather than participating in their infliction and subsequently to assisting the efforts to clean the scene. However, I am obliged to accept that it has done so and that it is upon that agreed basis that you ultimately pleaded guilty.

[14] Before turning to deal with each of you individually, I wish to say something about the effect which these killings has had upon the families of both the deceased. I have 10 accounts in all on behalf of both families including four helpful Victim Impact Reports by Dr Michael Paterson, Consultant Clinical Psychologist, on close family members. It is clear that in their various ways both families have been profoundly affected and will continue to a greater or lesser extent to suffer the consequences of these murders far into the future. These were cruel and utterly senseless killings, initiated by nothing more than your jealousy and anger, Hegarty. You will, as you wrote from prison in an intercepted letter, have to live with this for the rest of your life. As you rightly said in that letter "two people are in their graves long before their time because of what we did that night". You might have added that the lives of their close and wider families have been permanently blighted by these dreadful crimes so casually committed.

[15] You, Hegarty, are now 34 years and were 33 at the date of these murders. There is no doubt that you had a most unfortunate childhood in an unhappy home, your parents separated when you were nine and you spent much of the rest of your childhood in children's homes where you failed to settle, leading you into trouble and admission to training school where it seems you first met Nugent. Your younger brother was brutally killed by an older boy when you were a teenager and I have no doubt that that event has had a serious and lasting effect upon you. It is a bitter irony that someone who has so keenly felt the loss and pain of a violent bereavement should so casually inflict it upon others as you have done here. Your life has been characterised over 20 years by addiction to alcohol and drugs and criminal activity apart from a period of stability between 2003 and 2009 when you were in a steady relationship and had a job. That relationship failed and you returned to offending including an assault in 2012 upon a previous partner. You have told the probation officer that you slapped her and that you behaved similarly in an earlier relationship.

[16] Evidence was given on your behalf by Dr Maria O'Kane, Consultant Psychiatrist, who had been retained by your solicitors to assess your psychiatric state. She produced a number of reports, the last of which dated 25 May 2015, concludes that you became involved in the index incident because of a psychotic mental state which primed you to react in an impulsive and violent fashion. In her oral evidence she expressed the view that you suffer from what she called "a low grade chronic psychotic illness" and from the symptoms of a personality disorder. She agreed that in obtaining a patient's history she depends upon their truthfulness and acknowledged that when she first interviewed in February 2015 you had denied being involved in these murders. It is therefore difficult for me to judge with any confidence how reliable Dr O'Kane's conclusions may be. Dr Fred Browne, Consultant Psychiatrist, who reported for the prosecution on 20 May 2015, points to what he describes as "significant inconsistencies" in the accounts you have given and concluded that although you complained of feeling paranoid he did not consider that your complaints had the characteristics of paranoid delusions. His

conclusion was that you have difficulties in your personality together with a history of substance misuse. Making all such allowance as I feel properly able to do it seems to me that, as in the case of Conor Doyle [2004] NICA 33, your psychological make-up lowered your powers of self-control and made it more difficult for you to resist your aggressive impulses. However, as Kerr LCJ observed in that case at paragraph [35], this is not a matter of substantial weight. You were well able to appreciate the gravity of your conduct and your mental condition can in no way explain, much less excuse, what was done to Ms Smyth and Mr McGrillen.

[17] You, Nugent, are now 35 and were 33 at the time of these killings. Like Hegarty you had a difficult upbringing characterised by domestic violence and parental alcohol abuse and separation. You entered the juvenile justice system at the age of 14 and progressed through training school and Lisnevin to Hydebank. Your education was disrupted, you do not appear to have ever held a job and your life has been characterised by substance misuse to such an extent as to have required hospital admissions. You have received numerous beatings from paramilitaries resulting in a diagnosis of post-traumatic stress disorder. Dr Robert Rauch, Consultant Clinical Neuropsychologist, has reported that your intelligence is in the “low/average” range but that your memory functioning is significantly impaired, possibly due to your past misuse of drugs. At the time of these offences you were living alone in a hostel for the homeless and apart from your two children from a previous relationship and some contact with your mother you seem to have had no active family connections or support. Your previous criminal convictions, while numerous, are not characterised by violence towards people for which there are only two convictions of some vintage. I simply do not understand what caused you to walk for some miles across the city in the middle of the night to an area unfamiliar to you in the knowledge that a serious assault causing grievous bodily harm was to be launched by your companion on a woman whom you knew and liked and a man whom you did not know at all. You will have heard me ask your counsel that question several times during his plea on your behalf but I received no real answer. Why did you remain there for what must have been a prolonged and very violent attack and why did you become involved in trying to clean up the murder scene? If there are truthful answers to any of these questions I should like to have had them.

[18] I now proceed to fix the minimum terms that each of you must serve. It is agreed by all counsel that this is what is described in Lord Woolf’s Practice Statement reported at [2002] 3 All ER 412 as a “higher starting point” case of 15-16 years because the culpability of each of you was exceptionally high and the victims were in a particularly vulnerable position. Aggravating features which cause me to vary that starting point upwards in both your cases is the attempt made to destroy the scene of the murders. In your case Hegarty it is a further seriously aggravating factor that you were at the time on bail subject to a condition that you were to have no contact with Ms Smyth. In the case of you Hegarty I take as my starting point the period of 22 years while in relation to you Nugent I adopt a starting point of 18 years to take account of what the prosecution describe as your “lesser role”.



[19] As to mitigating factors, in your case Hegarty I give you some small credit for your eventual plea of guilty even though you failed to admit what you now claim was the factual background to your involvement until the very last minute. I also make some small allowance for your psychological features as earlier described. I do not find that there is evidence of your having armed yourself with a bladed item in advance. Nor do I take into account your criminal record. I make no allowance for your belated offer to assist the police which was rejected as self-serving nor, leaving aside the terms of the agreement between the prosecution and Nugent which your counsel rightly said cannot bind or constitute evidence against you, can I begin to accept that someone who was involved in the infliction of multiple injuries of such severity to two people over what must have been quite an appreciable period intended to cause them grievous bodily harm rather than to kill them.

[20] In your case Nugent I consider myself constrained by the terms of the agreement between leading prosecuting and defence counsel as I do not have available to me any evidence to controvert it, however it was arrived at between them. Accordingly, in your case I treat as a mitigating factor that you are said by the prosecution to have anticipated the infliction of grievous bodily harm rather than death. You are also entitled to some small discount for eventually owning up to your involvement and thereby saving the need for a trial with all the added upset and distress that would have caused for the relatives of the deceased. However, you could scarcely have left your change of heart any later than you did and the allowance must be slight. As in the case of Hegarty, I do not find that you had armed yourself in advance nor do I take into account your criminal record.

[21] Having regard to all these factors I determine in your case Hegarty that you will serve the minimum term of 18 years and in your case Nugent the minimum term of 14 years concurrently on each count before you will be first eligible for consideration for release.