

IN THE CROWN COURT IN NORTHERN IRELAND

THE QUEEN

-v-

BARRY SIMPSON

BILL NO. 133/05 AS AMENDED

WEIR J

[1] Barry Simpson, you have pleaded guilty to wounding James Millar with intent to do him grievous bodily harm contrary to Section 18 of the Offences Against the Person Act 1861. The circumstances of the offence, so far as it has been possible to establish them, have been very fully described to the court by Mr Donaldson QC on behalf of the prosecution so I do no more than summarise them now.

[2] On the night of 11 and early hours of 12 July 2004 you were making the rounds of the traditional bonfires in your area. You were then on your annual holiday from work and had used the time to drink heavily so that by early on 12 July was clearly quite drunk and it is evident from the problem that the police have had in acquiring a consistent account from witnesses of what exactly took place that you were by no means the only one in that state.

[3] By about 2.00 am you had arrived at the Springmartin Bonfire where you intervened in an argument between two other people and subsequently you picked an argument with Mr Millar who, so far as the evidence goes, had offered you no offence whatever. In the course of the argument you produced a folding knife and stabbed Mr Millar three times with considerable force. The wounds were serious and life threatening and, had he not received prompt and effective medical treatment including major surgery, you might well have been faced here with a charge of murder. It appears that his

physical wounds have healed well but his psychological recovery remains slow.

[4] No coherent reason for the attack has been discovered and it is likely that there is none. At one time you claimed that you acted in self-defence but there is no independent evidence to support this assertion and since you also claim not to remember the events surrounding the attack it is difficult to lend weight to the claim. Your plea of guilty to the present charge indicates that you are no longer maintaining that you were justified in this attack and your counsel, Mr Dermot Fee QC, in his comprehensive and able plea on your behalf, concedes that he is unable to contradict the prosecution case that this was an unprovoked attack and says that there is no allegation made by you against Mr Millar.

[5] Neither is it clear how you came to be equipped with this folding knife. You may have gone home between the first incident and the stabbing and there collected the knife. Indeed Mr Fee has fairly said that it looks as though, doing the best one can, you did go home and get the knife. If that be so you must have had in mind at least the possibility that you would use it against someone. Mr Millar appears to have been most unlucky to have been in your vicinity after you returned to the bonfire in that frame of mind.

[6] Courts regard attacks of this sort as extremely serious. As our Court of Appeal put it in the case R v Coyle in 1997:

“In recent years the courts have had cause to note that gratuitous violence is on the increase. In this court we have sought to make it clear that those who injure others by vicious violence will suffer condign punishment. The only way that society can show that it will not tolerate this kind of conduct is by the Courts passing severe sentences.”

I respectfully agree with and propose to follow those observations.

[7] As to the starting point for sentencing in this case there is a large measure of agreement between the prosecution and the defence. Mr Donaldson expressed the view that the range of sentences for a Section 18 offence is between 5 and 10 years. While Mr Fee submitted that it is between 3 years and 8 years, founding himself upon the decision of the English Court of Appeal in Attorney General's Reference No. 18 of 2002 (Hughes) [2003] 1 Cr. App. R. (S) 8. They agreed that this was a case about the middle of the range. I therefore propose to take as my starting point the figure of 7 years.

[8] From that figure I make deductions for the various mitigating features that relate to you and your subsequent conduct. I discern no mitigating

features whatever in the circumstances surrounding the offence itself. You have pleaded guilty to the present case at what the prosecution acknowledges to have been the first opportunity. You have an excellent working history, having worked your way up to regular and well paid supervisory employment in a manufacturing concern in Lisburn. The various letters from senior people in that company show how well you are thought of by both management and workers. That employment you are now bound to lose as a result of your actions on this night. Your previous criminal record relates to relatively minor matters, the only recent ones being motoring offences. You have, in particular, no history of violence which only adds to my surprise and concern that a man of almost 34 years from a stable family and employment background would commit such an unprovoked act of madness.

[9] I also take account of the fact that on 18 August 2004 the local self-appointed guardians of Shankill Community Morality arranged for you to attend an appointment with them at which one of your forearms was broken, presumably in some parody of local restorative justice. I bear in mind too that Mr Fee has said on your behalf that you genuinely regret this attack and do not seek to blame Mr Millar in any way.

[10] There is no doubt from the reports available to me that alcohol was a major factor in this offence. You come from a family with a history of serious alcohol abuse and you too have been drinking heavily for years. Until now you have managed to hold your life together but inevitably a continuing pattern of such heavy drinking eventually catches up with the individual, be it in the loss of health, employment, family or liberty or a combination of these. That fate has now befallen you. In the process you have caused serious harm to Mr Millar and to your innocent partner and children as well as to yourself.

[11] One feature of this case is particularly clear; unless you stop drinking your life will be permanently ruined. I am told that you have not drunk alcohol since this assault happened and you are unlikely to be able to acquire alcohol in prison. The consultant in addiction who has reported on you advises that you should attend the alcohol counselling service available to you in prison and that, upon your release, you should attend a community-based treatment agency for counselling so as to help you to resist the temptation to resume. You will still be a young man with a lot to contribute when you are released from prison. I hope you will seek and accept the help available to you.

[12] The probation officer expresses concern about your level of aggression and a possible propensity to future violence posing a risk of harm to the community and I accept his assessment. I also accept his view that your continued abstinence from alcohol would assist in lowering that risk. In those circumstances I consider that you meet the qualifying requirements for the

imposition of a custody/probation order prescribed by our Court of Appeal in Attorney General's Reference No. 1 of 1988 (McElwee) [1998] NI 232 at pp. 238 and 239.

[13] Accordingly I intend to offer you the opportunity to have a custody/probation order made in your case. Such an order would require you to serve the immediate custodial sentence which I am satisfied is required in your case and then, on your release from custody to be under the supervision of a probation officer for a further period.

[14] I want to make it clear to you that a probation order is not an easy option. If you agree to accept such an order you will have to follow any directions that the probation officer may give you and attend any counselling, courses or appointments that may be arranged for you. If you fail to do so you will be in breach of the order and will be liable to be punished accordingly.

[15] If you do not wish to accept a custody/probation order I shall impose a sentence of 5 years' imprisonment upon you. If you do wish to accept custody/probation the sentence will be 4 years' imprisonment together with one year's probation supervision to commence upon your release from prison.

[16] Do you agree to the making of custody/probation order? Very well, as you agreed to a custody/probation order I sentence you to 4 years' imprisonment together with one year's probation supervision to commence upon your release from prison.