

Judicial Communications Office

6 December 2023

BELFAST CROWN COURT SENTENCES IN CASE OF R V DIARMUID McKEE

Summary of Judgment

Her Honour Judge Smyth, Recorder of Belfast, today in Belfast Crown Court sentenced Diarmuid McKee for five years and three months, for one count of common law riot, and one count of throwing a petrol bomb relating to an incident on 23 August 2020 in Kilwilkie Estate, Lurgan.

Factual Background

The defendant was arraigned on 11 October 2021 and pleaded not guilty. On 24 October 2022, being the date of his non-jury trial, he entered guilty pleas to both counts and asked that his bail be revoked. He has been in custody since that date.

These offences relate to an incident on 23rd August 2020 in Kilwilkie estate, Lurgan. Police had been in Kilwilkie since 8 am that morning dealing with a suspect device. The device was made safe and a pre-planned search then commenced of waste ground at the opposite end of the estate.

A hostile crowd began to form and neighbourhood police were deployed to the area to explain to residents the reason for the police presence. These officers were not wearing riot gear or protective clothing but were wearing normal police uniform.

Between 2.15pm and 3.06pm there were four petrol bomb attacks aimed at police. At 2.15pm, the first two petrol bombs were thrown by two males, one of which struck a road sign and exploded very close to an officer. The second petrol bomb attack was at 2.30 pm from the same two unidentified males. The third petrol bomb attack was at 2.44 and involved the defendant and an unidentified male. These petrol bombs landed in the vicinity of the junction of Victoria Road and Levin Road towards a police evidential gathering landrover. The fourth attack occurred at 3.06 from the roof of 74 Kilwilkie Road and involved a co-accused Robert Rooney and an unidentified male. In all of the attacks, those involved were wearing balaclavas or similar face coverings.

As well as an evidential gathering Land Rover, the police helicopter was also deployed. Some footage was recorded on bodyworn camera and the initial attack was also recorded by an unknown source and posted on social media. On the footage which recorded the third attack involving this defendant, members of the public can be seen running away from the area with their dogs.

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After the third petrol bomb attack, the defendant was next seen at 2.47 in the area of the alleyway between 75/77 Kilwilke Road, removing the 11 degrees jacket worn in the course of the attack. At the back of the alleyway, on a green area, the petrol bombs had been stored and filled.

The defendant was identified as the petrol bomber in the third attack by a comparison of clothing worn when he was stopped in the early hours of the following morning and the clothing worn by the petrol bomber. In interview, he accepted that he was stopped in the early hours of the morning and thereafter made no comment in respect of the earlier footage.

Aggravating Factors

The Judge stated that there was no dispute that there were aggravating factors which included the fact that the defendant was part of a group involved in a total of four petrol bomb attacks; there was an element of planning; the defendant made attempts to conceal his identity and change clothing; the offending involved the deliberate targeting of the police.

Mitigating Factors

The defence sought to rely on mitigating factors including the guilty plea entered on behalf of the defendant (albeit it was entered on the morning of trial); the minimal criminal record of the defendant which is a single motoring offence dating back to 2015; a previous good work record; the impact on the defendant's family of the loss of a regular income; the defendant was assessed as demonstrating insight into his offending on young people within the community; delay in the case coming to trial and delay in sentencing as a consequence of the protracted trial and the defence submission that sentencing should await the conclusion.

The court heard that having revoked his bail on 24 October 2022, the defendant has been housed within the general prison population and he has not sought to be placed with other paramilitary prisoners. The defence submit that this is indicative of a man without political or ideological motivation and the lack of a criminal record coupled with a good work history is relevant to the sentence that should be imposed. The defence also point to the defendant's engagement with the probation service and the insight that he has shown in contrast to the approach often taken by others in similar situations.

The court noted that the defendant is assessed by Probation as a low risk of re-offending and not assessed as posing a significant risk of serious harm in the future. The defendant told the probation officer that he had a problem with alcohol and had been drinking heavily the previous night and into the morning of 23rd August. He said his involvement in offending was "*a moment of madness*". He accepted responsibility for his offending and demonstrated insight into the impact of the offending on the community, in particular young people and his family. The defence submit that the way in which the defendant has met these charges demonstrates remorse. The Judge said "*Whilst there is always a debate about remorse or regret at*

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the situation a defendant finds himself in, it is correct to say that the defendant has accepted full responsibility for his actions."

Sentence Imposed

The Recorder then considered the relevant sentencing principles and the law relating to the case. After careful consideration of the sentencing principles, taking into account both the aggravating and mitigating circumstances, the Judge determined that the starting point for sentencing in this case is seven years.

The Judge said that the defendant in this case by pleading guilty effectively "broke ranks" with his co-accused. The Recorder said:

"a defendant who admits his guilt, thereby saving valuable court time will be entitled to a reduction in his sentence...against all of that background, this defendant is entitled to a significantly greater reduction in sentence than would normally be the case...In the particular circumstances of this case, I am reducing the sentence by 25%. I therefore sentence the defendant to a determinate custodial sentence of five years and three months, half of which will be served in custody and half on licence."

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on www.judiciaryni.uk

ENDS

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