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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No:

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THE KING

v

GEORGE JOHN MABEN

RECOMMENDATION OF THE LADY CHIEF JUSTICE OF
NORTHERN IRELAND TO THE DEPARTMENT OF JUSTICE UNDER
ARTICLE 10 OF THE LIFE SENTENCES (NORTHERN IRELAND) ORDER 2001

DECISION ON TARIFF

KEEGAN LCJ

Introduction

[1] On 6 November 2009, George John Maben (“the prisoner”) was sentenced to life imprisonment with a minimum term of 13 years, having been convicted of murder at the Central Criminal Court of England & Wales. On 20 April 2010, the minimum term was increased to 18 years (*Attorney General’s Reference (No. 100 of 2009)* [2010] EWCA Crim 935). On 10 December 2010, the Court of Appeal of England & Wales dismissed a renewed application for leave to appeal against conviction (see *R v George Maben* [2010] EWCA Crim 3063). The prisoner’s tariff expiry date is 10 April 2027.

[2] The prisoner was initially transferred to Northern Ireland on a restricted basis on 16 August 2013 for a period of six months in order to avail of family visits. Subsequently, this was extended for a further six months. In July 2014, the prisoner’s restricted transfer was made non-time limited. Both the time-limited and non-time limited restricted transfers were made under the Crime (Sentences) Act 1997.

[3] The prisoner requested subsequently that his transfer status be varied to unrestricted. As a restricted transferred life prisoner seeking to have his transfer changed to an unrestricted transfer, the prisoner did not satisfy the definition of a ‘transferred life prisoner’ in Article 10 of the Life Sentences (Northern Ireland) Order

2001 (“the 2001 Order”) (which required him to be subject to an unrestricted transfer). In July 2021, the Department of Justice (“DoJ”) obtained from the then Lord Chief Justice a provisional indication of tariff which stated that 18 years was the likely recommended minimum term that the prisoner would serve under Article 10 of the 2001 Order if he were transferred to Northern Ireland pursuant to an unrestricted transfer. As the incoming Lady Chief Justice, I approved the provisional indication of tariff.

[4] The prisoner’s request for an unrestricted transfer was granted on 22 December 2021. Under Article 10 of the 2001 Order, it now falls to the DoJ, after consultation with me, to certify the minimum tariff that the prisoner must serve.

Factual background

[5] This is taken largely from the remarks of the Court of Appeal. The trial judge gave a more detailed account in his sentencing remarks. The brief circumstances of the offence are that on 29 March 2009 the prisoner was found to have murdered Maureen Cosgrove who was the mother of Lucy Rees, his girlfriend. Mrs Cosgrove had been strangled with a ligature.

[6] The background was that in 2008 the prisoner had lived with his girlfriend at Mrs Cosgrove’s home. Tensions had arisen between the prisoner and Mrs Cosgrove arising out of his failure to contribute to household expenses, and as a result of his jealous and possessive attitude towards his girlfriend. Those differences culminated in him being asked to leave Mrs Cosgrove’s house in January 2009.

[7] On 24 March 2009 Mrs Cosgrove took her two grandchildren to school and kept an appointment with her dentist. A neighbour saw her return home at about 11:20am. It was alleged that she was murdered between then and 11:45am. Lucy Rees had left her mother’s house at 11.00am intending to meet the prisoner but he failed to keep the appointment and they only met at about 12:25pm that day. Having done some shopping the pair returned to Mrs Cosgrove’s home, where Lucy Rees found her mother lying dead in the kitchen.

[8] Amongst other things, the prosecution relied on a confession made by the prisoner. This had been obtained by putting a covert listening device in Lucy Rees’ car and on the day of his arrest the prisoner having been alone in the car was recorded as saying the following:

“Please God help me. God forgive me for what I’ve done. I just can’t take it anymore. Every single day she was breaking me down. Please God, will you forgive me, please? Forgive me for all the things I’ve done.”

The prosecution had other evidence available to it, including CCTV evidence, cell site evidence and scientific evidence.

[9] The defence case was one of denial of involvement in the killing at all. The prisoner denied his presence in Mrs Cosgrove's house on the morning in question and he gave no evidence whatsoever of any provoking conduct on the part of the victim. The prisoner stated that the prayer captured on the covert listening device related to his own mother and not to anything he had done to Mrs Cosgrove.

[10] The defence submitted to the judge that the issue of provocation should be left to the jury and relied particularly on the prayer to which reference has already been made. The prosecution submitted there was no evidence of the prisoner losing his self-control and no evidence of provocative conduct on behalf of the deceased. The judge considered, after hearing those submissions, that the only issue in the case was the identity of the murderer. There was no evidential basis for provocation. The matter would not be left to the jury. The Court of Appeal agreed.

[11] In the sentencing remarks the trial judge noted the evidence of his previous partner that he was a kind and caring person who had done a great deal of good for people with a serious problem of one sort or another. The judge also referred to the enormous pressures under which the prisoner must have been labouring at the time of the murder. He suggested that the situation which had developed in relation to his relationships with the victim and her daughter drove him to "such an act of desperation such as this."

[12] The Court of Appeal rejected the submission that there was an element of provocation which could be taken into account as mitigation. It acknowledged there were serious pressures but they were, in part, self-imposed and the result of selfishness (the offender had regard to his own interests first). In para 23 of the judgment, the court turned to the aggravating factors:

"23. The aggravating features of this case are clear. This was a premeditated killing, and so the learned judge found. He said:

'... this must have been premeditated and a premeditated killing of a woman who trusted you as her daughter's boyfriend and who would have had no reason to anticipate an attack from you of all people.'

The killing was planned. The inference that the offender took the ligature and the gloves with him to the house seems a strong one; but whether or not he took the ligature with him, if he did not, he went to the house intending to strangle Mrs Cosgrove. If he did not take the ligature with him into the house, he certainly knew what he proposed to do and how to find or make the ligature

that he used. He made sure that Lucy Rees would not be present and that he would not be disturbed. He was given access to the home by a vulnerable woman who was on her own because she would have trusted her safety with him. Then, having executed his plan, he calmly organised his own movements so as to dispose of the weapons and, to avoid suspicion falling on him, staged a show of innocence. He organised the eventual return to the house of Lucy Rees so that she found her mother dead on the floor. Thereafter, as we have already mentioned, some element of suspicion quite wrongly fell upon her.”

[13] The prisoner did not make any comment when interviewed by police. He has minor convictions in England of some vintage and more recent convictions in Northern Ireland including riotous/disorderly behaviour and assault on police in 2007. I do not consider that these are material in the calculation of the tariff.

Submissions

[14] The prisoner did not seek to advance any argument for a reduction in tariff, submitting that the minimum term in this case was set by the Court of Appeal of England & Wales and was, therefore, given in an appellate level judgment from which no further right of appeal arose on the facts, that there is nothing in the statutory language of Article 10 of the 2001 Order to prevent me from having regard to the sentence of the Court of Appeal when considering the appropriate recommendation and that it would be contrary to the requirements of legal certainty that such an issue could be the subject of modification over a decade later, particularly in circumstances such as these, where the question arises as a secondary consideration pursuant to a prison transfer issue. Accordingly, it was submitted on the prisoner’s behalf that I should follow the provisional indication of tariff and recommend a minimum term of 18 years, thus maintaining the period set by the Court of Appeal of England & Wales. The Public Prosecution Service for Northern Ireland submitted that this course of action would be appropriate.

Consideration

[15] The Practice Statement issued by Lord Woolf and approved in *R v McCandless & others* [2004] NICA 1 governs the approach to the tariff in this jurisdiction. The relevant parts of the Practice Statement are 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."

[16] The present case is clearly not a normal starting point case in which there is a quarrel or loss of temper between two people who are known to each other leading to an exchange of blows in which one of the two is killed. Paragraph 12 of the Practice Statement provides that the higher starting point of 15/16 years applies where the offender's culpability was exceptionally high, or the victim was in a particularly vulnerable position.

[17] The victim in this case was extremely vulnerable. She was alone in her own house. The Court of Appeal found her vulnerable by reason of her age. She had no reason to expect an attack from the prisoner and had every reason to trust him. The fibre evidence supported the view that she was attacked from behind. She would have been unable to defend herself. The starting point on that basis is 15/16 years.

[18] There was a high degree of planning. He was aware that the victim's daughter was likely to be out of the house. He made two telephone calls to her to confirm that she was away before embarking on the murder. He had stayed at his mother's house the night before the murder and alleged that he left there at 11am to meet up with the victim's daughter. He discarded his jacket and other evidence. He met up with the daughter after the murder and they went shopping together before

he accompanied the daughter back to the victim's house knowing what she would find there. The circumstances led to some suspicion that the daughter had murdered her mother.

Conclusion

[19] There was clearly a high degree of planning by the prisoner and the suspicion raised in respect of the daughter was an aggravating factor. Despite the observations of the trial judge, it is difficult to see any basis for material mitigation. In para [31] of *R v Loughlin (DPP's Reference (No. 5 of 2018))* [2019] NICA 10, the Court of Appeal in this jurisdiction endorsed previous Court of Appeal guidance that personal circumstances are likely to be of limited weight in the choice of appropriate sentence for very serious offences.

[20] This is a case in which some uplift on the starting point of 15/16 years is appropriate. The tariff imposed by the Court of Appeal of England & Wales was 18 years, and although the approach taken to the calculation of the tariff is different in this jurisdiction, the conclusion, in my view, is the same. I consider that the appropriate tariff is one of 18 years.