IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

THE QUEEN

-v-

ROSALEEN McCORLEY

HUTTON LCJ

The appellant was convicted by Nicholson J at Belfast Crown Court on 4 February 1991, on the 3 counts in the indictment which were as follows:

"FIRST COUNT

STATEMENT OF OFFENCE

Attempted murder, contrary to Article 3(1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 and Common Law.

PARTICULARS OF OFFENCE

Rosaleen McCorley and James Donnelly, on the 15th day of January 1990, in the County Court Division of Belfast, attempted to murder Norman Davidson.

SECOND COUNT

STATEMENT OF OFFENCE

Possession of an explosive substance with intent, contrary to section 3(1)(b) of the Explosive Substances Act 1883.

PARTICULARS OF OFFENCE

Rosaleen McCorley and James Donnelly, on the 15th day of January 1990, in the County Court Division of Belfast, unlawfully and maliciously had in their possession or under their control an explosive substance, namely an improvised booby trap

explosive device, with intent by means thereof to endanger life or cause serious injury to property in the United Kingdom or to enable any other person so to do.

THIRD COUNT

STATEMENT OF OFFENCE

Doing an act with intent to cause an explosion, contrary to section 3(1)(a) of the Explosive Substances Act 1883.

PARTICULARS OF OFFENCE

Rosaleen McCorley and James Donnelly, on the 15th day of January 1990, in the County Court Division of Belfast, unlawfully and maliciously did an act with intent to cause by an explosive substance an explosion of a nature likely to endanger life or cause serious injury to property in the United Kingdom, namely placed an improvised booby trap explosive device under or in the vicinity of a motor vehicle belonging to Norman Davidson".

On each count the judge sentenced the appellant to 22 years' imprisonment, the sentences to be concurrent.

The appellant appeals against these sentences on the ground that they were manifestly excessive.

The facts relating to the offences, briefly summarised, are these. The intended victim of the appellant, Mr Norman Davidson, was a Reserve Constable in the Royal Ulster Constabulary. He lived with his wife and children in a house on a suburban road in Belfast. The appellant and her co-accused, James Donnelly, intended to kill Mr Davidson by placing a booby trap bomb under his motor car, a method of committing murder which is all too commonly used by terrorists in this jurisdiction.

On 15 January 1990, Mr Davidson returned home at about 9.30 pm and parked his motor car in the road outside his house and went into the house. Fortunately members of the Royal Ulster Constabulary were in position in his house and observed what subsequently occurred.

After 11.00 pm on a number of occasions 2 cars drove along the road and the driver seemed to pay particular attention to Mr Davidson's car. A short time later the appellant and her co-accused walked side-by-side along the pavement towards Mr Davidson's car. When they reached the car they stopped in line with the driver's door and looked around. The co-accused then took an object out from his jacket, did something to it with his hand, kneeled down and placed the object under the car below the area of the driver's seat.

The police then emerged from Mr Davidson's house and after a short chase the appellant and her co-accused were arrested.

The object which the co-accused had placed under the car was a booby trap bomb containing about 0.5 kilograms of military explosive consistent with Semtex. There was a magnet on the top of the bomb to facilitate attachment to the underside of a vehicle. The bomb placed under the car had been armed because the dowel pin, the removal of which armed the bomb, was found in the driveway of a house 6 houses away from Mr Davidson's house. The bomb contained a mercury switch so that once the bomb was armed and after a pre-determined time delay (the maximum time delay being approximately 1 hour) any movement would cause the bomb to explode.

It was therefore the intention of the appellant and her co-accused that when Mr Davidson moved his car on driving away from his house the next morning, he would be killed. There was no doubt that Mr Davidson would have been killed or would have suffered grievous injuries next morning, and anyone else in the car with him would have been grievously injured or perhaps killed, if the placing of the bomb had not been observed by the police.

Miss McDermott QC, for the appellant, recognised the gravity of the offence of attempted murder and of the other 2 offences but submitted that there were a number of reasons why the total sentence of 22 years was manifestly excessive.

The first matter relied on was that the appellant was a woman, now aged 34, with a completely clear record and with an excellent background both in relation to her family and her record at work. Since leaving school she had been employed by the Housing Executive and at the time of the offence she was employed as an administrative officer at a substantial salary and was buying her own house on a mortgage.

Secondly, it was submitted that because the appellant was an unmarried woman of 34, the sentence of 22 years was a particularly heavy one for her, because it would mean that she would probably lose the opportunity to have a married life and would certainly lose the opportunity to have children.

Thirdly, it was submitted that the sentence of 22 years was excessive when compared with the sentence of 18 years imposed in May 1989 on Kevin McMahon who pleaded guilty to the offence of attempted murder. The nature of that offence was that McMahon had placed a bomb under a minibus carrying a number of police officers back from duty at the Maze Race Course. In addition McMahon had a previous conviction in the Republic of Ireland for a terrorist offence.

This Court considers that the total sentence of 22 years' imprisonment imposed by the trial judge was an entirely proper sentence and that none of the grounds advance

by Miss McDermott constitute, either singly or cumulatively, a reason why this Court should reduce the sentence. The facts we have set out show how cold-blooded and evil was the murder which the appellant attempted to commit. The crime of placing a booby trap bomb under a car is easy committed and it is difficult to arrest and convict those who carry out the crime, though fortunately this case was an exception. It is a crime which has been frequently committed in this jurisdiction and it has brought death or terrible injuries to countless persons and mourning and great distress to their families.

The purpose of the Courts in sentencing for this type of terrorist crime is primarily two-fold. First, it is by severe sentences to deter others who might commit similar crimes in the future by making it clear that if they are arrested and convicted they will serve long terms in prison. In passing severe deterrent sentences the courts seek to protect society and members of society, including members of the security forces who risk their lives to defend the community against terrorism.

Secondly, severe sentences show the abhorrence with which society views this type of terrorist crime which causes such death and grief and pain and suffering to families throughout the Province, and the Courts reflect the thinking of society which has to endure such acts of terrorism by imposing severe sentences on those who carry them out.

In R -v- Crossan [1987] 2 NIJB 73 at 77 Lord Lowry LCJ referred to violent crimes committed in earlier terrorist campaigns in Northern Ireland and stated:

"In those days the kind of sentences we are dealing with here would have been regarded as absolutely common place, because the enormity of the crimes committed made a full impact on society and on the courts. This, to some extent, is not true now, because the sensitivity of everyone has been dulled by repetition, but in reality we have to remember that the crimes are even more prevalent than during the periods we have recalled and the attacks on the security forces have certainly not abated in any degree; indeed they have in some respects increased. They pose a grave danger to the whole community, the perpetrators are difficult to bring to justice and the crimes in themselves are very wicked crimes indeed meriting severely deterrent and exemplary punishment".

We are in complete agreement with the words of the trial judge in this case when, in passing sentence, he said:

"The vast majority of this community abhors this sort of crime and expects the few who are caught to be punished severely and the public is entitled to expect the Court to punish them severely. The Court also has a duty to deter others who may not be as ruthless as you".

The offences in this case were all the more wicked because, as the trial judge pointed out, Mr Davidson's children could have been with him in the car on their way to school when he drove off the next morning and when the appellant intended the bomb to explode.

Having regard to the nature of the offences the appellant's family and personal circumstances cannot operate to bring about a reduction in the sentence which she should receive: see R -v- Cunningham and Devenney.

Counsel for the appellant referred to the harm which the sentence would do to the appellant's prospect of family life, but it is necessary to impose such a sentence to endeavour to stop the family life of many families like the Davidsons being destroyed by acts of terrorism.

The case of Kevin McMahon is distinguishable because that accused pleaded guilty, and thereby showed some remorse for his crime, and in accordance with a well established principle was entitled to a reduction in sentence to take account of his plea. In this case the appellant showed no remorse whatever.

The present case is more comparable to the recent case of R -v- Marie Wright and Patrick Joseph Sheehan where a sentence of 24 years was imposed on both accused after they were convicted of attempted murder where they had placed a booby trap bomb on a moveable security barrier in Belfast with the intention that it would explode and kill a member of the security forces when he moved the barrier to close a street.

The gravity of the offences in this case were such that a sentence of 22 years was in no was excessive. The appeal is dismissed.