

# Judicial Communications Office

25 April 2022

## COURT SENTENCES FOR MURDER OF PAUL SMYTH

### Summary of Judgment

Mr Justice Colton sitting Craigavon Crown Court<sup>1</sup> imposed a minimum tariff of 18 years on James McVeigh for the murder of Paul Smyth in 2019. That is the minimum term he must serve before he can be considered for release on licence. If released he will remain liable to recall to prison for the rest of his life. The court also sentenced three other men for offences relating to the murder and a gun attack on a house in Lisburn.

#### Background

Paul Smyth (“the deceased”) was found dead in his home in Lisburn on 21 June 2019. The cause of death was significant blood loss from a shotgun wound to the chest fired at no more than a few feet away. The court heard that the deceased lived alone and that it appeared that he sold controlled drugs from his home on a small scale. Ryan Megarry had bought drugs from the deceased at his home on 15 June 2019 and at some stage between then and the afternoon of 18 June, suggested to James McVeigh that money and drugs could be obtained there. Whilst it was accepted that Megarry did not contemplate that McVeigh would kill or physically harm the deceased, the identification of his home as potential source of drugs and money ultimately led to his death.

In the early hours of 19 June 2019, McVeigh was seen on CCTV arriving at Ferndale House, a block of flats in Lisburn where James Stewart lived. Interrogation of McVeigh’s mobile phone revealed that it was operating in the vicinity of the deceased’s flat between 23:48 and 23:55 on 18 June and it was turned off between 23:55 on 18 June and 00:37 on 19 June. At 00:37 on 19 June, CCTV shows McVeigh, Stewart and James Holmes leaving Ferndale House. They are next sighted in the Rushmere Shopping Centre, Craigavon buying items from the JD Sports Shop with bundles of cash. The prosecution contended that McVeigh entered the home of the deceased during the early hours of 19 June 2019 and shot him, taking a quantity of cash before fleeing the scene. It was claimed this was the money he was seen spending later that day.

In a separate incident on 23 June 2019, Gareth Reid was in bed in his house in Lisburn when he was woken by a masked man who came to the door asking the whereabouts of a Wayne Kirkwood who was previously associated with that property. A second male then emerged from the side of the house and discharged a shotgun, shattering the window. Neither Gareth Reid nor his wife were injured. It was the prosecution case that the first male was James Holmes. CCTV evidence showed Holmes and Stewart in the company of two other males carrying a red holdall which contained the firearm used in the attack on the Reids. At 02:54 on 23 June 2019 three of the males are observed walking in the direction of the Reids’ house. At 23:47 on 23 June, further footage shows Holmes and Stewart leaving Ferndale House with Holmes carrying the red holdall and McVeigh carrying the barrel of the shotgun. They were later observed without the holdall and firearm. A short time later they were stopped by the police and two shotgun cartridges were found in McVeigh’s jacket pocket. On 1 August 2019 a member of the public found the holdall and firearm in undergrowth adjacent to the car park where Holmes and McVeigh had been seen on CCTV. Forensic tests strongly supported the proposition that the gun was used in the attack on the deceased and the Reid’s house.

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<sup>1</sup> The court was sitting at Laganside Courts, Belfast

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All four defendants originally pleaded not guilty but shortly after the trial started in September 2021 they asked to be re-arraigned and entered the following guilty pleas:

- McVeigh - the murder of Paul Smyth and two firearms offences;
- Holmes - two counts of attempted murder (the attempted murder of the Reids) and one count of possession of a firearm and ammunition in suspicious circumstances;
- Stewart - one count of possession of a firearm and ammunition with intent to endanger life on 23 June 2019 and one count of possession of the same firearm in suspicious circumstances on 24 June 2019;
- Megarry - one count of encouraging or assisting the commission of burglary or theft.

The remaining charges against the defendants were not proceeded with.

## **James McVeigh**

The court imposed a sentence of life imprisonment following McVeigh's plea of guilty to the murder of Paul Smyth. The court today fixed the length of the minimum term that he is required to serve in prison before he will first become eligible to have his case referred to the Parole Commissioners for consideration by them as to whether, and if so, when he is to be released on licence. If, and when released, he will be liable to be recalled to prison if at any time he does not comply with the terms of that licence.

The court heard that McVeigh has an extensive criminal record with 62 previous convictions dating back to 2006 including assault and causing grievous bodily harm with intent. He was on police bail at the time of the attack on Paul Smyth. The court said that McVeigh's personal background and circumstances made "grim reading" and that he had been assessed by a probation officer as presenting a high risk of reoffending and as someone presenting a significant risk of serious harm.

In accordance with the principles to be applied in fixing the minimum term<sup>2</sup>, the court determined that the appropriate starting point in this case was the higher starting point of 16 years. It said the offender's culpability was the key factor and the fact that the killing was for gain justified the higher starting point. The court cited other aggravating features including that the victim was a vulnerable man and the murder involved an incursion into his home during the early hours of the morning. In the course of his probation interview, McVeigh sought to distance himself from his plea and suggested that the weapon was discharged when the deceased approached him from behind and sought to grab the weapon at which stage it was discharged. McVeigh however accepted that he went to the scene with a lethal firearm that had been adapted for unlawful use and the firearm was loaded. He claimed to have entered the premises with the intention to commit robbery. A further aggravating feature was the fact that the murder was committed whilst McVeigh was on police bail for serious offences involving the use of firearms. The court also noted McVeigh's extensive previous convictions and, in particular, those for violent offending; that he had previously been assessed as a dangerous offender; and had only recently been released from custody a few months before the murder of Paul Smyth. The court also noted that after the commission of this offence, McVeigh had continued involvement with the firearm as he sought to return it to the hide.

In terms of mitigation, the court took into account the pre-sentence and medical reports but said that given the serious nature of the offending, McVeigh's personal circumstances were of marginal

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<sup>2</sup> *R v McCandless & Ors* [2004] NICA 1 and the Practice Statement reported at [2002] 3 All ER 412.

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benefit to him. Citing the guidance issued by the Court of Appeal in the case of *R v Turner and Turner* [2017] NICA 52, the court accepted that McVeigh's plea, whilst late in the day, was of considerable value to the prosecution and avoided a lengthy trial in difficult circumstances.

Taking into account the appropriate starting point of 16 years and the aggravating and mitigating features, the court concluded that the appropriate tariff would be one of 22 years' imprisonment in the event of a conviction after a contested trial. The court reduced this to a minimum term of 18 years representing a discount close to one sixth for the guilty plea. It imposed a sentence of 12 years' imprisonment in respect of the count of possession of a firearm and ammunition with intent and six years in respect of the count of possession of a firearm in suspicious circumstances. The court directed that these sentences run concurrently with each other and the life sentence and tariff.

## **James Holmes**

The court heard that Holmes has an extensive criminal record of 43 previous convictions dating back to 2005 and was on bail at the time of his conviction for these counts. The court received a pre-sentence report assessing Holmes as presenting with a high likelihood of reoffending and as presenting a significant risk of serious harm. It also received a medical report confirming his poor mental health and consumption of alcohol, heroin and other drugs.

The Court of Appeal provided guidance on the appropriate sentencing range for the offence of attempted murder in *R v Michael Loughlin (DPP's Ref. No. 5 of 2018)* [2019] NICA 10. This stated that the culpability of the offender was the initial factor in determining the seriousness of the offence. The court noted Holmes' intention to kill demonstrated a high level of culpability. Significant other aggravating factors included the attack on the Reid's house being pre-planned; a lethal firearm was obtained in advance; the firearm was discharged in an attempt to kill two victims who were at their home sleeping; Holmes sought to conceal his identity by the use of a mask; and his further involvement with the firearm when it was returned to the hide. In terms of mitigation, the court said the most significant factor was Holmes' plea of guilty which was of value to the prosecution.

The offence of attempted murder is a "serious offence" under Article 12(2) of Schedule 1 to the Criminal Justice (NI) Order 2008 ("the 2008 Order") and the court must therefore consider whether there is a significant risk of "serious harm" occasioned by the defendant committing further "specified offences". The court accepted the conclusion of the probation officer that Holmes met this condition. It concluded that an extended custodial sentence was appropriate in this case, with the custodial term being one of 17 years' imprisonment in the event of a conviction after a contested trial. The court reduced this custodial term to 13 years representing a discount of between 20-25% for the guilty plea. It imposed an extension period of three years for which Holmes is to be subject to a licence for the purpose of protecting members of the public from serious harm occasioned by the commission of further specified offences. The extended custodial sentence for each of the two counts of attempted murder was therefore one of 16 years, to run concurrently. The court also imposed a determinate custodial sentence of five years (2½ years in custody and 2½ years on licence) for the offence of possession of a firearm and ammunition in suspicious circumstances to run concurrently.

## **James Stewart**

Stewart also has an extensive criminal record and was on probation at the time of the commission of these offences. His personal history was "strikingly similar" to McVeigh and Holmes with his adult years being marred by addiction and mental ill health. The court said his association with his co-defendants appeared to be based on a large extent on a common bond of drug abuse. While assessed

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by a probation officer as presenting a high risk of reoffending, he was not assessed as posing a significant risk of serious harm at this time and therefore not “dangerous” within the meaning of the 2008 Order.

Court of Appeal sentencing guidance on the offence of possession of a firearm and ammunition with intent to endanger life states that it should normally be dealt with by sentences of between 12 and 15 years. Determining factors include what sort of weapon was involved; what (if any) use has been made of the firearm; with what intention (if any) did the defendant possess or use the firearm; and what is the defendant’s record. The court accepted that Stewart had no intention to kill nor did his role involve his personal physical possession or handling of the gun, but that through his plea he had the specific intent to endanger life. Stewart was also part of a group of three men associated with a firearm and by his presence he encouraged and aided the offences, intending to do so. In addition, he was also involved in the return of the firearm to the hide. In terms of personal mitigation, the court said there was little that could be relied on by Stewart given the serious nature of the offences.

The court considered that the appropriate sentence before any discount for a plea would be one of 13 years’ imprisonment had Stewart been convicted after a contest. It reduced this custodial term to 10 years representing a discount of between 20-25% for the guilty plea and specified that Stewart should serve five years in custody and five years on licence. The court considered the sentence for the count of possession of the same firearm in suspicious circumstances should be a determinate custodial sentence of six years to be served concurrently.

## **Ryan Megarry**

Megarry has 30 previous convictions, mainly for driving offences, assaults in a domestic context and common assault. The pre-sentence report assessed Megarry as a medium likelihood of reoffending and not as a significant risk of serious harm. The court said that through his plea, Megarry accepted that he identified the deceased as someone from whom McVeigh could obtain drugs and money. It was accepted, however, that Megarry had no knowledge or indication that McVeigh would harm or kill the deceased.

The maximum sentence available is that applicable to the offence of encouraging or assisting (in this case burglary) which carries a maximum sentence of 14 years’ imprisonment. Counsel for Megarry suggested that were it not for the tragic consequences of the actions of others this was a matter which could have been dealt with in the magistrates’ court. It was also submitted that Megarry is taking positive steps to tackle his drink and drug problems and that the court should not interfere his rehabilitation. The court, however, said the fact remains that Megarry has pleaded guilty to a mean offence and had initiated a series of events which resulted in the murder of a vulnerable man. The court held that Megarry’s conduct and the consequences of that conduct were such that the custody threshold had been met and a custodial sentence was required to mark his offending. It considered that the appropriate sentence before taking account of his plea was a determinate custodial sentence of two years. The court reduced this to a sentence of 18 months’ imprisonment to reflect Megarry’s plea of guilty, directing that he served nine months in custody and nine months 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 the Judiciary NI website (<https://judiciaryni.uk>).

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**ENDS**

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