

THE QUEEN v WILLIAM JOSEPH SKEHENS

DECISION ON TARIFF

Ruling by Kerr LCJ and Sheil LJ

KERR LCJ

Introduction

1. On 2 July 1992 Sheil J sentenced the prisoner to life imprisonment at Belfast Crown Court for the murder of his great aunt, Annie Bunting, on 21 January 1991. The prisoner had pleaded guilty to murder and he has been in custody since 23 January 1991. The offender was offered the opportunity to make oral submissions on the tariff to be set under article 11 of the Life Sentences (NI) Order 2001 but indicated that he would prefer that the matter be dealt with on the papers. Sheil LJ and I have considered the matter on that basis and the following is our ruling on the minimum term to be served by the prisoner. This represents the appropriate sentence for retribution and deterrence and is the length of time the prisoner will serve before his case is sent to the Life Sentence Review Commissioners who will assess suitability for release on the basis of risk.

Factual background

2. At around 6pm on Monday 21 January 1991 the deceased, Annie Bunting (who was 66 years old) was found dead in an upstairs bedroom of her home at 148 Lawnbrook Avenue, Belfast. She had been very seriously ill with cancer of the stomach, and those close to her had been told some time before to expect her imminent death as a result of an inoperable tumour.

She had recently been released from hospital and was being cared for during the day by members of her family.

3. Suspicion quickly fell on the prisoner and he was arrested and brought to Springfield Road police station at 2.45pm on 22 January 1991. When introduced to the custody sergeant the prisoner immediately admitted to having killed the deceased. A number of scratches were observed on the prisoner's left hand, which he said had been inflicted by the deceased during a struggle.

4. When questioned by police the prisoner said that the deceased, whom he described as his "aunt", had opened the door to him. He had asked whether he could visit her and whether he could use her lavatory. The deceased told the prisoner that she was sick. He went upstairs to the bathroom and she remained downstairs. He then returned to the living room where they talked for a few minutes. The prisoner then continued: -

"She was standing at the door and I pushed her and then took her money about £100.00 in ten and twenties. She fell in the living room and hit her head on the floor...When she went down I got on top of her and pushed my four knuckles into her throat to finish her off...Then I lifted her up like a fireman's lift and carried her up the stairs and threw her down on the bed and then searched through the drawers in the bedroom first and then looked down in the living room and then I found her handbag beside the linen basket in the kitchen and took the money from it...When I got on top of her I pulled her knickers down and when I was holding her throat I put the three fingers of my left hand inside her...I didn't ride her or anything."

5. On further questioning the prisoner said the deceased was still alive when he took her from the living room - he had felt her pulse. Asked about the sexual element to the offence he said, "I tried to have sex with her when she was lying on the living room floor. I tried but I couldn't get it in." Asked if he had penetrated the deceased the prisoner said, "I don't think so, so I put my fingers back in." Questioning continued regarding what had happened upstairs. The prisoner said, "I was holding her by the throat trying to finish her off...I was trying to get rid of her to

kill her...I didn't check her after that, I knew she was dead". In later interviews the prisoner admitted that he had "dropped down" on the deceased fairly heavily, and said that this might have accounted for her broken ribs.

6. After killing the deceased the prisoner started to look through cupboards and drawers for money, but did not find anything. He found the deceased's handbag in the kitchen and took £105 from three purses, throwing the bag into the living room. The prisoner then left the house and returned to the city centre where he spent the rest of the night drinking. He bought marijuana and returned to the home of an acquaintance where he spent the night.

7. Professor Jack Crane carried out a post mortem examination on Miss Bunting's remains on 22 January 1991. He concluded that the cause of death was mechanical asphyxia due to compression of the neck and chest. He described the deceased as an elderly woman of sparse build, weighing 5 ½ stones and measuring 60 inches in height. The deceased was terminally ill and this had caused weight loss and emaciation. Professor Crane described the mechanics of the attack on the deceased thus: -

"Death was due to interference of breathing caused by mechanical asphyxia. This had occurred in several ways. There was bruising over the sides of the lower jaw and on the front of the neck consistent with the grip of a hand or hands such as would occur in manual strangulation. Also a band of abrasion beneath the chin and another across the front of the upper neck could have been caused either by throttling or more probably by the application of a hard object, such as the metal companion set, against the skin. The pressure on the neck had been considerable causing bruising of the underlying muscles and fractures of the hyoid bone in the upper part of the neck and further fractures of the bony projections on the top of the voice-box. It would have interfered with breathing and the return of blood from the head causing multiple pinhead-sized haemorrhages to form in the skin of the eyelids, in the lining of the eyelids and over the eyeballs.

There was also some bruising on the skin of the chest and of the underlying muscles of the chest cage which was flattened. The breastbone was fractured and there were fractures of five left ribs and six right ribs, at the front. These injuries had resulted from compression of the chest caused by the application of considerable pressure, possibly by an assailant kneeling or sitting on the deceased. The effect would have been to severely embarrass movement of the chest cage and thus also cause interference with breathing....”

Commenting on the deceased’s terminal illness Professor Crane said:

“It seems that she would probably have succumbed to the effects of the cancer within a matter of weeks or months. There is no doubt that she would have been considerably weakened by the cancer and unable to put up any significant resistance against her assailant. Thus it also seems probably that she would have succumbed quite rapidly to the effects of the asphyxia caused by the assault.”

8. Professor Crane dealt with the sexual injuries to the deceased in the following passage of his report: -

“She had also been sexually assaulted. There was a small bruised superficial laceration at the entrance to the vagina and a further bruised laceration just inside it. These injuries were caused by the forcible insertion of a hard object, such as a finger or penis, into the vagina whilst she was still alive...”

Personal background

9. The prisoner was a single man, who lived in hostel accommodation on the Shankill Road, Belfast. He does not appear to have had a criminal record but he admitted having previously stolen money from the

deceased's home. No submissions have been made either by the prisoner or the deceased's family.

Practice Statement

10. In *R v McCandless & others* [2004] NICA 1 the Court of Appeal held that the *Practice Statement* issued by Lord Woolf CJ and reported at [2002] 3 All ER 412 should be applied by sentencers in this jurisdiction who were required to fix tariffs under the 2001 Order. The relevant parts of the *Practice Statement* for the purpose of this case 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.

Very serious cases

18. A substantial upward adjustment may be appropriate in the most serious cases, for example, those involving a substantial number of murders, or if there are several factors identified as attracting the higher starting point present. In suitable cases, the result might even be a minimum term of 30 years (equivalent to 60 years) which would offer little or no hope of the offender's eventual release. In cases of exceptional gravity, the judge, rather than setting a whole life minimum term, can state that there is no minimum period which could properly be set in that particular case."

Conclusions

11. This is clearly a higher starting point case. The deceased was extremely vulnerable on account of her weakened state and there was evidence of sexual maltreatment of the victim before the killing. The killing was carried out for gain and the deceased suffered terrible injuries prior to death. Each of these factors would by itself be sufficient to bring the case within the higher starting point category.

12. The combination of these factors, particularly the sexual attack on this unfortunate, emaciated woman and the terrible suffering that she must have endured before her death make this clearly a case for the application of paragraph 18 of the *Practice Statement*. It is clear that the deceased

suffered terribly. She was manually strangled and then a poker was pressed to her throat causing fractures of the hyoid bone in the upper part of the neck and further fractures of the bony projections on the top of the voice-box. The breastbone was fractured and there were fractures of five left ribs and six right ribs. The deceased also suffered head injuries, possibly as a result of being pushed to the floor.

13. The only mitigating features are the prisoner's age (he was almost 19 at the relevant time) and his plea of guilty. His plea was not offered at the first opportunity but only on re-arraignment in July 1992. His admissions made it inevitable that he would have been convicted and there was forensic evidence linking him to the scene of the killing so the mitigating effect of his plea of guilty is not as great as it might otherwise have been.

14. Taking all these factors into account we have concluded that the appropriate minimum period to be served by the prisoner is twenty years. This will include the time spent in custody on remand.