

Neutral Citation No: [2023] NICC 6

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

ICOS No: 21/094781

Delivered: 09/03/2023

IN THE CROWN COURT OF NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE

THE KING

v

SVETLANA SVEDOVA

Mr J Orr KC with Mr M Farrell (instructed by the Public Prosecution Service) for the
Crown

Mr A Kane KC with Mr F Rafferty (instructed by Paul D Thompson, Solicitors) for the
defendant

O'HARA J

Introduction

[1] On 15 December 2022, the defendant pleaded guilty to the murder of Ms Ludmila Poletelova. That murder was committed in April 2021. As required by law, I imposed a sentence of life imprisonment on the defendant on 15 December 2022.

[2] I turn now to fix the minimum number of years which she must serve in prison before she can be considered for release. When that term has been served the Parole Commissioners will decide whether the defendant should be released or whether she should remain in jail for a further period.

Background

[3] Ms Poletelova, who was born in Russia but lived much of her life in Latvia and had Latvian nationality, was 61 years old when she was murdered by the defendant in April 2021. She had come to Northern Ireland in or about 2009 and was employed in a wine bar close to where she lived in Limavady. Ms Poletelova was described as a quiet lady who kept to herself and socialised mainly with a small group of Latvians who she knew from work.

[4] She had two sons, Sergejs, who lives in Ireland, and Anatoljis, who lives in Latvia. Ms Poletelova was close to both of them, speaking to them regularly. In his victim impact statement on behalf of the whole family, Sergejs described how he had spoken to his mother on 18 April, just a couple of days before her life was taken. In Latvia, Ms Poletelova had two grandchildren, Linda and Allana, who she often sent parcels and presents to. The fact that her family was geographically distant did not mean that they were not a close family.

[5] Ms Poletelova was also a lady who helped fellow Latvians and Eastern Europeans who were struggling in Northern Ireland. Over a number of years, she lent money to some and assisted others to find accommodation. The sort of dependable lady that Ms Poletelova was, can be gauged from the circumstances in which her body was discovered. She had an arrangement with her employer that he would text her each week to tell her what shifts she was required to work. He sent such a text on Thursday 22 April, telling her that her next shift would be on Friday 23 April at 1pm. She neither replied to that text nor turned up for work. Since that was out of character, a friend and colleague was asked to call to her home which she did at 1:15pm on the Friday. That friend found the door to her flat was ajar. When she went in, she discovered Ms Poletelova lying dead with blood spatters on the walls and ceilings and also on the television screen.

[6] The pathologist's report revealed that Ms Poletelova had been murdered by multiple blows being struck to her head and scalp, probably with a claw hammer. The skull was extensively fractured to the extent that her brain was exposed. She also had a fractured eye socket consistent with a blow to the eye. In addition, there was extensive bruising to the back of her wrists and hands, consistent with her having tried to defend herself.

[7] The attack on Ms Poletelova, which involved approximately 50 blows, would have caused her to die very quickly, within 30 minutes at the most. That death must, however, have been brutal and horrific.

[8] The defendant quickly fell under suspicion. She turned up at the wine bar to cover her victim's shift, with injuries to her arms, asking if people were blaming her for the death. The employer then called the police. Police attention soon focused on her.

[9] During questioning the defendant said that as a friend she had visited Ms Poletelova on Tuesday 20 April, that they had drunk together for some time, but that when the defendant left Ms Poletelova was alive and well. She stuck to this false story throughout her interviews. It is of note that she acknowledged to the police that she had owed Ms Poletelova £800 from September 2020 and that the debt was still outstanding.

[10] The police investigation uncovered CCTV footage which showed the defendant arriving in the area of Ms Poletelova's home soon after midday on

20 April and leaving the area shortly after 11:30pm, carrying two bags. CCTV also showed that one of the bags was put in a bin at a Spar shop. The strong suspicion is that this bag contained the murder weapon which was never recovered.

[11] On Wednesday 21 April, the defendant attended the office of a property management company and paid £520 cash towards her rent arrears. By that time her arrears were over £900, and she had been served with a Notice to Quit.

[12] Forensic analysis of a coat found in the defendant's home, and very similar to the one she was wearing on the CCTV footage from Tuesday 20 April, revealed blood which matched the deceased's. Ms Poletelova's blood was also found on the defendant's bag and on her glasses.

[13] Despite this overwhelming case, the defendant denied the murder and pleaded not guilty at arraignment on 25 March 2022. She did not plead guilty until 15 December 2022. This change of plea came after Dr East, consultant psychiatrist, had provided a report dated 21 November 2022. I understand that in this report, which I have only seen in redacted form, he was asked to consider the possibility of the defendant advancing a plea of not guilty to murder but guilty to manslaughter by reason of diminished responsibility. I further understand that his unredacted report excluded that possibility.

[14] There is nothing unusual about defendants seeking to explore the possibility of a psychiatric defence to a murder charge but typically, if they do so, they make it clear in court at an early stage that they accept that they are responsible for the death. This simple step helps families and friends of victims by letting them know, with the support of the police and the Public Prosecution Service, what direction a case is taking. It is unfortunate that such a step was not taken here. Even to a limited degree it might have reduced some of the stress endured by Ms Poletelova's family and friends, something which is evident from her son's victim impact statement.

[15] In his plea of mitigation, Mr Kane, suggested that this is one of those cases in which the less he says for the defendant the better. I agree with that sentiment. There is little or nothing that can be said for the defendant beyond the fact that she eventually pleaded guilty and that, in all probability, she did not go to Ms Poletelova's home with the intention of killing her.

[16] The defendant is charged only with murder. She is not charged with theft or robbery of the £520 which she paid towards her rent arrears the day after the murder. Her explanation for acquiring this cash is that it was sent to her by her son. I am highly sceptical of that, especially since she told Dr East that she had visited Ms Poletelova that day to ask for financial assistance. I must, however, accept the facts as they are proved before me.

[17] I have been asked to accept that the defendant has shown remorse for what she did. What she did, in short, was beat her “friend” to death with approximately 50 blows from a hammer, probably on Tuesday 20 April. Next, she left her body lying in the flat until it was discovered on Friday 23 April. Then she turned up at work to cover her shift. After that she maintained a complete denial of the murder through police interviews, through proceedings before the District Judge and through the arraignment in March 2022.

[18] While there is some hint of remorse in the pre-sentence report provided by the Probation Board, there is none in her interview with Dr East. In these circumstances, I do not accept that there is any real evidence of remorse and, certainly none of the sort which I would expect from a defendant who had murdered a helpful older friend.

[19] I also treat with considerable caution the belated explanation for the attack, which was given to Dr East and to Ms Doherty who wrote the pre-sentence report. That explanation was that after the two women had been drinking for some time on the day of the murder, Ms Poletelova began to speak in a critical and hostile way about the defendant’s family. In my judgment, that is more likely to be an entirely false and self-serving claim rather than one on which any reliance can be placed.

[20] In the pre-sentence report, Ms Doherty advised that under the Probation Board’s risk management procedures the defendant has been assessed as presenting a high likelihood of reoffending. I agree with that, but I disagree with the next part which is that she has also been assessed as not being a significant risk of causing serious harm. Given the nature and sustained duration of the attack on Ms Poletelova, I find that analysis surprising. However, since a life sentence follows on from the plea of guilty to the murder charge, I agree with Ms Doherty’s final analysis that this issue is one which can be left to be reviewed by the Parole Commissioners when the time comes to consider when the defendant should be released from prison.

The Tariff

[21] As I indicated at the start of this ruling, having sentenced the defendant to life imprisonment for the murder of Ms Poletelova, I must impose a tariff on her. That is the minimum period which she must serve in jail before she can be considered for release. Even at the end of this period her release is not guaranteed. That decision will lie in the hands of the Parole Commissioners.

[22] In this jurisdiction the Crown Court and the Court of Appeal continue to follow guidelines issued in 2002 in England & Wales which were adopted by the Northern Ireland Court of Appeal in *R v McCandless and others* [2004] NI 269. In broad terms the normal starting point in a murder case is to impose a tariff of 12 years which moves up to 15/16 years where the offender’s culpability is

exceptionally high, or the victim was particularly vulnerable. In some even more serious cases there can be a substantial upwards adjustment.

[23] In his submission, Mr Kane quite properly conceded, that the starting point for the minimum period in prison in the present case is 15/16 years. It is important at this point to refer to what is said in the Practice Statement on this issue:

“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."

[24] In terms of aggravating factors, a judge must be careful not to double count any relevant factors. Those factors which make this a case where the higher starting point of 15/16 years is appropriate cannot then be used again as aggravating factors which take the sentence higher.

[25] The aggravating factors identified in the 2002 Practice Direction and adopted in this jurisdiction are examples only. They do not purport to be an exhaustive list of factors because no such list can ever exist.

[26] In the defendant's favour is her eventual guilty plea, the absence of a criminal record and the lack of premeditation for the murder - there is no evidence that she went to Ms Poletelova's home with an intention to kill or harm her. As the Court of Appeal made clear in *R v Turner and Turner* [2017] NICA 52 the appropriate allowance to be made in the event of a guilty plea in a murder case is approximately one sixth of the sentence which is imposed, rather than a greater amount.

[27] Against that, however, are significant and weighty aggravating factors. For the defendant it is accepted that it is the sustained severity of the attack, involving the brutal use of a claw hammer, which raises the starting point to 15/16 years. Or to put it within the terms of para 12(j) of the Practice Direction, "extensive and/or multiple injuries were inflicted before death."

[28] Beyond that, I consider that the additional aggravating factors which must be taken into account can be summarised as follows:

- (i) Ms Poletelova was murdered in her own home, a place where she should have felt safe, by a friend to whom she had provided practical financial support and who still owed her money.
- (ii) The defendant attempted to evade justice after the murder by disposing of the murder weapon and some of Ms Poletelova's bloody clothing.
- (iii) The defendant then left Ms Poletelova's body to decay in her flat, where it lay undiscovered for two to three days.

[29] In my judgment, these aggravating factors raise the starting point of 15/16 years to 20 years. Allowing as I must for the limited mitigating factors described at para 26 above, I reduce the tariff to 16 years. That is the minimum period which the defendant must serve in prison. When those years have passed it will be the responsibility of the Parole Commissioners to consider whether she should be released.