

**Neutral Citation No: [2022] NICC 8**

**Ref: HUM11781**

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

**ICOS No: 21/000973**

**Delivered: 02/03/2022**

**IN THE CROWN COURT IN NORTHERN IRELAND**

**ANTRIM CROWN COURT (SITTING AT BELFAST)**

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**THE QUEEN**

**v**

**JORDAN McCLINTOCK**

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**Richard Weir QC and Suzanne Gallagher (instructed by the PPS) for the Crown  
Barra McGrory QC and Finbar Lavery (instructed by Donnelly & Wall) for the Defendant**

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**HUMPHREYS J**

[1] On 26 February 2021 the defendant, Jordan McClintock, pleaded not guilty to the murder of Jason Lee Martin who died on 27 June 2020.

[2] At the commencement of his trial on 8 December 2021 the defendant pleaded guilty to the manslaughter of Mr Martin on the basis of diminished responsibility. This plea was not accepted by the Crown and the matter proceeded to trial. On 15 December 2021 after a number of days' evidence, the defendant was rearraigned and pleaded guilty to murder. The jury was directed to return a verdict of guilty by confession and the court imposed the only sentence open to it, namely custody for life.

[3] The task of the court is now to fix the tariff, or minimum term, which the defendant must serve before he can be considered for release by the Parole Commissioners. Under Article 5 of the Life Sentences (Northern Ireland) Order 2001 the minimum term shall be such "*as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence.*" I am grateful to counsel and solicitors for their written and oral submissions on this issue and, more generally, for the careful and diligent way in which this trial was conducted.

[4] I will return to the question of sentencing principles in due course but firstly I propose to consider the events which led to the tragic death of Mr Martin. On 26 June 2020 a small gathering occurred on the Ballykeel Estate in Ballymena at the house of Samuel Adair. Those involved included Mr Martin and during the course of the evening the group moved to the house of Glenn Clarke. There was plenty of drink and the group was in good humour. Later in the evening the defendant arrived, uninvited, but was allowed to join the gathering. No arguments occurred although the deceased and the defendant did have a conversation about paramilitaries and the need to 'earn respect' in the kitchen. Mr Martin moved to the living room and sat down. At this stage the defendant grabbed a knife from a block in the kitchen and proceeded to stab Mr Martin a number of times in the leg and arm. One of these stab wounds severed the femoral artery. Despite the best efforts of his friends, the police and medical professionals, Mr Martin died.

[5] The defendant has consistently made the case that he could not remember what happened due to his alcohol intake that night. The forensic evidence was to the effect that the defendant's blood alcohol level could have been around 310 mg/dl, sufficient to render a regular social drinker 'extremely drunk.'

[6] In support of the defence of diminished responsibility, the defendant relied on the evidence of Dr Ronan Brennan, consultant forensic psychiatrist. In his initial report, Dr Brennan considered that the defendant was suffering from both Attention Deficit Hyperactivity Disorder ('ADHD') and Alcohol Dependency Syndrome ('ADS'). It was his opinion that the combined effect of both these disorders was to substantially impair the defendant's ability to exercise self control.

[7] However, following cross examination by Mr Weir QC on behalf of the Crown, Dr Brennan accepted that he had failed to take into account relevant evidence in relation to the defendant's alcohol consumption and that his opinion had been undermined to the extent he could no longer stand over the diagnosis of ADS. This rendered the defence of diminished responsibility, for which the defendant bears the burden of proof, unarguable and precipitated the change of plea by the defendant.

[8] The defendant was aged just 18 at the time of the murder and is now aged 19 years. He has 10 previous convictions two of which arose out of an incident in December 2018 when he was wielding a baseball bat in a public place.

[9] The pre-sentence report reveals a number of issues which the defendant has faced during his childhood and adolescence. There is no doubt that alcohol and substance misuse have played a significant role in this offending although other factors will have contributed. It is evident that despite the support offered to the defendant he never fully engaged with mental health services or with his medication prior to the subject incident.

[10] The Probation Board assessment is that the defendant presents a high likelihood of reoffending but does not present a significant risk of serious harm at this stage. The defendant has expressed some remorse for his actions although no motivation or rationale for these has been identified.

[11] The victim impact statements make heart wrenching reading. As a result of the defendant's actions, Jason Martin's mother has lost her only son. His two sons will grow up not knowing their father. The extended family has suffered untold sorrow. One theme which ran throughout this trial was how much love and respect there was for Jason Martin. There was not a bad bone in his body; no one had a bad word to say about him. The tribute paid to him by the now annual walk up Slemish Mountain on Fathers' Day speaks volumes about how he was thought of in the community.

[12] In this jurisdiction the legal principles governing the setting of the minimum term in murder cases are set out in *R v McCandless* [2004] NICA 1, adopting the Practice Statement of Lord Woolf LCJ in England & Wales from 2002:

***"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.*

19. *Among the categories of case referred to in para 12, some offences may be especially grave. These include cases in which the victim was performing his duties as a prison officer at the time of the crime or the offence was a terrorist or sexual or sadistic murder or involved a young child. In such a case, a term of 20 years and upwards could be appropriate."*

[13] The first step is therefore to identify the appropriate starting point. None of the features which could give rise to the higher starting point of 15/16 years are present in this case. There was no element of planning in the offence and the defendant only acquired the murder weapon moments before the attack.

[14] The next question is whether the culpability of the defendant is significantly reduced by reason of his suffering from a mental disorder or disability. All the psychiatrists agree that the defendant suffers from ADHD. In the opinion of Dr Loughrey, his 'relatively severe ADHD' presents a risk factor for criminality, albeit that he acknowledges there are many other factors in play. Dr Bunn notes that ADHD can result in impulsivity but not that it impacts upon the ability to exercise rational judgment. This must be seen in the context of the lack of engagement of the defendant with support services offered to him. I do not accept that the defendant's mental condition reduced his culpability or that this was a borderline murder/manslaughter case. The defendant subjected his victim to a wanton, unprovoked and despicable attack with a kitchen knife which resulted in his death.

[15] I have concluded therefore in this case, in light of all the evidence, that there is no reason to depart from the normal starting point of 12 years. The next question is to consider where the normal starting point should be varied by reason of any aggravating or mitigating factors.

[16] In terms of aggravating features, the prosecution refers to:

- (i) The defendant has a relevant record for acts of violence;
- (ii) This attack involved the use of a lethal weapon; and
- (iii) The deceased was vulnerable at the time of the attack.

[17] I am satisfied that there are relevant aggravating features in this case. Whilst the defendant did not arrive at the gathering armed, he did choose to arm himself with a lethal weapon and subject his victim to a vicious and, I emphasise, wholly unprovoked attack. There was no quarrel. There was no reason for the defendant's conduct. Mr Martin offered the younger man some eminently sensible advice, the response to which was to inflict the fatal stab wounds and coolly walk away.

[18] The defendant also has a relevant criminal record for the use of a weapon and the unchallenged evidence before the court also revealed another incident, just a week before the murder, when he was brandishing a knife and had to be disarmed by his mother. I also note that the Probation Board has assessed the defendant as presenting a high risk of reoffending given his willingness to carry and use weapons and to be involved in violent and aggressive confrontations, coupled with his alcohol and substance misuse.

[19] I have concluded, therefore, that there are relevant aggravating features both in relation to the offence and the offender so that I propose to vary the starting point from one of 12 years to 14 years.

[20] In terms of mitigation, counsel for the defendant refers to the following:

- (i) The age of the defendant;
- (ii) The lack of pre-meditation;
- (iii) An intention to cause grievous bodily harm rather than death; and
- (iv) The plea of guilty, albeit it was entered at a late stage.

[21] I do note that the plea of guilty was welcomed by the victim's family and friends and, to an extent, the decision to proceed on the basis of a plea of guilty to manslaughter was predicated on the available expert evidence. In *R v Turner* [2017] NICA 52, the Court of Appeal laid down guidelines in relation to the appropriate level of discount to a tariff in a murder case for a guilty plea. Morgan LCJ stated:

*"Each case clearly needs to be considered on its own facts but it seems to us that an offender who enters a not guilty plea at the first arraignment is unlikely to receive a discount for a plea on re-arraignment greater than one-sixth."*

[22] On that basis, the defendant is entitled to some credit for his plea although it must necessarily be limited. I have determined that the appropriate discount in this case, given the lateness of the plea and the circumstances giving rise to it, is one-eighth, equivalent to a reduction of 21 months.

[23] I do not accept that the evidence in this case reveals an intention to commit grievous bodily harm rather than to kill. I do however accept that there was only a brief element of premeditation in the offence. I also take into account the defendant's age and the degree of remorse expressed by him albeit this must be tempered by need to deter young men from engaging in knife crime. The tragic consequences of events such as these, where young men resort to the use of knives to pursue some agenda or settle an argument, are all too common.

[24] In light of the mitigating factors which have been identified, I have determined that the varied starting point of 14 years should be reduced by a further nine months.

[25] Overall, therefore, I have concluded that the minimum term of custody which the defendant must serve is 11 years and 6 months. This will include the period spent on remand. This is the period required to fulfil the twin aims of deterrence and retribution. I would stress that this is simply the minimum term - ultimately the release of the defendant from custody will be the responsibility of the Parole Commissioners. This will only occur if and when the Commissioners are satisfied that his continued confinement is no longer necessary for the protection of the public from serious harm. Once released, the defendant will be subject to a licence for life on conditions to be imposed and he will be liable to be recalled in the event he does not comply with the terms of that licence. The offender levy of £50 will apply.