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	Delivered: 17/12/2024

**IN THE CROWN COURT OF NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE**

THE KING

v

BARRY NOONE

**Mr O'Rourke KC with Mr A Moriarty KC (instructed by Madden & Finucane Solicitors)
for the Defendant
Mr Orr KC with Mr J Connolly (instructed by the PPS) for the Crown**

SENTENCING REMARKS

O'HARA J

Introduction

[1] The defendant, who is now 47 years old, killed his mother who was then 77 years old on 19 June 2022 by strangling her in her home in Cookstown, Co Tyrone. He was initially charged with murder but on 3 October 2024 he pleaded guilty to manslaughter by reason of diminished responsibility. That plea was acceptable to the prosecution by reason of the contents of psychiatric reports which will be dealt with in more detail below.

[2] In light of the guilty plea, I now have to impose on the defendant what I determine to be the appropriate and fair sentence.

Background

[3] Mrs Noone, known as Una to her family, was herself one of nine children. In turn she had two children of her own, the defendant and a daughter Tracey. It appears that their father, her husband, has been absent for most of his children's lives. It would be unduly intrusive in an already tragic case to go into the details of the family history, but one incident needs to be referred to in particular.

[4] In 2000, when he was living with his mother in Belfast, the defendant was the victim of a sectarian attack. He managed to escape with little injury but his mother who was with him and who intervened to protect him came off quite a lot worse than he did. It is suggested in various medical reports that this episode has had a long lasting impact on their emotional relationship with the defendant feeling some level of guilt for what happened to his mother.

[5] As the years went on Mrs Noone suffered some considerable ill health for a multiplicity of reasons. In April 2022, she had hip replacement surgery, for the second time. The defendant, who had carved out a life and career in London, returned to Northern Ireland to care for her. After she was discharged from hospital, Mrs Noone spent some time in a care home, but she wanted to return to her own home, quite naturally. This was arranged with the defendant assuming the role of primary carer for her.

[6] During this time the risk of Covid was still a real cause of public concern. It seems that this was especially the case for Mrs Noone who was a frail lady and one who, with her history of health problems, might have been more badly damaged and affected than others if she caught Covid. In turn, that made caring for her especially demanding for the defendant who was working remotely while staying with her.

[7] The stresses and strains felt by those caring for family members are well-recognised but they were increased many times over during Covid. It appears that the defendant had little outside support in terms of caring assistance during May and June 2022.

[8] Approximately one week before the killing on 19 June, the defendant himself caught Covid. He was terrified of it spreading to his mother. She is said to have been equally terrified of that risk. This brought to a head all of the pressures and tensions which existed in the house to a point, says the defendant, when he just could not take any more.

[9] At this point it is relevant to record some aspects of the defendant's own medical history which explain why the pressures combined to overwhelm his thinking. The defendant, who has no criminal record whatever, had a career in England but carried a lot of cares on his shoulders. They are described in the following terms by Dr Christine Kennedy, Psychiatrist, who reported on him for the prosecution:

"8.2 He has disclosed a stressful childhood. He said early on his mother had episodes of anxiety/depression and at times other relatives provided care. His mother was strict, highly anxious and non-nurturant. There were environmental and financial problems, and he felt

unsafe, anxious, insecure and different in the absence of a father. He appears to have taken on the role of mediator in the family between his sister and mother from his mid-teens. Later he took on an emotional support role to his mother and also to his sister. As described by him, he appears to have become enmeshed with Mrs Noone in a most unhealthy way. This probably was exacerbated by the violent incident in which they were both involved in 2000. The incident provoked a great deal of guilt and a pronounced sense of responsibility for his mother and her well-being thereafter. His mother, as described by him, was excessively and inappropriately reliant on him and he was unable to separate himself fully from her. He could not commit to female partners due to the anxiety around his mother and his need to support her. In relationships his role appears to have been one of pleasing those around him, attempting to manage and avoid conflicts where possible, subsuming his own thoughts, emotions and wishes. Enmeshment like this is known to link to approval seeking and low self-worth, anxiety, excessive feelings of guilt and responsibility and not learning how to deal with difficult emotions and self-soothe when upset.”

[10] Dr Kennedy went on in her report to refer to a series of depressive episodes. Having had access to his medical records, she said as follows at 8.12:

“Records and his narrative support chronic poor adjustment to stress with a history of confirmed moderate depressive episodes in 2013 and probable depressive episodes in 2018, 2021 and 2022. All episodes have been linked to stress. When he has been low he has experienced hopelessness and thoughts of life not worth living (2001, 2002, 2004), passive suicidal ideation (2013), and suicidal ideation (2018). There is no history of self-harm or violence. He has never been hospitalised for mental ill-health.”

[11] It is against that background that the two psychiatric reports from Dr Kennedy and Dr Muzaffar Husain, broadly agree that the events which followed should be best understood.

[12] It was Mrs Noone's birthday on 16 June 2022. The defendant who was still testing positive for Covid agreed to stay on for longer in Cookstown so that he could care for her. The birthday was not in any way a happy event with family tensions between Mrs Noone, the defendant and the sister Tracey, coming to something of a head.

[13] The defendant spent most of Saturday 18 June in his bedroom, neither him nor his mother in good form. By then the defendant was googling both matricide and suicide. In his mind the future was dark and negative to the extent he had formed a view that things just could not go on in the same way.

[14] In the early hours of Sunday morning, he went into his mother's room. As she slept he put a pillow over her face and applied force to it so that she died. At some point he put rosary beads in her hands.

[15] These events came to light when he contacted and spoke to a good friend in England, a Mr Dring. Mr Dring was so worried about what was said that he contacted his local police and set off a train of events which led to the PSNI arriving at the house in Cookstown at about 11am. There they found Mrs Noone dead in her bed and the defendant in some sort of disconnected state. He immediately said to the police, "I murdered her."

[16] When questioned by the police on Monday 20 June and succeeding days, the defendant admitted that he had killed his mother. He also asserted then, as he had done to the police at the scene, that he had attempted to commit suicide after killing her. This part of the story is not so clear because his claim to have taken 25-30 of her tablets does not tally with the toxicology report. Nevertheless, he never sought to deny the killing.

Diminished responsibility

[17] The law provides that a person who kills another is not guilty of murder if at the relevant time he was suffering from an abnormality of mental functioning which:

- (a) arose from a recognised mental condition;
- (b) substantially impaired his ability to understand the nature of his conduct, to form a rational judgment or to exercise self-control; and
- (c) provides an explanation for his acts and omissions in doing the killing.

[18] Dr Kennedy and Dr Husain scrutinised the defendant's medical records and interviewed him separately. They also had full access to the trial papers which obviously included all of the witness statements and the police interviews. Having done so they agreed that the defendant was suffering from an abnormality of mental functioning which arose from a recognised mental condition. There was some minor

disagreement between them on how to classify that condition. Dr Husain identified it as a severe depressive episode, while Dr Kennedy identified it as a depressive disorder or an adjustment disorder. Nothing turns on this distinction between their reports. It is common case that this part of the legal test is satisfied.

[19] The doctors both further agree that this abnormality substantially impaired his ability to either form a rational judgment or to exercise self-control when he killed his mother.

[20] As to whether that explains his action in killing his mother, the doctors both accept that this a matter for a jury, but the prosecution accepts, rightly in my opinion, that in this case that test is met. There is no other suggested motive or explanation for the defendant's actions. In those circumstances, the plea of guilty to manslaughter by reason of diminished responsibility is appropriate in this case.

Victim statements

[21] I was due to sentence the defendant last week but put the date back to today to allow his sister, Tracey, some extra time to set out her thoughts. They make challenging reading as they were bound to, since they reflect the complex family history and where she stands on the killing of her mother by her only brother.

[22] It is clear that Tracey Noone is uneasy about some of the contents of the psychiatric reports and whether her brother's version of the family narrative has been accepted too easily. On one interpretation she goes so far as to suggest that the manslaughter plea should not have been accepted by the prosecution. Put simply, I cannot reopen that issue at this stage of the case.

[23] It is probably more appropriate to focus on what Tracey Noone says about her mother and her brother. The following central points were made by her:

- She loves her brother who she misses every day.
- He was "her best friend" but she will never understand or accept what he has done.
- Her mother did not deserve to have her life ended in the way that it was, even if she was sometimes not the easiest person to get along with.
- Mrs Noone did not deserve to have her life ended at the hands of her son to whom, says Tracey Noone, "she gave everything to."
- What happened has affected everyone from the McOscar family, her neighbours, her friends and Ms Noone's work colleagues. The ramifications have had far reaching and devastating consequences to all of these people and to many others.

[24] We all know how complex and contradictory family relationships can be, even in the best of times. One person's interpretation of events may be very different from another's. Tracey Noone's statement shows how it can be difficult to the point of being impossible to make sense of or cope with the killing of your own mother by your brother. I wish I could give her some escape or comfort, but it is beyond my powers or ability to do so other than by recognising the pain which she continues to endure.

[25] I have also received on behalf of the McOscar family a statement about the significant impact on them of the death of Mrs Una Noone. That statement describes how much loved she was by her family and friends. It describes how she lived for her children and that throughout her lifetime she strived to ensure that they were well cared for.

[26] The statement continues by stating how much family meant to Mrs Noone and that she took great pleasure in her home life while always showing kindness to ensure visitors were received with a warm welcome. Later on, life brought its own challenges and difficulties to her. She succumbed to ill-health, but having the support of her family was of immense importance to her during this time.

[27] What is clear from this statement is how the circumstances of her death, sudden and traumatic have affected the extended family. As they describe it:

“We are suffering a very different type of grief which has been profound, and the acute grief period has felt prolonged.”

[28] This is an entirely natural and understandable reaction given the tragic circumstances of this case. It is one thing to lose a family member. It is quite a different thing to lose a family member at the hands of another family member. I have no hesitation in accepting entirely that extreme distress has been caused to the family by this whole episode.

Pre-sentence report

[29] I have had the benefit of a very helpful report from Ms Jenni Clarke of the Probation Board for Northern Ireland. As would be expected, her analysis of the case has been significantly influenced by the psychiatric reports to which I have already referred. She has analysed the defendant's social and personal circumstances and the circumstances of his offending. In a case such as this the Probation Board convenes a risk management meeting in which it considers whether and to what extent the defendant poses a risk for the future. That meeting includes representatives from a number of different backgrounds to provide a range of expertise and perspectives. It was the unanimous view of those present, according to Ms Clarke, that the defendant does not pose a significant risk of causing serious harm in the future. In effect, this analysis recognises that the defendant has no other criminal record of any sort and

that the circumstances in which he killed his mother are unlikely to recur in the future. This puts him on a rather different footing from many others who do pose a risk in the future, such as individuals who do have violent criminal records and who are therefore more likely to offend again in the future.

[30] Having said that, Ms Clarke records two issues which are of some concern. The first is that:

“Despite his acceptance of culpability, Mr Noone remains somewhat numb and emotionally detached to his involvement in her death.”

[31] In addition, while those present at the risk management meeting did not think that he posed a risk of serious harm in the future, they also formed the view that while he is currently coping well in custody, “sentencing may pose a potential for deterioration, and he should be supported through this by mental health services.”

Sentencing guidance

[32] The defendant falls to be sentenced for the manslaughter of his mother. Manslaughter covers a wide variety of offending, ranging from little more than a death resulting from an accident up to offending which falls just short of murder. For this reason there is very little definitive guidance to assist sentencing judges.

[33] Kerr LCJ in *Magee* [2007] NICA 49 stated at para [22]:

“It is not surprising that there are relatively few decisions in this jurisdiction which could properly be described as guideline cases for sentencing for manslaughter. Offences of manslaughter typically cover a very wide factual spectrum. It is not easy in these circumstances to prescribe a sentencing range that will be meaningful.”

[34] In the case of *Crolly* [2011] NICA 58, Higgins LJ gave some guidance as to the correct approach to sentencing. At para [24] he stated:

“In a case of manslaughter by reason of diminished responsibility, the sentencing court is concerned principally with three separate matters – the seriousness of the offence, the abnormality of mind and the extent to which it diminishes the offender’s responsibility for the killing and the background of the offender.”

[35] The first matter, the seriousness of the offence, must refer to matters other than the death of the victim as, by definition, this is present in all such cases. I accept

Mr O'Rourke's submission that this may include such matters as the level of violence used and whether it was substantial and whether it was inflicted by using a weapon.

[36] In terms of the second matter, the abnormality of mind and the extent to which it diminishes the offender's responsibility, that is a matter which in consideration of which I can refer to the medical evidence and all other relevant information available to me. In this context, I note that from the papers there is substantial evidence that the defendant had shown over many years a considerable dedication to protect the well-being of his mother. The very fact that this killing happened when he had returned from England to look after her after an operation and had stayed on for longer than he had planned, supports that proposition.

[37] On the third matter, the background of the offender, I note again his clear criminal record, his achievements at work over an extended period and the care which he was providing to his mother.

[38] It is also clear from the various authorities that I need to evaluate the full range of options which are open to me. In a case such as this they range from:

- A hospital order
- A discretionary life sentence
- An indeterminate custodial sentence
- An extended custodial sentence
- A determinate custodial sentence.

[39] The decision as to which sentence is appropriate in this or any other case involves, at least in part, an assessment of the risk which an offender poses to the public. In *Wood* [2010] 1 Cr App R 2, Judge LCJ suggested at para [15] that:

“Where the defendant constituted a danger to the public for an unpredictable time, the right sentence would probably be life imprisonment. However, if the defendant's responsibility for his acts was so grossly impaired that his degree of responsibility was minimal, then a lenient course would be open, but the length of any determinate sentence depended on the judge's assessment of the degree of the defendant's responsibility and his assessment of the time for which the accused would continue to represent a danger to the public.”

Risk of harm posed by the defendant

[40] Whether there is a potential for a recurrence of the defendant's mental state as of June 2022 is an important factor which has to be taken into account. The pre-sentence report from the Probation Board suggests that in large measure (though not completely) the defendant's mental health has now stabilised. He is not assessed

as posing a significant risk of causing serious harm in the future. For the prosecution, Mr Orr KC, has specifically confirmed that the prosecution does not challenge that assessment. That is an important and appropriate concession. As Mr Orr highlighted, not only does the Probation Board not see such a risk in the future, but nor do either of the psychiatrists who have reported on the defendant.

Consideration of sentencing options

[41] In light of all of the evidence and the way in which the case has been presented to me, I am satisfied that it is not necessary in this case to impose a hospital order, a discretionary life sentence, an indeterminate custodial sentence or an extended custodial sentence. Instead, I intend to impose a determinate custodial sentence, the length of which will be commensurate with the seriousness of the offence in accordance with Article 7(2) of the Criminal Justice (NI) Order 2008.

[42] The aggravating factors identified by the prosecution in this case are that Mrs Noone was a vulnerable elderly lady, that the offence occurred in her own home and that her killing was unprovoked.

[43] The mitigating factors are that the defendant has a clear record, that he pleaded guilty and also that he accepted his guilt from the very start.

[44] I should add that I have been impressed by a bundle of certificates of achievement and personal references which have been provided in respect of the defendant. These demonstrate or establish two separate but overlapping points. The first is that he has used his time in prison well to develop his own qualifications and to assist others by volunteering. The second point demonstrated by the references from a range of individuals who he has met at various stages of his life, is that he has contributed positively to society in a range of ways which strongly suggest that what happened in June 2022 was entirely out of character.

[45] Before passing sentence, however, I refer back to a point which was made towards the end of Ms Clarke's report. The point is her concern that he appears to be somewhat numb and emotionally detached to his involvement in his mother's death and that this period around sentencing may pose a potential for deterioration so that he should be supported by mental health services.

[46] Taking all these factors together, as best as I can, I consider that the appropriate sentence to pass on the defendant, but for his plea of guilty would have been in the region of nine years. Since, however, he has pleaded guilty and since he is entitled under law to have that taken into account, I reduce the term of imprisonment to one of six years.

[47] Judges are required by legislation to order that at least one half of any determinate sentence is served on licence. If the normal 50/50 approach is taken to the six year sentence, it will be served with three years in custody and three years on

licence. The defendant has been in custody for almost exactly two and a half years since June 2022, so the sentence which I have passed means that he must serve a further six months before release. This period should see him through the potentially destabilising period referred to by the Probation Board during which he should have the support of mental health services.

[48] The terms of the licence on which the defendant will be released in or about June 2025 are a matter for the Department of Justice. However, it seems to me that it would be beneficial to the defendant, and therefore to society, if they included some requirement to continue to engage with mental health services for so long as that is necessary.

[49] Finally, the prosecution applied in October 2023 for a confiscation order. In effect, this application has been presented so that the defendant does not profit from his killing of his mother by inheriting any part of her estate. I have been asked to defer consideration of that application for a further six months. There is no defence objection to that request. It is, therefore, granted.