

Judicial Communications Office

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COURT OF APPEAL GIVES REASONS FOR DISMISSING APPEAL BY FRANCISCO NOTORANTONIO

The Court of Appeal today delivered its reasons for dismissing the application for leave to appeal against sentence by Francisco Notorantonio who was given a custody probation order consisting of 11 years imprisonment followed by one year on probation for the manslaughter of Gerard Devlin in 2005.

Notorantonio had renewed his application for leave to appeal against his sentence which he claimed was manifestly excessive in that the trial judge did not give sufficient weight to his expression of remorse, his lack of intention to kill or cause serious bodily harm and his youth. The Court of Appeal dismissed the appeal on the following grounds.

The Lord Chief Justice, delivering the judgment of the Court, referred to the guidance issued by the Court of Appeal in the case of R v Magee [2007] NICA 21. This judgment provides guidance on the range of sentencing for the offence of manslaughter where the count is preferred on the basis that it cannot be proved that the defendant intended to kill or cause serious bodily injury. The guidance states that the range of sentence after a plea of not guilty should be between 8 and 15 years imprisonment. Aggravating and mitigating features are instrumental in fixing the chosen sentence within or – in exceptional circumstances – beyond this range.

The Lord Chief Justice said that in this case a knife was used, the offender evinced an indifference to the seriousness of the likely injury and that more than one stabbing occurred. Additional significant aggravating factors were that the attack occurred as part of a feud, that it involved the use of open violence in the public street on a Sunday afternoon when members of the public, including children, might be expected to be on the street and that it was one of a number of such incidents associated with this feud.

The Lord Chief Justice commented:

“Against that background this was a case which required a sentence at the top end of the range. We accept that for a person with a clear record who had pleaded guilty this was a stiff sentence but in our view the learned trial judge adequately reflected the mitigating aspects in the discount he has allowed. It cannot be said, therefore, that the sentence was manifestly excessive or wrong in principle.”

The Court of Appeal dismissed the appeal.

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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 Court Service website (www.courtsni.gov.uk).

ENDS

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