

Judicial Communications Office

Friday 25 November 2011

GERARD CONNERS ORDERED TO SERVE A MINIMUM TERM OF 13 YEARS IMPRISONMENT FOR THE MURDER OF SEAMUS FOX

Summary of Judgment

Mr Justice Hart, sitting today in Belfast Crown Court, set a 13 year minimum term of imprisonment to be served by Gerard Connors for the murder of Seamus Fox.

The Court was told that Seamus Fox was on his way home from the Donegal Celtic Sports Club on the Suffolk Road, Belfast on 22 April 2010 when he was accosted by Gerard Connors ("the defendant") who was looking for a cigarette. When Mr Fox and his companion, Raymond Gilmore, refused to give the defendant a cigarette he became verbally abusive. Mr Fox and Mr Gilmore walked on for some distance before they separated. Mr Fox's body was later found lying on waste ground near Woodburn PSNI Station. CCTV of the area showed the defendant following Mr Fox. He was later seen repeatedly striking downwards at someone on the ground, or perhaps trying to get up, and delivering blows and punches with very considerable force and determination.

The pathologist concluded that Mr Fox died from injuries to his head and neck sustained in a serious assault. The injuries resulted in heavy bleeding into the nose and mouth and would have severely impaired Mr Fox's ability to breath. This was compounded by fractures of his voice box which would have obstructed his upper airway.

The defendant went to the police the following day. He was examined by a medical officer and found to have a swollen jaw. He claimed that Mr Fox hit him first and that he hit back in self-defence. He also admitted kicking Mr Fox in the chest as he was trying to get back on his feet. The defendant said he hit Mr Fox on the face about four times but was emphatic that he would never stamp on anyone. The court was told that the defendant admitted drinking over 10 pints between 6.00 pm and midnight and had probably taken cannabis.

Mr Justice Hart said it was not possible to determine from the CCTV whether the defendant stamped on Mr Fox (this would have been an aggravating factor). He noted that the pathologist considered that some of the injuries were consistent with stamping but a pathologist for the defendant suggested the injuries could have been caused by several forceful blows. The judge said that it was not necessary to have a further hearing to determine whether the defendant had stamped on Mr Fox as the

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defendant had admitted kicking Mr Fox to the chest and this was a “particularly dangerous and cowardly action”.

Mr Justice Hart said he was satisfied that this was a case where the court should adopt the higher starting point of 16 years because of two factors. The first was that Mr Fox was struck as he lay on the ground, or as he tried to raise himself from the ground. He was therefore in an exceptionally vulnerable position when he was struck repeatedly and kicked. Secondly, extensive injuries were inflicted on Mr Fox and the minimum term should reflect this.

The judge referred to victim impact statements from Mr Fox’s widow, children and family. He said it was impossible to fully convey the depths of the grief, and the continuing sense of loss suffered by the family. In particular, he referred to the description by Mrs Fox of the added pain that wells up within her when she looks out from her house and can see the spot where her husband was found.

The judge also referred to psychiatric reports, character references and a pre-sentence report about the defendant. The reports record that the defendant started drinking at the age of 15 and had been using cannabis most days from the age of 14 or 15 as well as other drugs. The pre-sentence report concluded that he poses a significant danger to the public because of the violence and lack of self-control he displayed together with his limited insight into why he committed this crime.

Mr Justice Hart referred to a number of mitigating factors in the case:

- The defendant handed himself into the police the day after the attack and gave a detailed account of his actions during interview (although this was found not to be wholly truthful as he claimed he was acting in self-defence);
- The defendant was only just 18 when the offence took place;
- He has a clear record; and
- He entered a plea of guilty (but the credit for this is reduced as the plea was only entered on the morning of the hearing when the jury was about to be sworn).

Mr Justice Hart stated that had the defendant been convicted after contesting the charges the appropriate sentence would have been a minimum term of 16 years imprisonment. Taking into account his plea of guilty and the other mitigating factors, the judge sentenced him to a **minimum term of 13 years imprisonment**.

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

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judgment. The full judgment will be available on the Court Service website (www.courtsni.gov.uk).

2. The minimum term is the term that an offender must serve before becoming eligible to have his or her case referred to the Parole Commission for them to consider whether, and if so when, he or she can be released on licence. Unlike determinate sentences, the minimum term does not attract remission. If the offender is released on licence they will, for the remainder of their life, be liable to be recalled to prison if at any time they do not comply with the terms of that licence. The guidance is set out in the case of R v McCandless & Others [2004] NI 269.
3. A Practice Statement, [2002] 3 All ER 417, sets out the approach to be adopted by the court when fixing the minimum term to be served before a person convicted of murder can be considered for release by the Parole Commissioners. It also sets out two starting points. The lower point is 12 years, and the higher starting point is 15/16 years imprisonment. The minimum term is the period that the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence. This sentencing exercise involves the judge determining the appropriate starting point in accordance with sentencing guidance and then varying 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.

ENDS

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