

Judicial Communications Office

Thursday 2 June 2011

COURT SENTENCES FOR THE MURDER OF EAMON HUGHES

Summary of Judgment

Mr Justice Treacy, sitting today in Belfast Crown Court, sentenced Martin Murray to a life sentence with a minimum term of 18 years imprisonment for the murder of Eamon Hughes. He sentenced Kevin Toye to an indeterminate custodial sentence with a minimum term of 10 years imprisonment for the attempted murder of Martina Donaghy and Emma Donaghy. Liam Murray and William McDonagh were also sentenced for affray.

The four defendants had been found guilty on 13 April 2011 by Mr Justice Treacy who presided over the trial without a jury. The background to the offences and the judge's reasons were set out in the Court's judgment (R v Murray & Others [2011] NICC 18).

The Court was provided with victim impact statements from Eamon Hughes' widow, Eileen, his children (Siobhan, Kevin and Tracey) and Martina and Emma Donaghy who were injured during the attack. Mr Justice Treacy said the deeply sad, eloquent accounts bear witness to the "irreversible intense suffering, pain and anguish sustained by these victims and their families". He suggested that the defendant should be given copies of the statements so they could have some insight into the devastating consequences of their actions and also to better understand the punishment that the Court must impose because of the gravity of the crimes of which they have been convicted.

Mr Justice Treacy commented that:

"The pattern of previous offending of ... all of the defendants reveals persons who have a propensity to use violence against others with little or no provocation, without restraint and with the intention of alarming and injuring those who cross their path. They have not learnt from the past, have not responded to supervision and have shown little remorse for their actions."

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Martin Murray

Martin Murray was convicted of the murder of Eamon Hughes. He received a life sentence. In determining the minimum term that Martin Murray must serve the judge agreed with the Prosecution that there were no mitigating factors. He said there was no evidence of remorse. The judge referred to the aggravating factors: the attack was premeditated; Martin Murray armed himself with a knife; he has a record of violent offending and has not responded to previous sentences to correct his behaviour; and the murder has had an extreme effect upon the members of the Hughes family.

Mr Justice Treacy said he did not accept the Defence's submission that Martin Murray did not intend to murder Eamon Hughes but to cause him grievous bodily harm. He said that this was a deliberate stabbing by someone who had armed himself with a knife, threatened to kill, did kill by deliberately inflicting a stab wound which quickly led to the death of Eamon Hughes and who has demonstrated absolutely no remorse for his actions:

"In short, there is **no** evidence before this Court which would justify it in concluding that the offence or murder was mitigated by an intention to cause GBH rather than to kill. The evidence points unmistakably away from such a conclusion."

Mr Justice Treacy set a **minimum term of 18 years**. He also sentenced Martin Murray to a concurrent sentence of 10 years for the offence of affray of which he was also convicted.

Liam Murray

Liam Murray was convicted of affray. Mr Justice Treacy said that this is a serious and specified offence within the meaning of the Criminal Justice (NI) Order 2008 and therefore one that may attract a life sentence or one of the new public protection sentences (an Indeterminate Custodial Sentence ("ICS") or an Extended Custodial Sentence ("ECS")).

The Court heard that Liam Murray appeared in court with 8 previous convictions from 6 court appearances. On 10 November 2006 he was convicted of the manslaughter of a Lithuanian National on 16 January 2005. He was sentenced to a Custody Probation Order ("CPO") comprising 6 years' imprisonment and 2 years probation. He was released from the Young Offenders Centre on 2 April 2008, 6 months before the events giving rise to his present conviction. At this time he was meant to be serving the probation element of his CPO. He refused, however, to engage and breach proceedings

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were initiated which were ongoing at the time of these events. Furthermore, on 8 May 2008, 5 weeks after his release from detention he committed offences of disorderly behaviour and assault on police. The Court also heard there were concerns about Liam Murray's conduct whilst on remand as he had been involved in a number of adjudications.

The Court was presented with the conclusions of a multi-disciplinary risk management meeting which identified a number of risk factors such as Liam Murray's overall profile, his previous convictions, and his refusal/unwillingness to engage in services designed to address his high risk of re-offending. Mr Justice Treacy concluded that Liam Murray poses a risk of serious harm to others at this time and the greater level of protection provided to the public by the imposition of an ICS was required in the particular circumstances of this case. The offence of affray carries a maximum sentence of life imprisonment in this jurisdiction. The judge said, however, that it is of little practical assistance to look at the sentences imposed in other cases because of the infinitely varying circumstances in which affray may occur and the wide diversity of possible participation of those engaged in it. Mr Justice Treacy concluded that the appropriate determinate sentence in this case following a contested trial would have been 10 years. Applying the methodology set out in the Criminal Justice (NI) Order and R v Pauline Shaw and Colin Francis Shaw [2010] NICC 34) this sentence would be reduced by one half. **The minimum period which Liam Murray must serve before he can be considered eligible for release is therefore 5 years.**

Kevin Toye

Kevin Toye was convicted of two counts of attempted murder and one count of affray. He was also assessed as a high likelihood of re-offending and of posing a risk of serious harm to the public. The report of the multi-disciplinary risk management meeting stated that he had amassed a significant list of previous convictions, demonstrated that he can act both impulsively and in a pre-meditated manner, engaged in anti-social activities and, at times, aggressive and violent behaviour and has historically minimised his previous offending behaviour displaying limited victim awareness. There was significant concern about his escalation from previous offences. Mr Justice Treacy noted that Kevin Toye had not accepted responsibility for his behaviour and continues to state that the collision which led to Martina and Emma Donaghy being seriously injured was accidental. He said:

“Kevin Toye has continued to commit offences of a serious nature without regard for his victims. The present crimes

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represent a frightening escalation of criminality in which, as the Court has found, he deliberately drove a hijacked taxi at two defenceless women tending to a dying man and did so with the intention of killing. I hope he has read the victim impact statements and has grasped the full horror of his fathomless criminality.”

Mr Justice Treacy concluded that Kevin Toye meets the threshold of dangerousness and that as ECS would not be adequate for the purpose of protecting the public from serious harm. He was therefore required to impose an ICS. He said that the affray in the case of Kevin Toye was not confined to a single incident but included the hi-jacking of a taxi which was then driven into two innocent and defenceless women. Mr Justice Treacy concluded that the appropriate determinate sentence following a contested trial would have been 20 years. Applying the methodology set out in the Criminal Justice (NI) Order and R v Pauline Shaw and Colin Francis Shaw [2010] NICC 34) this sentence would be reduced by one half. **The minimum period which Kevin Toye must serve before he can be considered eligible for release is therefore 10 years.**

William McDonagh

William McDonagh was convicted of affray. Mr Justice Treacy said that he also has a relevant criminal record although it is somewhat shorter than his co-accused. The judge referred in particular to his previous convictions of possession of a prohibited weapon, namely a taser gun and possessing an offensive weapon. Whilst on bail for this latter offence he committed this current offence. Whilst on High Court bail for the current offence of affray, McDonagh was involved in an incident in Ballymena where he was observed by police to be carrying a machete with a 12” blade. He pleaded guilty to affray and criminal damage in connection with this offence and is currently awaiting sentence.

The pre-sentence report concluded that the nature of risk posed by William McDonagh was “finely balanced” given his more limited record. Mr Justice Treacy concluded that an ECS would be adequate for the purposes of protecting the public. He considered that the appropriate custodial term would be 8 years. In accordance with the Criminal Justice (NI) Order 2008 the date of release will be determined by the Parole Commissioners after William McDonagh has served one half of that period. Mr Justice Treacy imposed the maximum extended period of licence of 5 years. After William McDonagh is released from prison he will remain on licence for this period.

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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 and the Court's earlier judgment are 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.
4. Article 12 of the Criminal Justice (NI) Order 2008 defines what is meant by a "serious" and "specified offence" under this sentencing framework. If an offence is deemed to be serious and a specified offence the "dangerousness" threshold is deemed to be met and the Court must consider whether "**there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences**". If so, the Court can impose an Indeterminate Custodial Sentence ("ICS") or an Extended Custodial Sentence ("ECS"). These are commonly referred to as public protection sentences. An ECS must be imposed unless the

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Court considers that an ECS would **not** be adequate for the purposes of protecting the public from such future serious harm, in which case the Court is **required** to impose an ICS.

5. An **ICS** is largely indistinguishable in its effect from a discretionary life sentence. When imposing an ICS the Court is required to specify a period of at least two years as the minimum period being such period as the Court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence. This period attracts no remission and represents the minimum period which must be served before becoming eligible for consideration for release. The Court must firstly identify the appropriate determinate sentence. It then generally should allow a reduction of 50% of the determinate sentence to reflect the fact that such a defendant who is subject to a determinate sentence will serve no more than half of that sentence in prison (this is in accordance with the judgment in R v Pauline Shaw and Colin Francis Shaw [2010] NICC 34).
6. An **ECS** is composed of the appropriate custodial term and an extended period determined by the Court which is served on licence after release from prison. Under Art.18 of the Criminal Justice (NI) Order 2008 the Secretary of State shall release a prisoner after he has served one half of the period determined by the Court as the appropriate custodial term of the ECS.

ENDS

If you have any further enquiries about this or other court related matters please contact:

Alison Houston
Judicial Communications Officer
Lord Chief Justice's Office
Royal Courts of Justice
Chichester Street
BELFAST
BT1 3JF

Telephone: 028 9072 5921

Fax: 028 9023 6838

E-mail: alisonhouston@courtsni.gov.uk

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