

# Judicial Communications Office

Friday 28 January 2011

## COURT PASSES SENTENCE FOR MANSLAUGHTER OF HUSBAND

### Summary of Judgment

Mr Justice Hart, sitting today in Belfast Crown Court, imposed a determinate custodial sentence of four years (two years imprisonment followed by two years on licence) on Theresa Rafacz for the manslaughter of her husband, Piotr Rafacz. He also sentenced her brother Pawel Czop for withholding information.

The court heard that Theresa Rafacz returned home from work on 18 July 2009 to find her husband lying drunk on the floor of their flat. He was supposed to have been looking after their 3 ½ year old son but had gone out drinking during the day leaving the child on his own, probably for several hours. Theresa Rafacz said in her statement that her son was upset and distressed and she “just lost control”. She claimed that she did not intend to cause her husband serious injury. The court was told that Piotr Rafacz was a constant and heavy drinker. This had led to considerable marital disharmony as he did not go out to work and Theresa Rafacz had to work long hours to support herself, her husband and their child.

The forensic evidence pointed towards the deceased having been stamped on the head. There was considerable bruising and his nose was broken. Blood was found on Theresa Rafacz’s shoes and jeans. The pathologist concluded that death was due to blunt force trauma of the head. The post mortem report also indicated that the deceased had consumed a significant amount of alcohol.

Pawel Czop arrived at the flat after receiving a telephone call from his sister. He admitted during police interview that he had seen his sister kick her husband three times to the head. They then dragged the deceased’s body from the lounge to the hall. Some time later Pawel Czop phoned the police and emergency services.

Mr Justice Hart said Theresa Rafacz undoubtedly inflicted serious harm upon her husband when she kicked him and stamped on his head as he lay on the ground but accepted that this was the result of a “momentary loss of self-

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control by her in a spasm of anger” brought about by her discovery that her husband had left their child alone to go drinking, and then returned in a drunken condition when he was plainly incapable of exercising any proper supervision over such a small child. The judge said that in those circumstances it was proper to regard her conduct as lacking the necessary intent to kill or inflict really serious personal injury, notwithstanding the severity of the kick and stamping to his head.

Mr Justice Hart added, however, that her conduct amounted to “gratuitous violence” and noted that the courts take a severe view of attacks of this type. He considered there to be a number of aggravating factors in the case: the deceased was kicked and stamped several times on the head as he lay on the ground; no effort was made to seek medical attention in the immediate aftermath of the attack when it ought to have been obvious that the deceased was seriously injured; and Theresa Rafacz initially attempted to mislead the police by giving a false explanation before admitting her guilt.

The judge also referred to the mitigating factors: pre-sentence reports and evidence from work colleagues showed that she is hard working and held in high regard by her colleagues; she was subjected to considerable provocation by the deceased’s behaviour and the fact that he had left their child alone whilst he went drinking; she has a clear criminal record; the impact that a custodial sentence will have on her child and possibly her right to custody of the child in the long term; and her plea of guilty.

Mr Justice Hart concluded that this was a serious case in which a custodial sentence was inevitable. He imposed a determinate custodial sentence of four years imprisonment, of which two years will be spent in custody and two years on licence.

Pawel Czop pleaded guilty to one count of withholding information resulting from his failure to tell police at the scene that he had seen his sister kick her husband on the head. It was only during his twelfth police interview, towards the end of the second day of questioning, that he admitted what he had seen. The judge again reviewed the aggravating and mitigating factors. He said that offences of this nature are serious because they suppress the truth and prevent justice being done. Mr Justice Hart considered that the appropriate sentence would normally be one of six months imprisonment. He noted, however, that Pawel Czop had spent approximately two months in custody before being released on bail, and did not believe that any useful purpose would be served by sending him back into custody for such a short time. Mr Justice Hart sentenced Pawel Czop to 240 hours community service.

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## NOTES FOR 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](http://www.courtsni.gov.uk)).

**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](mailto:alisonhouston@courtsni.gov.uk)