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R v Fareissia Martin

Sentencing Remarks

On 28 March 2015 you were convicted of murder at this court and subsequently sentenced to life imprisonment with a minimum term of 13 years. These proceedings arise from the quashing of that conviction and its associated sentence by the Court of Appeal on 16th December 2020. Just prior to the jury being sworn, and in the light of new evidence being discovered by the prosecution, your plea to unlawful act manslaughter was accepted by the prosecution as a just disposal of the case, and the matter has proceeded to sentence. In addition, you are to be sentenced for two offences which occurred on 25 May 2020 when your prison cell was searched and an adapted razor blade and a mobile phone were found. I start with consideration of the manslaughter offence to which you have pleaded guilty.

This is a truly tragic case. It should never be forgotten that the person at the centre of this tragedy is Kyle Farrell, a young man who was killed by you when you stabbed him in the chest in the early hours of the morning of 21 November 2014. He was a beloved son, and a cherished family member of those who still grieve his loss to this day. He was a father, who will never have the joy and privilege of raising his children, guiding them and watching them grow in maturity, until in their turn they would support him. He was a talented sportsman, and someone with the obvious potential to be a valued and well-regarded member of his local community for the many years that his life should

have lasted. You robbed him of this future and all the opportunities for fulfilment that it held when you assaulted him in the kitchen of your home, stabbing him with considerable force through the heart, during an argument after you returned home late that night having been drinking with your friend. Immediately after you had stabbed him you set about attempting to cover up your responsibility for what you had done, inventing a lying account of you having come home to find Kyle in this state, and he having been attacked by unknown intruders. Eventually you came to accept in interview with the police that it was you who had stabbed and killed him. By your plea, you accept that your use of the knife was not in lawful self-defence, and that you unlawfully assaulted Kyle causing his death.

Your actions that evening have caused tremendous harm to Kyle's family, whose grief and devastation at his death are so eloquently spoken to in the statement that they have provided to the court. They daily face the void in their family's life created by his untimely death at your hands. Every family occasion, birthdays, weddings reunions will be a constant reminder of the loved one who is no longer with them, but who should be there. The court is reassured to read their endorsement of the acceptance of your plea to manslaughter as a just disposal of the case, and it is hoped that is of some use to Kyle's family in facing the future. But no sentence that I can pass will ever bring Kyle back or could provide any adequate compensation for the loss of his life.

I accept that you did not intend to kill Kyle, or to cause him really serious injury. Your picking up and use of the knife was not premeditated: it was the consequence of a row which spiralled out of control, fuelled on your part by your drinking that evening. I have no doubt that taking up the knife and using it to stab Kyle was an act that carried with it a high risk of death or causing really

serious harm, and that that ought to have been obvious to you. This is an offence which is correctly categorised as culpability B under the relevant guidelines. The use of a weapon is an obvious aggravating feature of some significance as is the fact that you were under the influence of alcohol; of less significance is the offence of affray you committed some time ago. These are factors to be taken into account to increase the appropriate starting point for your sentence.

There is undoubtedly significant mitigation in your case to be placed on the other side of the balance. First and perhaps foremost, you have consistently expressed your unqualified remorse for your actions that night and for killing Kyle. I have no doubt that you were very much in love with Kyle, and would long to turn back time and live the early hours of the morning of 21 November 2014 differently, but we have to live with the consequences of what we have done. In your case it means living for the rest of your life with the knowledge that the love of your life, your childhood sweetheart with whom you had brought two children into the world, died at your hands. Not only did you kill a partner you loved, but you must also live with the fact that as a consequence of your actions you deprived your children of a father and, in their formative years of a mother, effectively leaving them orphaned.

In recent times, during the hearing of your appeal, you have accepted that you are guilty of the offence of manslaughter, to which you have now pleaded guilty. That recognition has come late in the overall timescales of this case but is nonetheless in my view concrete evidence of you recognising and taking responsibility for what you have done. The guidelines in relation to credit for a guilty plea do not directly assist us in this case, as reflecting upon paragraph F3 of those guidelines, there had not prior to this week been an unequivocal guilty plea to this lesser offence. Indeed at trial, and before the appeal was heard, you

maintained your defence of self-defence. Nonetheless, I take account of the plea in the sense that as I have described, and in the spirit of the guidelines, it is clear evidence of you facing up to your offending and taking responsibility for it. I reject the submission on your behalf that you should have full credit: in my judgment the most that can be afforded is no more than 10%.

It is accepted by the psychiatric and psychological witnesses on both sides of the case that you suffer from Post-Traumatic Stress Disorder and depressive illness and I take this mental ill-health into account as a mitigating factor in setting the sentence in your case. The steps that you have taken to seek help and to improve yourself whilst in prison stand to your credit.

There is no doubt that you and Kyle had, as Ms Wade describes it, a complex relationship. It was tempestuous, and I have taken account of the descriptions in the reports of Dr Agnagnostakis and Dr Clifford of the domestic abuse in your relationship as a further related element of mitigation in your case. That which I have read about the steps that you have taken to sustain the relationship with your daughters stands very much to your credit: I have no doubt that you are a loving mother, and you are very fortunate to have such tremendous support from their foster mother and the local authority who have enabled this.

In relation to the second indictment, and the offences of possession of a mobile telephone within a prison without authorisation and possession of a bladed article whilst you were a serving prisoner, the first and most important point has to be that whatever the excuses for having possession of those items they are banned from possession in prison and banned for good reason. I accept the basis of plea that you have provided in relation to those matters, that you had the phone to stay in contact with your children whilst there were problems

with the prison phone system and that you used the razor blade to craft picture frames during the pandemic lockdown, but the truth is you knew that you should not have had them. I consider that the most serious of the offences is the possession of a bladed article and I propose to treat that as the lead offence for present purposes, taking account in the sentence for that offence the other offence in relation to the telephone, and also the question of totality in relation to these offences alongside the sentence to be imposed for manslaughter. In my judgment the sentences for these offences must be consecutive to that sentence. I give you credit in the form of a reduction of 25% in relation to both of these offences to reflect the fact that you pleaded guilty at the PTPH.

Turning therefore to the offence of manslaughter, I approach this as an entirely fresh sentencing exercise based on the material now before the court. I do not regard this as an exceptional case where I can have regard to the changes in the early release provisions since the original trial. The guidelines provide a starting point of 12 years and a category range of 8 to 16 years for an offence which falls within culpability category B. The starting point needs to be adjusted to reflect the aggravating and mitigating factors which I have identified, together with allowance for your plea of guilty. In my view the appropriate sentence for the offence of manslaughter in your case is one of 10 years. I order that the 2371 days that you have served both on remand and in relation to the earlier quashed life sentence shall count towards the sentence that I have now imposed. In relation to the offence of possession of a bladed article in prison I pass a materially shorter sentence than I would otherwise have done in the light of the need to have regard to the principle of totality. I sentence you to 9 months for the possession of the bladed article and 6 months concurrently for the possession of a mobile telephone in prison. I order that these sentences be

served consecutive to the sentence for manslaughter, making a sentence of 10 years and 9 months in all.