IN THE CROWN COURT OF NORTHERN IRELAND

THE QUEEN

v

TREVOR WILLIAM HAMILTON

McLAUGHLIN J

[1] Trevor William Hamilton you were convicted of the murder of Bridgit Attracta Harron on 12 April 2006, after a trial before a jury which commenced on 27 February this year. It was a killing which caused great shock and revulsion throughout the community and the trial was a harrowing experience for everyone who took part in it. As the evidence unfolded it became apparent that the prosecution case was irrefutable and your conviction was entirely justified. That outcome was the product of co-operation from the public, painstaking forensic analysis of material, co-operation between police forces, especially from An Garda Siochana, and above all to the professionalism, dedication and persistence of Acting Chief Inspector Gilmore and his colleagues in the PSNI.

[2] Mrs. Harron was 65 years old and had retired just a short time before after lengthy and dedicated service as a librarian in Strabane. She was in excellent health, a devoted mother and wife, had a dynamic and outgoing personality and was regarded with great affection and respect by all who knew her; she maintained very close ties with her family including her sisters and brother. She was physically fit and often walked the hills and countryside of Tyrone, Donegal and further afield. For her retirement was to be an opportunity, a new and fulfilling phase of her life, and she was determined it should continue to be as productive and enjoyable as it had been hitherto.

[3] She was also a woman of intense religious conviction who attended church on a daily basis, sang in the choir and participated fully in the life of

her church and parish. Possibly because of her religious beliefs she had a charitable view of people, was trusting of those she met and was rarely suspicious of their motives. She was so trusting in fact that, in spite of reservations expressed by others, she was known to accept lifts in cars, occasionally from strangers both young and old. She may have been particularly easy to persuade to accept a lift when she was at, or close to the foot of Curleyhill Road which was near the town centre because the road rose steeply from there and parts of it had no footpath. It would seem that ultimately her trusting and devout disposition led to her death at your hands however.

[4] On 11 December 2003, she left home at 13 Curleyhill Road, Strabane, about 9.00am to walk to Murlough Chapel outside Lifford, Co Donegal, to attend morning Mass. It was her intention to walk home and- then to go shopping with her daughter Eilis; she did attend Mass but never arrived home.

[5] She undertook the rather long walk to and from Mass as part of a determined fitness and weight control programme and she was also completing a special prayer cycle to the Devine Mercy on behalf of her daughter who had suffered ill health but was about to undergo an interview for a new job at Queen's University, Belfast. Fragments of her prayer book and rosary beads were recovered from the bed of a fire at the garden of your home and were an important part of the evidence leading to your conviction.

[6] Her body was found on 5 April 2004 in a burial site at the base of the river bank behind your home. The suspicions of the police fell on you at an early stage and you were charged with Mrs. Harron's murder in March 2004 before her body was found. When her body was hidden she had been stripped of all her clothes and further indignity was heaped upon her by you by placing her body in an animal feed sack. So determined were you to destroy all possible evidence that you burnt not just her clothes and personal effects in your garden, but you also set fire to your car. Fortunately your attempts were so clumsy that sufficient traces remained from them to be identified as hers, including traces of her blood which miraculously survived the fire in your car.

[7] Having heard the evidence I am satisfied, as was the jury, that you killed Mrs. Harron after abducting her, almost certainly after you offered her a lift, when she was close to the centre of Strabane on her way home from Mass. What happened thereafter can be put together only partly for it seems sure that Mr. McCauley saw her in your car within a half hour of the last sighting of her in Strabane. The presence of her blood in the rear of the car, which must have been there before it was set on fire, means that she was almost certainly dead within an hour or so of her abduction.

[8] The manner of her death was callous and brutal in the extreme as is apparent from the nature and extent of the injuries revealed at the post mortem; I quote from the report of Professor Crane:

> "This was the decomposing body of an adult female of apparent average build and measuring 154 cm (5 feet Vi inch) in height. The autopsy revealed no apparent serious natural disease to cause or accelerate death, however a detailed examination of the internal organs was precluded by the extent of the decomposition. There was a fibroid in the womb but this was just an incidental finding.
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> There was clear evidence that she had sustained head injuries. There was a laceration on the left side of the scalp above the left ear and a further laceration, with clean-cut margins, just behind the pinna of the ear. The skull subjacent to these wounds was badly fractured and the fragments depressed inwards into the liquefying brain. A further laceration was located on the left side of the face extending from the root of the nose to the upper lip and this was associated with fractures of the nasal bones and the upper jaw. Although there was no apparent external injury to the right side of the head there was a fairly extensive curved fracture of the skull here which extended to the upper margin of the bony eye socket.
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> The scalp and facial injuries would suggest at least three blows to the head with a heavy object possibly with a cutting edge such as an axe or hatchet. The damage to the right side of the skull could have been due to a further blow from a blunt object or as a result of counter pressure if one of the blows to the left side of the scalp was inflicted whilst the right side of the head was resting on a hard surface such as the ground.
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> Although the skull was of somewhat less than normal thickness and density the extent of comminution of the bone would nonetheless indicate fairly substantial force having been used. There can be little doubt that these injuries would have been associated with significant damage to

> the underlying brain sufficient to cause fairly rapid death.
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> No other antemortem injuries were apparent and there was no evidence of sexual assault."

[9] These findings were reviewed by Dr. John Rutherford, Forensic Pathologist, and there was no significant difference in their opinions, although he could find no clear indication of a particular type of weapon having been used. He suggested that, whilst an axe or other similar sharp edged object could have been used, on balance he would have expected to find more cleanly cut external wounds and perhaps more linear fracturing of the underlying skull. He broadened the possible "weapon" used to include the edge of a brick or stone, a metal bar, a lump hammer or the heel of a boot. By whatever mechanism the fatal injuries were inflicted there can be no dispute that very significant force was used and it was applied pitilessly with chilling cruelty and without regard for the suffering of a helpless woman unable to escape, to fight back or otherwise defend herself. For reasons which I shall set out later I am sure the motive for the original abduction of Mrs. Harron was a sexual one and that you killed her as part of your attempts to ensure you would not be caught.

[10] The murder of Mrs. Harron not only destroyed her prospect of a happy retirement but has also had the most profound consequences for her husband, children and wider family circle. The prosecution has presented to me for consideration the statements of her husband Michael Anthony, her son Micheal Eoin and her daughter Camille in which they analyse the impact of your actions on them as individuals and the wider family. It is easy, but incorrect, to believe that one can understand what they went through after she disappeared: the long wait for her body to be found, their desperate efforts to keep believing she might be alive, their lonely and failed attempts to find her - including walking the streets of Dublin on a freezing Christmas Day, the grief and exhaustion during the wake and funeral and the awful void that has resulted in their lives since. To comprehend the enormity of these events it is necessary to read those statements. I accept their accuracy without reservation and they accord entirely with the evidence given at the trial by Mr. Harron Snr, Eilis, her sisters Mary and Carmel and her brother Joseph. I also received the evidence of Brienin Maire, another daughter of Mrs. Harron: she was too ill to attend the trial and her witness statement, made before her mother's body was found, was distressing in the extreme as she described her belief that Mrs. Harron was still alive. The dreadful deterioration in her health following the finding of her mother's body is another facet of the terrible toll this killing has wrought. The devastating impact of what you did led Michael Eoin to say in his statement that your actions "will reverberate for generations through our family." I consider that

to be an appropriate point at which to turn to consider the sentence which I should impose upon you.

[11] The determination of the punishment for this crime is made within the framework of the Life Sentences (Northern Ireland) Order 2001 which came into operation on 8 October 2001. It requires that in a case, such as this, which involves the imposition of a life sentence, the judge is required to fix a term of imprisonment - known as the tariff - which is intended to serve as retribution and deterrence given the seriousness of the offence in question. I was reminded repeatedly in the course of the hearing in relation to sentence that the matter of detaining a murderer in custody in order to protect the public is given effectively to the Life Sentence Review Commissioners established by the 2001 Order. This is an area of practice which has been well rehearsed in a number of cases and I accept that interpretation of the provisions of Article 5(1) and (2) of the Order.

[12] In England and Wales a Practice Statement was formulated in May 2002 by Lord Wolff LCJ to give guidance to judges in these cases. The background events leading to its issue and its terms are set out fully in *R v McCandless and Others* [2004] N1 269 and I need not repeat those details now. Although the Practice Statement has been superseded in England and Wales by the provisions of the Criminal Justice Act 2003 it continues to have effect in this jurisdiction: this was affirmed in *McCandless* by the Court of Appeal (see paragraph 10 of the judgment of the court) and again in *Attorney General's Reference No 6 of 2004* when the Court headed by Sir Brian Kerr, the present Lord Chief Justice, stated that it did not consider the principles set out in the 2003 Act could be applied in Northern Ireland without legislation and so the Practice Statement of May 2002 would remain the basis for sentencing in cases of murder. I seek, therefore, to fix the tariff in accordance with its provisions.

[13] The initial step in the sentencing process is to establish whether the higher or lower starting point applies. In this case there is no dispute that the former applies and so initially I have decided that the higher starting point of 15/16 years applies as it appears to be self evident from the facts proven and clearly accepted by the jury that this is the appropriate point at which to begin.

[14] The guidelines then lead to a consideration of the aggravating and mitigating factors relating to the accused and the offence which may produce a variation of the initial starting point. A considerable number of these factors are relevant and I shall look at these in more detail. I should record at this stage however that Mr. Phillip Mooney QC when entering the plea in mitigation was able to point to only one possible mitigating factor in your favour, namely your age. At the time of the offence you were 21 years 6 months old. By any standards you were still a young man but you were also a fully developed adult and functioned in a normal way in that you enjoy

average intelligence and held down a regular job. As the medical evidence shows you do not suffer from any mental illness or abnormality of personality. Your experiences of the criminal justice system were extensive and you were therefore fully aware of what was right or wrong and had much advice, direction and counselling to assist you. I do not consider it appropriate therefore to regard your age as a mitigating factor.

[15] You have a dreadful criminal record made worse by the sequence and pattern of your offending which began when you were just under 16. On 17 December 1999 you were convicted of five counts of indecent behaviour which were committed between 12 May and 25 June 1998. These offences involved exposing yourself and masturbating before women drivers who were passing along country roads. You denied involvement initially, then pleaded guilty, later admitted to Dr. Fred Browne that you had begun to expose yourself when you were 16 and that your victims were women in their 20's who were driving alone. After your conviction you were placed on probation and were referred to the Barnardo's project for young sexual offenders which was due to commence in February 2000; this did not occur however because of your arrest in connection with a rape and other offences which were committed on 16 February 2000. This was an alarming development in its own right but more so as it was just two months after you had been before the Youth Court and placed on probation for the earlier offences. The February 2000 charges were very serious by any standard. You were convicted of Rape, Attempted Buggery, Indecent Assault on a female (forced oral sexual contact) and making threats to kill. The circumstances of those offences were dealt with in detail at this trial as the convictions were admitted in evidence before the jury. The victim, Ms. H, was abducted by you after she had taken a lift in your car on the pretext that you would leave her home whereas she was taken to your parents' home, when you knew they were absent, and she was subjected to a prolonged sexual attack leading to your conviction for the various offences I have mentioned. The victim was so greatly traumatised that even six years later she was unable to come to this court to give evidence of what happened and her statement made at the time of the events was read to the court. The examination of the details of those offences which that took place in this trial, including hearing evidence from you as the accused, showed that Ms. H was subjected to a dreadful ordeal and it is not surprising she was unable to attend the court so long after. A particularly significant feature was that you threatened to kill her in order to frighten her and so prevent her reporting the attack to the police. This is something seen often in such cases and may or may not be intended to be taken seriously. In this case however Ms. H was so fearful that she pleaded for her life and was eventually allowed to go free. She took the threats very seriously indeed.

[16] Following your arrest in 2000 you denied involvement and only pleaded guilty at the "door of the court." The evidence against you was

overwhelming but despite that, and your plea of guilty, you now deny your guilt and did so on oath before the jury. I observed you carefully when you gave your evidence and witnessed what I regard as a pathetic, puerile and transparently lying exercise which revealed a complete lack of insight or empathy for your victim. The original sentence imposed upon you at Fermanagh and Tyrone Crown Court was referred to the Court of Appeal by the Attorney General and found to be unduly lenient and it was increased to seven years' imprisonment to be followed by one year's probation. The Court of Appeal considered the appropriate sentence ought to have been higher still but for reasons set out in its decision it limited the sentence as you are aware. These events were remarkable in the life of anyone but when they occur in respect of the behaviour of a person not yet 18 they suggest that something alarming has occurred. You served that sentence and were released with 50% remission on 18 August 2003. .

[17] You were refused home leave during your detention because you were assessed as posing a high risk to women and demonstrated a high risk of re-offending and when released you refused to live in a hostel approved by the Probation Service. A measure of the concern that your release engendered is that in the four months following it the Probation Service had 41 contacts in connection with your work plan including unannounced visits to your home and informing your employer of your status. You were also required to undertake the programme for the prevention of sexual abuse, details of which were also given during the trial. Within four months of your release you had abducted and murdered Mrs. Harron thus vindicating all the fears and anxieties of those who had worked with you. There can be little room for doubt that if you had not been caught and imprisoned again that you would offend again in the same or a similar manner. I have no doubt that you are an extreme danger to women and a life sentence in your case, even with a fixed tariff, could quite possibly mean you would never be released.

[18] The question I must now ask and answer is whether the seriousness of the offence is such that I should make no order under Article 5(1) of the 2001 Order - which would mean in effect that I would impose a "whole life tariff" - or if I should fix a minimum term and allow the Life Sentence Commissioners to determine whether you should be released at some date thereafter should they conclude your continued detention was no longer necessary for the protection of the public. To answer the question I must consider which aggravating or mitigating factors relating to you or the offence are present.

[19] I consider that the facts proved at the trial show the following aggravating and other relevant factors are present:

(i) By reason of your appalling previous record, which I have just outlined, I consider your culpability in this offence to be extremely high.

Although you have not killed before you have been guilty of violent sexual offences of a grave kind and have made credible threats of death to your victim. The infliction of violence and indignity on vulnerable women is part of your stock in trade.

(ii) The pattern of the previous offending shows a complete failure to respond to the work of the various agencies and there has been devious behaviour on your part designed to mislead them and secure a more favourable outcome for yourself. By pleading guilty at the last moment in the rape case you sought to gain credit and reduction of sentence by "sparing" your victim the ordeal of giving evidence but in the present case you asserted your innocence, claimed you were pressurised into pleading guilty and engineered a situation which but for her illness would have forced Ms. H into giving evidence. You were willing to say what suited you when the pre-sentence report was prepared and to mislead the sexual therapists in order to get through your period on probation while all the time you had no intention-of reforming. These factors of course point to the risk of further offending, which I am not considering, but they also point to the extent of your culpability in abducting and murdering Mrs. Harron so soon after your release. This is undoubtedly what makes this case so very different from other cases where the instant charge or charges may be similar,

(iii) The concealment of the body of Mrs. Harron and the destruction of evidence in such a calculating and systematic fashion evidence a high degree of culpability. The manner of the disposal of her body involved great indignity and has added immeasurably to the prolongation of the agony of her family. As Mr. Harron Jnr put it:

> "The fact that he hid her body massively increased my torture as we did not know if she was alive or dead. This uncertainty leads to a false hope that is exceptionally cruel."

The frantic efforts made by all the family to find Mrs. Harron, including those bleak and fruitless searches in Dublin, as described by Camille and Mr. Harron, are sufficient to explain why hiding her body in such a way, intending that it should never by found, constitutes a major aggravating feature.

(iv) The abduction of Mrs. Harron when she was alone, albeit walking in public, must have added greatly to her distress and fear but because of her trusting character and religious belief she might have failed to, recognise initially just how perilous her plight was. She was held captive for a substantial period however and driven in the opposite direction to her home and it must have become obvious to her that your intentions were malign. If Mr. McCauley was correct - and I am sure he was - she was injured and in distress soon after her abduction.

(v) The advanced state of decomposition of the body when found precluded evidence being found which might have established a sexual

assault upon Mrs. Harron. I am sure however that her abduction was for a sexual purpose. As Mr. Terence Mooney QC for the prosecution put it, there was no other logical reason for it. No other explanation has ever been advanced even on a theoretical basis and it is impossible to think of a credible one. This overwhelming inference is supported by the similarity of the pattern of your previous offending and by the fact that you have a proven "enduring predilection to predatory, sexual and violent offending against women" as it was described by Dr Bownes, Consultant Forensic Psychiatrist.

(vi) Finally, although they may not fall within the actual terms of the Practice Statement, just as the issue of abduction is not, there are other matters which nevertheless should be taken into account. Mrs. Harron was 65 and retired although she was fit, strong and healthy. She was out walking alone however and was by any standards vulnerable to attack by someone as young, strong and criminally disposed as you. The reference in the Practice Statement to the factors which attract the higher starting point include where "the victim was a child or was otherwise vulnerable".

No doubt someone who was mentally or physically feeble or of advanced years would be "vulnerable." I consider however that a women of 65 walking alone, even in daylight and in an urban environment, is also "vulnerable" in terms of the above provision notwithstanding that it has been said a woman of 56 years when fit and well could not be considered vulnerable. There is a significant difference between being 56 and 65. This factor can therefore be taken into account in fixing upon the higher starting point.

[20] The killing of Mrs. Harron had the effect of removing the main or perhaps the only witness to her abduction and assault, even assuming that no sexual offence was committed. It may be that such circumstances were not envisaged as falling within the concept of a murder intended to obstruct the course of justice which is specified in the 2003 Act. Nevertheless the law must be astute to recognise the need for deterrence of any offender who may be tempted to kill as part of the cover up of other offences.

[21] I conclude the review of all the evidence and circumstances by referring briefly to the psychiatric and psychological reports of Dr. Bownes and Dr. Hanley respectively. They show you have no mental illness, are of average ability, have no apparent antisocial personality disorder and your mental functioning, judgment and perception of events are not impaired. Indeed your upbringing by your parents and your relationships with them and your siblings all appear to be normal. These combine to make it all the more difficult to understand your offending. The contents were not relied upon by your counsel as demonstrating any mitigating factor.

CONCLUSION

[22] The Practice Statement makes clear throughout that its purpose is to give judges guidelines and does so by giving examples of certain factors which can be regarded as aggravating or mitigating factors. These are not directions and are not intended to be exhaustive. The statutory guidelines in

the 2003 Act are more comprehensive and demonstrate a difference in approach but it may be that the Practice Statement provides more flexibility and room for the exercise of discretion. The provision of stronger guidance or directions to judges in England and Wales does not, in my opinion, mean that murder is punished more severely there than in Northern Ireland. I believe that the two processes should be seen as two roads, different in some ways, but ultimately leading in the same direction.

[23] Having regard to the presence of a number of the factors which attract the higher starting point, the major aggravating factors and the absence of any mitigating factors a very high tariff figure is justified, indeed demanded in this case. The rapidity of your reoffending within months of your first convictions and later release from prison, the gravity of the offences committed against Ms. H in 2000, the sinister similarity in the circumstances of those offences and the death of Mrs. Harron together with the complete lack of any remorse on your part have however driven me to the conclusion that the demand for retribution and the need for deterrence of people who think and act like you that this is a quite exceptional case. A rapist who treats a victim as you treated Ms. H and who threatens to kill her to secure her silence and who then kills another victim whom he has abducted in these circumstances and does so within four months of completing a seven year term of detention must face a severe sanction in the absence of any mitigation. What you did to Mrs. Harron, a good and loving woman, was at once nauseating and horrifying, it was the stuff of nightmares and the epitome of the loss of innocence in our community. What that poor woman experienced as you prepared to execute her, whatever weapon you used to accomplish it, was so appalling that it demands retribution of the most severe kind. When the multiple aggravating factors are taken into account, particularly that you murdered her so soon after your release from prison from such serious offences, I conclude that only one punishment is appropriate especially as you have been given a second chance in the past but it had no effect on your behaviour.

[24] I shall therefore order you to be sentenced to life imprisonment and that the release provisions of Article 5(1) of the 2001 Order shall not apply to you. This is necessary in my opinion to satisfy the demand for retribution and to deter others from committing such appalling acts. You will in consequence spend the rest of your life in prison.