THE COURT OF APPEAL

Record No.: 37/CJA/22

Edwards J.
Kennedy J.
Donnelly J.

IN THE MATTER OF SECTION 2 OF THE CRIMINAL JUSTICE ACT 1993

BETWEEN/

THE PEOPLE (AT THE SUIT OF
THE DIRECTOR OF PUBLIC PROSECUTIONS)

APPLICANT

-AND-

KEITH MALONE

RESPONDENT

JUDGMENT of the Court delivered on this 3rd day of November, 2022 by Ms. Justice Donnelly.

1. Keith Malone ("the respondent") took a knife from the kitchen drawer in the home of Ms. K., his then partner, and the mother of his infant child, and stabbed her four times, mainly to her back, as she tried to flee in panic. She spent 19 days in hospital recovering from her injuries which included a pneumothorax (a collapsed lung), a penetrating liver injury with a 2.5cm liver laceration and an undisplaced facture of the right posterior tenth rib. The respondent, who had a number of previous convictions, the most relevant of which were two convictions for assault and one conviction for possession of a knife, pleaded guilty to one count of assault causing harm contrary to Section 3 of the Non-Fatal Offences Against the Person Act, 1997, and one count of production of an article, contrary to Section 11 of the Firearms and Offensive Weapons Act, 1990.

2. The respondent was sentenced to 3 years imprisonment on each count to run concurrently, the final three months of which were suspended on conditions that he

    a) enter a bond in the sum of €500,

    b) keep the peace and be of good behaviour towards all the people of Ireland for a period of 12 months

c) remains under the supervision of the Probation Service for a period of 12 months, keep all the appointments, comply with all the probation officer's lawful directions and recommendations, co operate with any assessments or domestic violence programme or other therapeutic programme deemed suitable by the Probation Service, notify the Probation Service of any change in personal circumstances while under supervision including any change of address, employment or contact details,

d) to have no contact and to stay away from the victim

e) And to attend as recommended by the Probation Service the Men Ending Domestic Violence programme and to cooperate with any assessment for any therapeutic programme for which he is deemed suitable.

3. This is an undue leniency application against that sentence which is brought by the Director of Public Prosecutions ("the DPP") pursuant to the provisions of s.2 of the Criminal Justice Act, 1993.

Background & Facts

4. On 6th January 2019, the respondent was staying with Ms. K in order to visit their one-year-old daughter. At some point in the day, the respondent went to a pub with some friends. Ms. K followed later in the day, and the respondent's friends left a short time after that. At that point, the respondent and Ms. K returned to her home, where an argument ensued in which the respondent was blaming the victim for various matters.

5. During the argument, the respondent said, *"I could stab you. My mother knows I could stab you"*. He ran to the kitchen and took a knife from the kitchen drawer. The victim, Ms. K, attempted to escape through the locked front door. The respondent stabbed her four times in the back and right arm above the elbow, resulting in serious injuries. The victim remembers thinking *"I'm dead, I'm dead"*. She saw him locking the door and noticed that he had a really angry look. She pleaded with him to stop. She believed when he saw the blood something clicked with him and he said to her *"What are you after making me do to you?"*. She tried not to panic as she didn't want him to panic. She said to him *"Will we just get out and get an ambulance."*

6. It was accepted by the sentencing judge that, following the assault, the respondent brought the victim to a neighbour's house, placed her in an armchair, and asked for an ambulance to be called, repeating *"I'm after stabbing her"*. Neighbours gave evidence that the respondent was visibly intoxicated.

7. The respondent returned to the house to retrieve the child and some belongings before handing the one-year-old to a neighbour to be cared for. There was some dispute at the sentence hearing about whether he initially refused to hand the baby over. He was later arrested and cautioned by Gardaí. His response was to ask the arresting Garda *"is she alright?"*.

8. The respondent exercised his right to silence during his interview with the Gardaí. He pleaded guilty to the charge of assault before Drogheda Circuit Court on the 14th January,

2020. He pleaded guilty to the second charge, production of an article capable of causing harm, before Naas Circuit Court on the 19th January, 2022. Having relied upon his right to silence and not entering into signed pleas, he otherwise cooperated with Gardaí and the court process.

The Effect on the Victim

9. At the sentence hearing, the DPP read the statement of evidence of Ms. Jane Rothwell, Consultant Surgeon who outlined that Ms. K was treated in the Emergency Department of Naas General Hospital in relation to her injuries. She had already had a needle decompression of the right side of her chest performed at the scene by an advanced paramedic. In hospital, she had a chest drain inserted and was managed for pneumothorax. She was admitted as a surgical patient and treated surgically for 19 days in the hospital. It was nine days later before her right lung had almost fully expanded.

10. The victim gave evidence of the effect of the incident upon her. She recalled being terrified and was sure she would be killed. She remembers lying on the couch in a neighbour's house having difficulty breathing and thinking that she was going to die and never see her children again. She told herself she couldn't die saying to herself *"You can't leave your babies"*. She described the procedures in hospital saying at times the pain was unbearable. She was scared that the respondent would come for her and had to be given medication to help her sleep.

11. Getting out of hospital was the beginning of her nightmare as she was afraid to leave her house in case the respondent would come for her. She has huge fear and anxiety. She has had counselling and has spent hundreds going to see specialists to help her with the trauma. Her other children, aged 18 and 15, were also affected by this. She was told many times she was lucky to be alive as "one more inch" would have killed her. She said her life and the lives of her children had changed forever.

The Sentencing Remarks

12. In the course of her sentencing remarks on the 19th January, 2022, the sentencing judge outlined the facts as set out above. When considering the aggravating factors, the sentencing judge highlighted the severity and viciousness of the assault, the serious injuries suffered by the victim, the high level breach of trust on the part of the respondent, the level of intoxication on the part of the respondent on the evening of the assault, the use of a weapon which inflicts greater injury, the significant impact physically and mentally on the victim (including her ability to have trusting relationships, to move on with any work, and to not be fearful), and finally, the previous offences and convictions of the respondent, including a historic assault conviction.

13. The maximum sentence of imprisonment that might be imposed on each count is set by statute as one of five years. Having considered the aggravating factors in the case, the sentencing judge placed the headline sentence as one of five years (60 months) in relation to each offence, though to run concurrently. She then turned to the mitigating factors.

14. As mitigating factors, the sentencing judge took into consideration the lack of premeditation, the respondent's behaviour immediately following the assault, the fact that

he didn’t abscond and took care of his child, the fact that he abided by all bail conditions between his arrest and the sentencing hearing, his ongoing cooperation with Probation Service, and repeated clear urinalysis tests. She took into account that he was remorseful and that he had pleaded guilty.

15. In applying the mitigation to the offence, the sentencing judge said that she was obliged to reduce the period of imprisonment and that the appropriate reduction was one of 20 months which brought that down to a period of 40 months which was three years and four months. The judge then said that taking into account the early plea she would reduce it to three years. She then said that she was obliged to look into the possibility of being rehabilitated fully as she noted the stated intention to cooperate with the Probation Service. She said it was appropriate to suspend the final three months, saying *“I think that to suspend any more than that would be disproportionate in all the circumstances”*.

16. It is of some benefit to quote directly from the sentencing remarks as it sets the context for this application. The sentencing judge stated:

> *“It seems to me that without doubt I have to place this offending at the highest end of the higher range. That means that it's deserving of a sentence of imprisonment prior to mitigation of a period of five years, which would be 60 months' imprisonment. I have to bear in mind that in accordance with the jurisprudence of the Court, an early plea and a plea during covid is deserving of a certain level of mitigation, as indeed are the other factors that I've mentioned. So, in that regard, taking all of the factors into account, it seems to me therefore that I should and that I'm obliged to really reduce the period of imprisonment to a period of – by a period of 20 months, which would bring it down to a period of 40 months, which is three years and three months' imprisonment. So, I think taking all of the mitigating –*
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> *COUNSEL FOR THE DPP: Three years and four months.*
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> *JUDGE: Three years and four months. But taking all of the mitigating factors into account, including the early plea, I think I have to reduce it in the circumstances to a period of three years' imprisonment. I then have to look at the possibility of your being rehabilitated fully and in that regard I note that you have indicated that you are willing to co operate with whatever the Probation Service indicate is of assistance to you in terms of that rehabilitation and in that regard I think it appropriate in all of the circumstances, and I'm trying to be proportionate but bearing in mind the very serious nature of the this offence, I'm going to reduce the final three months of that sentence because I think to – or sorry, I'm going to suspend the final three months of that sentence because I think that to suspend any more than that would be disproportionate in all the circumstances and taking it all into account and I'm going to suspend the final three months of the sentence on the terms as set out in the probation report on your bond to be of good behaviour and to keep the peace and to enter a bond in the sum of €500 in that regard. I'm aware of the effect that this has on your employment and your income situation. So, in that regard that you engage with the Probation Service and that you follow all of their directions….”*

Grounds of Application for Undue Leniency

17. In her notice of application, the DPP relied upon four grounds of application in submitted that there had been undue leniency in the sentence imposed. These were that:

    i) While the sentencing judge was correct in adopting five years' imprisonment as the headline sentence, she erred in principle in granting a reduction of 20 months in respect of the mitigating factors which she identified as being present and in further suspending a portion of the remaining sentence so as to leave the sentence to be served by the respondent as one of two years and nine months.

    ii) The sentencing judge erred in granting an excessive reduction for mitigating factors, including the guilty plea which was not entered at the earliest opportunity.

    iii) The final sentence was manifestly inadequate and failed to reflect the very serious nature of the assault committed against the victim in a domestic setting. The assault, which consisted of stabbing with a knife, inflicted serious injuries on the victim necessitating a stay of 19 days in hospital and was, moreover, an assault committed in the presence of a very young child.

    iv) The final sentence represented a marked departure from the level of sentence that was appropriate for a serious assault of the kind perpetuated by the respondent herein with all the aggravating circumstances, including the use of a knife and the respondent's previous convictions, that were present.

The DPP's Submissions

18. At the hearing of the application, counsel for the DPP made three important points at the outset. The first was that there could be no complaint about the headline sentence that was set. The five-year maximum was imposed and it was fully justified in the circumstances. Secondly, the DPP accepted that there was entitlement to mitigation in this case as there had been a plea of guilty made at a relatively early stage. Finally given the maximum sentence of five years, the Court had limited space to manoeuvre but nonetheless there was sufficient scope to adjust the sentence to one which better reflected the offending behaviour and the mitigation. Counsel submitted that given the factors in the present case, there was no justification for the extensive mitigation given in relation to the offence.

19. Counsel for the DPP submitted that there were serious aggravating factors in the case, namely the extent of the stabbing and resulting injuries, the presence of the infant child, and that it took place in the victim's home. The fact that the victim was in a relationship with the victim (highlighting as relevant s.40 of the Domestic Violence Act, 2018, which provides that the relationship between defendant and victim can be an aggravating factor in sentencing for relevant offences of which s.3 of the Non-Fatal Offences Against the Person Act, 1997 is one) was also relied upon.

20. In relation to the mitigation, the DPP submitted that the 20-month reduction and the further suspension were in error. Although accepting that entitlement of a convicted person to a penalty reduction for pleading guilty is a well-established sentencing principle, the DPP submitted that undue weight was given to the respondent's guilty plea. The DPP submitted

that the level of reduction is a sliding scale, and the 33% reduction afforded to the respondent in this case was too high, given the circumstances.

21. The DPP submitted that the normal discount from a sentence for a guilty plea ranges from 10% to 33% in most cases. It was further submitted that, per *People (DPP) v Molloy* [2016] IECA 239, applying discounts for mitigation is not to be calculated in strict mathematical fashion.

22. The respondent in this case did not plead guilty at the earliest possible opportunity but did enter a guilty plea on arraignment. He also cannot be said to have been caught 'red-handed', although the DPP submitted that the prosecution case would have been very strong in the event of a contested trial, with few other possible perpetrators and several witnesses in the victim's neighbours.

23. The DPP argued that excessive weight was afforded to the guilty plea based on the timing of the plea and the weight of the evidence against the respondent, but also submits that it could not be assumed that sparing the victim the trauma of testifying and being cross-examined was a consideration in this case. In this case, the DPP submitted that it cannot be assumed that the guilty plea had the same value from the victim's perspective as she has demonstrated willingness to testify/submit a victim impact statement.

24. Finally, the DPP referred to the jurisdiction of England and Wales, acknowledging that decisions of which are not binding. In *R v Maughan (Appellant) (Northern Ireland)* [2022] UKSC 13, the UK Supreme Court held that there was nothing to prevent other UK jurisdictions from taking account of further factors, such as whether the defendant was caught 'red-handed' and the stage at which the guilty plea was entered, when considering the weight to afford to a plea.

25. The DPP submitted that while the headline sentence may have been correct, the effective sentence of two years and nine months (accounting for the three-month suspension) was manifestly inadequate, given the very serious nature of the assault committed in a domestic setting, the use of a knife in the assault, and the respondent's previous convictions.

26. The DPP relied on *People (DPP) v Sutton* [2020] IECA 250 [77], in which this Court found that *"… assaults such as this one committed in the context of domestic violence and within the family home are every bit as serious as, and arguably more serious than, assaults on strangers and outside the family home."*

27. The DPP submitted that there is no obvious justification for suspending the final three months of the sentence. It is established that some portion of a prison sentence can be suspended to incentivise rehabilitation, but, per *People (DPP) v Coughlan* [2019] IECA 173, there has to be a sound evidential basis for intervening ('going the extra mile') on the grounds of rewarding progress towards rehabilitation to date and incentivising future rehabilitation. They assert that this is not present in this case.

The respondent's submissions

28. In submitting that the sentence was not unduly lenient, counsel for the respondent highlighted that the sentencing judge outlined in detail the reduction in sentence following the application of the available mitigation. Therefore, undue leniency could not be found, as per the principles set out in *People (DPP) v Stronge* [2011] IECCA 79.

29. In particular, the respondent pointed to the acceptance by the DPP on inquiry by the sentencing judge that the plea was an early one, and in the absence of any indication on behalf of the respondent that it was intended to contest the charges, the sentencing judge was entitled to and perfectly correct in affording to the respondent the maximum benefit for the guilty plea.

30. The respondent challenged the relevance of *People (DPP) v McGrath*, *Dolan* and *Brazil* [2020] IECA 50 [22-24], relied upon by the DPP. The Court of Appeal stated that in cases of assault which could be considered borderline Section 3 or Section 4 offences, per the Non-Fatal Offences Against the State Act, 1997, the five-year maximum may be an appropriate starting point for a sentencing judge. The respondent submitted that there were factual differences between those assaults and this one. In *McGrath*, the victim was pregnant at the time, and the assault left permanent facial scarring. In *Dolan*, the headline sentence was three and a half years imprisonment, and the complainant also suffered permanent facial scarring. In *Brazil*, the assailant had relevant previous convictions, and the headline sentence imposed was between four and five years.

31. The respondent submitted that adequate consideration was indeed afforded to the aggravating factors by the sentencing judge, as demonstrated by her determination of the headline sentence; *"It seems to me that without doubt I have to place this offending at the highest end of the higher range"*.

32. The respondent rejected the DPP's submission that there was no justification for the suspension of the final three months and submitted that the sentencing judge was perfectly correct in applying a further discount. This was a case where the respondent in the immediate aftermath to the assault did as much as he could to assist the victim, bringing her to a place of safety, admitting what he had done, asking that an ambulance be called, taking the baby and the baby's clothes to a neighbour's house and leaving when he was directed to leave.

33. At the oral hearing, counsel for the respondent submitted that what the DPP really took issue with was that the maximum sentence was five years, but that of course was not relevant to this application; the Oireachtas had set that maximum. In the exercise of her jurisdiction, the sentencing judge had taken all relevant matters into account.

34. Counsel submitted that the guilty plea had a value to the courts system in this case as it was entered at the earliest opportunity, and that a signed plea would have made no difference to the system as it would have had to be returned to the Circuit Court in any event. In this case, the trial judge was entitled to give maximum credit for an early plea

which she did in reducing the headline sentence by 20 months, i.e. by one third. This was within her discretion and ought not to be interfered with.

Analysis and Decision

35. The principles for determining undue leniency are well established in the case law, commencing with the decision in *People (DPP) v Byrne* [1995] 1 ILRM 279. In *People (DPP) v Stronge*, McKechnie J. synopsised following principles as application to applications under s. 2 of the Criminal Justice Act 1993:

"*(i) the onus of proving undue leniency is on the D.P.P.:*

(ii) to establish undue leniency, it must be proved that the sentence imposed constituted a substantial or gross departure from what would be the appropriate sentence in the circumstances. There must be a clear divergence and discernible difference between the latter and the former:

(iii) in the absence of guidelines or specified tariffs for individual offences, such departure will not be established unless the sentence imposed falls outside the ambit or scope of sentence which is within the judge's discretion to impose: sentencing is not capable of mathematical structuring and the trial judge must have a margin within which to operate:

(iv) this task is not enhanced by the application of principles appropriate to an appeal against severity of sentence. The test under s. 2 is not the converse to the test on such appeal:

(v) the fact that the appellate court disagrees with the sentence imposed is not sufficient to justify intervention. Nor is the fact that if such court was the trial court a more severe sentence would have been imposed. The function of each court is quite different: on a s. 2 application it is truly one of review and not otherwise:

(vi) it is necessary for the divergence between that imposed and that which ought to have been imposed to amount to an error of principle, before intervention is justified: and finally

(vii) due and proper regard must be accorded to the trial judge's reasons for the imposition of sentence, as it is that judge who receives, evaluates and considers at first hand the evidence and submissions so made."

36. The starting point for our consideration is that the onus is on the DPP to establish that this sentence was unduly lenient to the extent that the divergence between the sentence imposed and that which ought to have been imposed amounted to an error of principle before this Court may justifiably intervene. The sentence imposed must be proved to constitute a substantial or gross departure from what would be the appropriate sentence in the circumstances. It is not sufficient for the DPP to demonstrate the sentence is lenient, instead the sentence must have been one which was outside ambit or scope of the discretion of the sentencing judge.

37. There is no doubt but that the sentencing judge set out in considerable detail the reasoning behind her decision. She conscientiously set out the aggravating factors and the mitigating factors. Undoubtedly, the sentencing judge was correct to find that this was an offence at the highest scale of assaults contrary to s.3 of the Non-Fatal Offences Against the Person Act, 1997. Given the aggravating factors including that it involved a stabbing incident where four stab wounds were inflicted on a woman in her own home (indeed while trying to flee the aggression of the perpetrator), there can be no reality to any suggestion that these offences merited anything other than the maximum five-year sentence. The fact that a good physical recovery was made does not diminish the gravity of the offending. In any event, there was a significant psychological impact on the victim. Furthermore, the fact that it was committed against a person who was in an intimate relationship with the respondent was an aggravating factor to which the sentencing judge was required to have regard.

38. The sentencing judge, having referred to all the mitigating factors in the case, including the plea of guilty, reduced the sentence by one third, which would have brought it to three years and four months; she then went on to bring it down to three years, citing all the mitigation again. She then considered rehabilitation and whether to suspend part of the sentence, holding that it was appropriate to do so in the circumstances. In trying to be proportionate to the seriousness of the offence she said that only a three month period would be suspended.

39. The sentencing judge initially said that a 20 month reduction was appropriate; a sentence equating to a reduction by a third for all the mitigation in this case. It has often been said that sentencing is not a mathematical exercise (especially in the absence of "tariffs") and this court must be mindful, in particular on an undue leniency application, not to interfere with the exercise of a judicial discretion to apply appropriate mitigation to a sentence. It cannot be gainsaid however that this level of mitigation was at the maximum amount that is generally appropriate to deduct for mitigation relating to a plea of guilty. Section 29 of the Criminal Justice Act, 1999, requires the sentencing court, if it considers it appropriate to do so, to take into account the stage in the proceedings at which the person indicated an intention to plead guilty and the circumstances in which this indication was given. The sentencing judge clearly thought it was appropriate to take into account the stage at which the plea was taken. In the circumstances of the case, it was incumbent on her examine the circumstances surrounding the timing and circumstances of the plea.

40. In the present case, the plea of guilty was not made at the first opportunity; the first opportunity would have meant that the respondent had signed pleas in the District Court. It must be borne in mind that the signing of pleas of guilty may obviate the necessity to be served with a book of evidence (although of course a person may enter a signed plea after the book of evidence has been served and before a return for trial on indictment). In the present case the respondent waited for the book of evidence, as was his entitlement, before entering the plea. The book of evidence would have indicated that he made admissions to the stabbing before independent witnesses, thereby making this one a case where it would not be merely his word against that of his domestic partner. This was a respondent who

had exercised his right to remain silent and his right to see the book of evidence before pleading guilty. These are factors that go to the "value" of the plea and the mitigation to be accorded to it and ought to be taken into account when considering the amount of mitigation. It must also be said that a significant consideration as a mitigating factor in signing pleas is that it gives to a victim an early indication that no trial date will be sought by an accused person.

41. The other aspects of mitigation in this case were not of great significance. His previous convictions, including those for assault, for which he received a prison sentence even though it was some years before, meant that any further deduction in mitigation for good character was not really available to him. What was urged in the court below and again in this Court was his behaviour after the event in going to the neighbour's house with the victim, waiting for the ambulance, leaving when told to do so and also handing the baby over. It is accepted that this was behaviour which certainly indicated that there was no aggravating feature in his behaviour afterwards. While the behaviour may have afforded some mitigation, this had to be seen in light of his initial attempt to blame the victim for stabbing her; he alone was responsible for that. He also had to be talked into handing over the baby.

42. The sentencing judge did not stop at granting a very significant reduction for all the mitigation, but she reduced the sentence again by deducting a further four months. She specifically related this back to the same factors in particular the early plea. This reduced the sentence by 40% for mitigating factors. It is difficult to see how this could have been justified in the circumstances as those factors had already been taken into account. This on its own could be said to be an error in principle but it would not justify interference with the sentence unless the divergence in sentence constituted a substantial or gross departure from what would be the appropriate sentence. She then went further and said that in taking into account the possibility of being rehabilitated fully and that he co-operated fully with the Probation Service (who had recommended, if the court considered probation supervision as part of the sentencing plan, assessment for a Domestic Violence Programme). She thereafter suspended a further three months of the sentence. In overall terms therefore, this respondent was given an effective custodial sentence of two years and nine months which amounted to a reduction for mitigation of almost 45%.

43. It is a well-established principle of Irish sentencing law that a sentence imposed by a court must be proportionate to the gravity of the offence and to the personal circumstances of the offender. We agree with the DPP that in assessing proportionality a judge must be able to stand back from the sentence imposed and be able to assess whether the sentence imposed was proportionate. This is not a mathematical assessment but must represent a synthesis of all relevant factors. In this case, however, it is a useful question to ask whether the reduction by 45% of the headline sentence (which is appropriate to the gravity of the offence) was itself disproportionate to the extent that it constitutes a substantial or gross departure from what would be an appropriate sentence in the circumstances of this particular offence and this particular offender.

44. This was offending conduct of the utmost gravity given its inherent aggravating factors. The personal circumstances of the perpetrator were that he was a man in his mid-thirties and therefore was not very young, very old or very ill. He had previous convictions including some relevant ones. His main mitigating factor was that he pleaded guilty at an early stage in the Circuit Court and that he had helped with seeking assistance in the aftermath of the assault. The answer to the question of whether the sentence, post-mitigation, of three years imprisonment with three months suspended was a substantial or gross departure from the sentence that ought to have been imposed in all the circumstances can only be a resounding yes. That sentence was therefore unduly lenient in all the circumstances.

45. We must now proceed to resentence, and thus have to consider what would be an appropriate sentence. We have considered the mitigation material provided to the Court evidencing the respondent's participation in certain courses while in custody which evidences his desire to rehabilitate.

46. These were offences of the utmost gravity, each carrying a maximum sentence of five years imprisonment and while there was no suggestion that the sentences were to be consecutive, it was beyond doubt that the appropriate sentence before mitigation was to be taken into account was the full value of five years. Set against that was the plea of guilty, which although early was not, as stated above, made at the first opportunity. It was of value but not of the highest value given the circumstances of the case and the existence of independent witnesses to the aftermath of the stabbing and the admissions of the respondent. His other mitigation was more minimal as it could not be said that he was of previous good character. He had demonstrated that he would co-operate with the Probation Service. It has to be said, however, that the Probation Report demonstrated that he had limited awareness of the impact of the offences on the victim.

47. Taking all the mitigating circumstances into account including the plea of guilty and its timing and circumstances, there ought to be a deduction of one year from the headline sentence of five years imprisonment. Submissions were made at the hearing of the appeal as to whether there was any evidential basis for the further suspension of the sentence by the sentencing judge. It is not necessary for us to resolve that issue. What is clear is that the respondent has engaged in rehabilitative courses while in custody and for that reason we consider it appropriate to suspend the final three months of his sentence.

48. For the reasons set out above, we are satisfied on the DPP's application for review that the sentence imposed in the Circuit Court for these offences was unduly lenient. We quash the sentence imposed and, in its place, impose a sentence of four years imprisonment the final three months of which are suspended for a period of two years upon him entering into a bond on the same terms and conditions as he entered into in the Circuit Court. The sentence is to be backdated to the same date as that imposed in the Circuit Court.