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Delivered: 22/06/2023

IN THE CROWN COURT IN NORTHERN IRELAND
SITTING IN BELFAST

THE KING

v

(1) DAVID CHRISTOPHER GILL
(2) LESLEY ANN DODDS
(3) WILLIAM GILL
(4) ANDREW LESLIE
(5) JONATHON RICHARD LESLIE MONTGOMERY

SENTENCING REMARKS
AND TARIFF RULING RE FIRST DEFENDANT

David McDowell KC and Michael Chambers (instructed by the Public Prosecution
Service for Northern Ireland) for the Crown

Ciaran Murphy KC and Michael McAleer (instructed by McConnell Kelly & Co,
Solicitors) for the first defendant

Eilis McDermott KC and Taylor Campbell (instructed by Donnelly & Wall, Solicitors) for
the second defendant

Neil Connor KC and Richard McConkey (instructed by Trevor Smyth & Co, Solicitors)
for the third defendant

John Kearney KC and Sean Mullen (instructed by Donnelly & Wall, Solicitors) for the
fourth defendant

Gavan Duffy KC and Conor Holmes (instructed Flynn & McGettrick, Solicitors) for the
fifth defendant

SCOFFIELD J

Introduction

[1] There are five defendants before the court whose offending arises from an incident on 30 May 2019 when Mr William McCormick, known as 'Pat', was assaulted and sustained injuries which led to his death. In the first and second defendants' cases, their offending relates to that incident. In the case of the third to fifth

defendants, it relates to the aftermath – or what might be described as the ‘cover up’ – of Mr McCormick’s death.

[2] The defendants were arraigned on 17 September 2021 and each pleaded ‘not guilty.’ The trial was first listed to commence on 23 May 2022. On 20 May 2022, the first defendant (David Gill) pleaded guilty to count 1 on the bill of indictment, namely the murder of Mr McCormick. The trial needed to be postponed for a short period as a result, in order to allow the Crown to reformulate its case in light of this important development. Shortly afterwards, on 25 May 2022, the fifth defendant (Jonathan Montgomery) pleaded guilty to an offence of withholding information on count 9. The following day, the third defendant (William Gill) pleaded guilty on count 3 to the same offence. In light of those and other developments, the trial of the remaining defendants was re-listed for November 2022. On 8 November 2022, the second defendant (Lesley Ann Dodds) pleaded guilty to a new count 13 on the bill of indictment, an offence of manslaughter arising from the death of Mr McCormick; and the fourth defendant (Andrew Leslie) pleaded guilty to an offence of withholding information on count 6. In each case, any remaining counts were left on the books, not to be proceeded with without further order of this court or of the Court of Appeal.

[3] Mr McDowell KC and Mr Chambers appeared for the Crown; Mr Murphy KC and Mr McAleer appeared for the first defendant; Ms McDermott KC and Mr Campbell for the second defendant; Mr Connor KC and Mr McConkey for the third defendant; Mr Kearney KC and Mr Mullen for the fourth defendant; and Mr Duffy KC and Mr Holmes for the fifth defendant. I am grateful to all counsel for their helpful written and oral submissions in relation to this sentencing exercise.

Factual Background

[4] The facts set out below are matters which are either non-contentious; agreed, by way of being set out in an agreed basis of plea or otherwise; or of which I have been satisfied to the criminal standard by information and evidence provided by the prosecution.

[5] The victim, Pat McCormick, was a 55-year-old father of four. On the night of 30 May 2019, he went to the home of Lesley Ann Dodds, a flat in Castle Street, Comber. Dodds was David Gill’s fiancée; but she had been having a relationship with Pat McCormick whom she had met through their work in domiciliary care. Mr McCormick had been lured to Dodds’ flat, predominantly by way of text messages sent from her Facebook Messenger account which had encouraged him to meet her there. However, rather than meeting Ms Dodds, when Mr McCormick went to the flat, he encountered David Gill.

[6] Mr McCormick had been in the company of Dodds earlier that day, in the morning. During the afternoon and into that evening, there was a range of communications between the victim and Dodds; and, indeed, between her and David Gill. From around 9.20pm onwards, before Pat McCormick went to Dodds’ flat, she

was in contact with him encouraging him to come to her flat. Mr McCormick replied in a text, somewhat prophetically, stating that he thought she was trying to set him up “for to get a kicking.” Notwithstanding this note of concern, Dodds nonetheless encouraged the victim to come to her flat, reassuring him that she had left David Gill in favour of him, and that he was not being set up.

[7] David Gill then travelled to the flat, whilst Dodds remained at his house some distance away. She used her laptop to log into her Facebook account and to continue communicating with both Pat McCormick and David Gill (since Gill had by this time taken her mobile telephone). There is some doubt therefore as to who precisely sent which messages to Pat McCormick from Dodds’ Facebook account; but, in light of the fact that she had access to this account from a computer, she would have been aware of the messages sent to Mr McCormick from her account even if they had been sent by David Gill using her phone.

[8] The evidence shows that, at the time he approached Ms Dodds’ flat, David Gill took steps to remove his mobile phone’s connection with the network. Shortly before his arrival at her flat, Dodds was again in contact with Mr McCormick encouraging him to go there and providing reassurance. This included telephoning him (from the landline at David Gill’s house but with the number withheld) and also being in contact with Gill by the same means. A curious and depressing feature of this case is that, before going to Dodds’ flat, Mr McCormick had been in contact with the police outlining his fear that David Gill may be lying in wait for him outside his girlfriend’s flat in order to give him “a beating.” He had seen Gill’s van parked in an alleyway near the flat but nonetheless appears to have gone ahead.

[9] There was an agreed basis of plea by reference to which David Gill pleaded guilty to count 1. He did not intend to kill the deceased when he engaged in an altercation with him. However, he admits that he caused the injuries attributable to the altercation and further accepts that he intended to cause Mr McCormick serious harm. It is agreed that the altercation arose over Lesley Ann Dodds. It is also clear from the evidence in the case that David Gill had been in contact with Mr McCormick’s wife on the day of the attack confirming his knowledge of the affair between Pat McCormick and Lesley Ann Dodds.

[10] No weapon was used when the victim was assaulted. Nonetheless, a significant number of serious injuries were sustained by Mr McCormick. It is agreed that a significant number of rib fractures were caused before death; although it is also agreed that some of the rib fractures were caused post-mortem and that some of them could have been caused by the first defendant accidentally falling onto the deceased. David Gill accepts that Mr McCormick died due to these injuries. It is further agreed on the basis of the expert pathology evidence that the deceased was alive after the assault and would not have died immediately. It is further agreed that Gill did not foresee that Mr McCormick would die. He returned the following day to find that Mr McCormick had died. He admits that, thereafter, he disposed of the body.

[11] The evidence shows that David Gill returned to Dodds' flat the following day, Friday 31 May 2019, early in the morning. He stole a black wheelie bin; put the victim's body in it; and cleaned the area around the scene of the assault. In the course of that morning, he was in touch with the third defendant, William Gill, who is his older brother; and the fourth defendant, Andrew Leslie. William Gill immediately travelled from Lurgan to Comber to meet his brother. The telephone communications recovered by the police have convinced me that William Gill came, at the very least, to provide his brother with advice about how to deal with what had happened; that Dodds was aware at this point of the first defendant seeking to dispose of the body; and that William Gill later sent text messages designed to cover up the true intention behind his rushed trip to see his brother in Comber. Meanwhile, on the night of the murder, David Gill had also phoned the fifth defendant, Jonathan Montgomery, at 1.14am and spoke to him for over five minutes. Montgomery, aged 20 at the time, was a friend of David Gill. He is the first person Gill contacted after the attack, after his phone reconnected to the network. Montgomery's garden was also used to burn the contents of the bin that had been used to dispose of the body.

[12] That afternoon, 31 May 2019, David Gill turned his mobile phone off for around three hours. He headed to the Magherascouse Road, where Mr McCormick's body was later discovered. He was later seen on CCTV with muddy tracksuit bottoms, which were never recovered. I am sure that he had disposed of the body by that point. Andrew Leslie, the fourth defendant, is the son of the third defendant and hence the nephew of the first defendant. He lived alone at Dufferin Cottage, Magherascouse Road, in a property owned by his uncle. The lake in which Pat McCormick's body was found is behind this property and may be accessed from it. Given the location of the body within the lake, it is apparent that David Gill accessed it through a gate within the premises at Dufferin Cottage.

[13] Mr McCormick was reported missing on Saturday, 1 June 2019 by one of his colleagues at the domiciliary care company at which he worked. He had failed to attend work on that day and the previous day. His mother had been the last family member to speak to him. Mr McCormick had been living with his parents following the breakdown of his marriage due to his affair with Dodds. He left their house on the night of 30 May 2019 after a call with Dodds. As far as his parents were concerned, Dodds had been crying and Mr McCormick was going to meet her. When the police contacted Dodds on 1 June to enquire about Mr McCormick's whereabouts after he had been reported missing, she told them she had not seen or heard from Mr McCormick since the afternoon of Tuesday 28 May. The police made a number of further enquiries of Dodds but were persistently given false information or evasive answers. She had also made a number of purported attempts to contact Mr McCormick on 31 May, which in hindsight were clearly an attempt to cover her tracks.

[14] David Gill and Lesley Ann Dodds were initially arrested for the abduction of Pat McCormick on 3 June 2019 and, later that evening, were further arrested for murder. Gill denied being involved in Mr McCormick's disappearance and said he hoped he would be found safe and well. He lied about what had happened the

preceding Thursday night and the next day. Dodds too lied about her relationship with Pat McCormick, her actions on the night he died, and her knowledge of what had occurred.

[15] Mr McCormick's body was found some six weeks later, on 9 July 2019, in the flooded quarry which had previously been used as a fishing lake situated to the rear of Dufferin Cottage on the Magherascouse Road, just outside Ballygowan on the Comber side. The body was recovered by a diving team from the bottom of the lake. It had been placed, upside down, in a wheelie bin which had been secured with straps and weighted down with concrete blocks so that it had sunk to the bottom of the lake.

[16] Post-mortem examination of the body was hindered to a degree because of decomposition of the body caused by its submersion in the lake. However, the post-mortem revealed that Mr McCormick had sustained multiple rib fractures, 24 in all, involving six ribs on the left side and nine on the right. Bleeding associated with those fractures indicated that most of them had occurred before death. They would have been caused by direct blunt force and/or by a crushing mechanism, with the force required to cause them being considerable. The number of fractures confirmed to have occurred during life would have significantly reduced Mr McCormick's ability to breathe and could have precipitated his death. There was also bruising to the left and right sides of his back and chest which further showed that he had sustained significant blunt force trauma; there was fracturing of the nasal bones, consistent with a blunt impact of the face, such as a punch; and there were further multiple bruises to the arms, right shoulder and legs, consistent with blunt impacts or pressure being applied to these areas prior to death (although it is possible that some of this bruising could have been the result of previous accidental trauma).

[17] None of the typical features of drowning were present, such that it was concluded that Mr McCormick was most likely dead before his body entered the lake. The pathologist concluded that the multiple rib fractures played a significant part in the overall fatal sequence and, on their own, could account for Mr McCormick's death. The cause of death was determined as multiple rib fractures due to blunt force trauma. Mr McCormick's blood was later found in various areas in the communal stairs of the flats where Dodds lived and on the second floor where her flat was situated, as well as within the flat.

[18] After developments in the investigation including the finding of the body, David Gill was arrested again on 11 July 2019 and reinterviewed. He again maintained his denial of involvement in the murder of Pat McCormick and the disposal of his body, as well as other denials about aspects of the evidence which were put to him. It was only in his final interview, some months later in December 2020, when a further piece of CCTV evidence was to be put to him, that he gave an account which involved his being involved in an altercation with Pat McCormick on the night of his death. This account was still inconsistent with his ultimate plea of guilt in these proceedings, claiming (for instance) that he had not once hit Mr McCormick. However, he accepted that there had been an altercation; that he had discovered Pat

McCormick's dead body the following morning; that he had cleaned up the scene; and that he had disposed of the body. Dodds was also arrested again on 11 July 2019 and initially maintained her account given previously at interview. She subsequently admitted that Gill and McCormick may have been in the same area and engaged in "fair digs" but denied any involvement in luring Mr McCormick to her flat and any knowledge of the murder.

Victim impact

[19] Before addressing the appropriate tariff in the first defendant's case and the sentences in the others, it is appropriate to consider and highlight the content of the victim impact statements which the court has received. Victim impact statements have been prepared by Pat McCormick's brothers, Harry and Sam McCormick; by his wife, Alison; and by his children. Although there are no statements from them directly, a number of the victim impact statements also address the devastation and loss felt by Mr McCormick's parents, who were aged 83 and 81 respectively at the time of his murder.

[20] These statements paint a picture of Mr McCormick as a man who was devoted to his family, friendly, thoughtful, gentle and caring. They emphasise the trauma to the family when Pat was missing; they were out every day looking for him and could not cope with the worry and uncertainty of his disappearance. They explain how, after that, they were sickened by the way in which his body had been disposed of, and thereby deprived of saying a proper 'goodbye.' The statements provided by Mr McCormick's children, the youngest of whom were aged 14 and 12 at the time of his murder, are heart-breaking. They each were and are, understandably, deeply affected by his loss in a variety of ways. The pain is all the more acute since, at the time of his murder, Mr McCormick's relationship with Lesley Ann Dodds had recently come to light, so that some family relationships were strained at the time of his death.

[21] I take these impacts into account in this sentencing exercise. In doing so I recognise the obvious truth that the loss of Mr McCormick's life cannot be measured by the length of any tariff or sentence that I impose. Nor should the tariff imposed upon David Gill be understood as such. It is the responsibility of the court to impose a tariff in accordance with legal principles. However, I do so fully cognisant of the impact of Mr McCormick's death, which is movingly expressed in the victim impact statements to which I have referred.

David Gill

[22] I informed the first defendant on the date on which he pleaded guilty that, by law, there was only one sentence available to me in respect of his conviction for murder and that, accordingly, his sentence would be one of life imprisonment. However, it now falls to me to set his tariff period – that is, the minimum period he

must serve in prison before being eligible for release on life licence under Article 6 of the Life Sentences (Northern Ireland) Order 2001 ("the 2001 Order").

[23] Gill is now 30 years of age. I have had the benefit of a pre-sentence report which has been prepared in respect of him. He is assessed as posing a medium likelihood of reoffending but is not assessed as posing a significant risk of material harm at this time. The report details a difficult time grieving for his deceased parents and struggling to cope with serious illness on the part of his sister, who also provided a moving letter, which I have read, as to the extent of assistance which David Gill offers her. He has a number of previous convictions, mainly involving road traffic matters, but there is one previous offence of assault occasioning actual bodily harm committed on 6 February 2011, for which he received a suspended sentence of six months' imprisonment. I do not consider this sufficiently proximate to the current offending or relevant to take it into account as an aggravating factor of any significance.

Aggravating factors

[24] I am entirely satisfied, to the criminal standard, that Mr McCormick was subjected to a brutal and sustained assault which was intended to, and did, cause him really serious harm, to such an extent that he was left fighting for his life when David Gill left him on the night of 30 May 2019. The following aggravating features appear to me to be relevant:

- (a) The attack was clearly pre-planned and premeditated. Mr Gill taking his phone off the mobile network at 9.42pm on the evening of the attack is a significant indicator of this. Although the plan may only have been hatched at a late stage sometime earlier that evening, the altercation was a deliberate undertaking and not a heat-of-the-moment event.
- (b) The plan also involved a degree of deception, with Mr McCormick being lured with an element of subterfuge to a location where Gill lay in wait.
- (c) The assault was sustained, resulting in multiple injuries before death.
- (d) Albeit that Mr McCormick was (it is agreed) alive after the assault, the fact that he was left alone, seriously injured, with no attempt being made to call for assistance for him, is in my view a further aggravating factor. Allied to this is the fact that David Gill took his mobile telephone, his victim's sole or main means of calling for assistance.
- (e) The vulnerability of the victim is a further aggravating factor. At police interview, Gill suggested that Pat McCormick may have been scared of him because of the physical difference between them. Mr McCormick weighed only 9st 12lb and was no physical match for David Gill who was much younger than him and twice his size.

- (f) When he returned the following day to find that Mr McCormick had died, Gill disposed of the body in the manner apparent from the description of the location of Mr McCormick's remains above. I return to this below.
- (g) There was also a degree of sophistication in the undertaking of the assault, with the disposal of evidence, phones being taken off the network and messages deleted, the cleaning and bleaching of the crime scene, and the defendant's clothes being changed. Aside from disposal of the body, there were determined efforts to evade detection and there was some level of forensic awareness displayed in this regard.

[25] I consider the disposal of the victim's body in this case to represent a particularly serious aggravating feature. It was designed to cover up the offence and defeat the ends of justice. It was a particularly gruesome and degrading treatment of human remains, resulting in a level of decomposition. Had the plan been successful, it would have deprived Mr McCormick's family of any prospect of giving him a proper burial and going through a proper grieving process. Indeed, it may have left them in doubt as to whether he was dead or alive for an indeterminate period. Gill and the other defendants remained silent for weeks as the police made pleas and appeals for information about Mr McCormick's whereabouts. As it was, the impact of his disappearance on Mr McCormick's family is a significant aggravating factor.

[26] The prosecution identified as further aggravating features the fact that the defendant, on his own account, was intoxicated; and the defendant's attempt to claim in interview that he had been attacked by Mr McCormick. I do not consider these to merit any material increase in sentence in the circumstances of this case.

Mitigating factors

[27] One mitigating factor in this case is the intention only to cause really serious harm, rather than an intention to kill. Unconstrained by authority, I would not have considered that factor to represent significant mitigation since, once an intention to cause really serious harm is admitted, the necessary mens rea for the offence of murder has been established. As it seems to me, the absence of a more serious, lethal intention is simply the absence of an aggravating factor. However, para 16 of the Practice Direction approved in *McCandless* expressly notes that a mitigating factor relevant to the offence will include an intention to cause grievous bodily harm rather than an intention to kill; and see too para [40] of the judgment of Carswell LCJ in *McCandless*. Whether, and the extent to which, this is a mitigating feature of significance in any particular case depends upon the circumstances: see the discussion at paras [12] to [17] of the judgment of McCloskey J in the later Court of Appeal case of *R v Ward* [2019] NICA 18. Bearing in mind the guidance in that case, I take this matter into account as a mitigating factor, particularly in the absence of a use of any weapon. That said, the weight to be given to this factor is materially reduced by the fact that Mr McCormick was left severely injured with no means of obtaining assistance.

[28] It is agreed that the applicant made significant admissions at his interview in December 2020. Although these were not made at an early stage and did not at any time equate to a full admission of guilt consistent with his ultimate plea, I recognise that the defendant did, belatedly, admit to police an involvement in the relevant incident and that he had disposed of the body. This would have moved matters forward for the family of the deceased; although it must also be said that these admissions were made in the face of a mounting evidential case against him, after the victim's body had been found, and could be viewed as self-serving in terms of establishing a narrative which could be used in his defence at trial.

[29] Turning to the reduction which is appropriate for the first defendant's plea of guilty, the Crown have agreed that it was necessary for him to obtain medical and pathology evidence before reaching the stage of the proceedings when he pleaded guilty. In particular, detailed pathology evidence as to cause of death and the extent of injuries caused pre and post-mortem was necessary before clear advice could be given to Mr Gill. This explains a good deal, if not all, of the delay in his entering a plea. It is also agreed that, once this evidence had been obtained, the defendant offered to plead guilty to manslaughter. I take into account, and it is accepted by the Crown, that the first defendant is entitled to a reduction in sentence for his guilty plea and that the plea was welcome, including because it may influence the approach of other defendants (as in my view it in fact did). I also take into account that it was entered in advance of the scheduled trial dates.

[30] I am satisfied that the defendant has shown and feels genuine remorse. The pre-sentence report indicates that he has voiced regret and remorse and a great deal of shame. He has also expressed concern for the victim's family and wished to extend his apologies to them.

[31] I also take into account as a mitigating factor this defendant's learning difficulties and autism. I was provided with a variety of reports from Dr Victoria Bratten, a Developmental and Educational Psychologist, who also gave oral evidence at the plea and sentencing hearing. I also had the benefit of a report from Dr Jana De Villiers, Consultant Psychiatrist, and a registered intermediary report. The defendant has an IQ which is well below average; moderate or borderline learning difficulties; and is said to be vulnerable, with a developmental age significantly lower than his actual age. He meets the criteria for a diagnosis of autism. Dr Bratten's evidence focused on Gill's limited cognitive flexibility and features of his autism which increase suggestibility and limit empathy. Although this does not provide mitigation for the attack itself - since I am satisfied that the defendant clearly knew what he was doing was wrong and was capable of planning and executing a brutal attack - it does go some way to mitigating his actions after the attack. In particular, I recognise that his autism reduced his empathy and led to his acting in a mechanical way in order to deal with the consequences of his actions, such as to lower his culpability to some degree in relation to the immediate aftermath of the attack. Nonetheless, the effect of those actions, particularly upon the victim's family, remains

an aggravating feature. The other personal circumstances relied upon by the defendant did not appear to me to amount to significant mitigation.

The relevant legal principles

[32] Article 5(2) of the 2001 Order provides that the minimum term:

“... shall be such part as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it.”

[33] The legal principles which the court will apply in fixing the minimum term are not the subject of any significant contention. *R v McCandless & Others* [2004] NICA 1 remains the key authority in this regard in this jurisdiction. In that case, the Court of Appeal held that the Practice Statement issued by Lord Woolf CJ and reported at [2002] 3 All ER 412 should be applied by sentencers in this jurisdiction who are required to fix tariffs under the 2001 Order.

[34] The Practice Statement identifies a normal starting point of 12 years in para 10. In para 11, factors are identified which might justify reducing the normal starting point. Para 12 identifies a potential higher starting point of 15 to 16 years. The higher starting point will apply in cases where the offender’s culpability was exceptionally high, or the victim was in a particularly vulnerable position. The paragraph goes on to identify features which might make a crime especially serious.

[35] The Practice Direction also recognises that starting points can be varied upwards or downwards and identifies potential aggravating and mitigating factors which may relate to either the offence or the offender in the particular case. Those features or factors are set out in paras 14 to 17. Paras 18 and 19 then deal with particularly grave cases which would justify a term of 20 years and upwards. Para 18 of the Practice Direction indicates that “a substantial upward adjustment may be appropriate in the most serious cases”, including where there are several factors identified as attracting the higher starting point present.

[36] In applying the guidance set out in the Practice Statement I bear in mind that it is not to be interpreted as a straitjacket which is designed to create a rigid, compartmentalised structure into which each case must be shoe-horned. In the *McCandless* case, the Court of Appeal said (at para [8]) that:

“... the sentencing framework is, as Weatherup J described it in paragraph 11 of his sentencing remarks in *R v McKeown* [2003] NICC 5, a multi-tier system. Not only is the Practice Statement intended to be only guidance, but the starting points are, as the term indicates, points at which the

sentencer may start on his journey towards the goal of deciding upon a right and appropriate sentence for the instant case.”

[37] As Colton J recently said in his sentencing remarks in *R v Holmes & Others* [2022] NICC 14, at para [48]:

“Thus, the selection of a starting point is not a mechanistic or formulaic exercise. The guidelines are there to assist the court to proceed to, in the circumstances of the case, what it considers as a just and proportionate sentence having regard to the guidelines. In the words of the statute the tariff should ‘be appropriate to satisfy the requirements of retribution and deterrence.’”

The appropriate tariff

[38] I reject Mr Murphy’s (in my view, ambitious) submission that the normal starting point is appropriate in this case. There are a number of features which are identified in para 12 of the Practice Direction which are present in this case which, in my judgment, bring Gill’s offending into the higher starting point category. In particular, the victim was in a particularly vulnerable position. That is so both because of the defendant’s much greater physical presence than that of Mr McCormick; and because of his having been lured to the scene where Mr Gill was prepared and lay in wait. In addition, extensive and multiple injuries were inflicted upon Mr McCormick before his death, which is another feature cited in para 12 of the Practice Direction.

[39] When one considers those features and the additional aggravating features outlined at para [24] above – particularly the issue of the disposal of the body – this is a case where the higher starting point of 15/16 years should clearly be varied upwards. Indeed, with two features present which are indicative of the higher starting point, para 18 of the Practice Direction indicates that “a *substantial* upward adjustment” *may* be appropriate on that account alone. When the additional aggravating factors are taken into account, it seems to me that a substantial upward adjustment *is* appropriate. When that upwards variation is tempered by the mitigating features set out at paras [27]-[31] above (aside from the defendant’s plea), I consider the appropriate starting point to be in the region of 19-20 years. In light of the plea, for which I intend to allow around a one-sixth reduction (bearing in mind the guidance set out in *R v Turner* [2020] NI 159, at paras [27]-[40]), I propose to reduce this to a tariff of 16 years.

Lesley Ann Dodds

[40] I have set out above a brief summary of Dodds’ involvement in the period preceding Mr McCormick arriving at her flat, where the first defendant lay in wait. Some further details are relevant in this regard. This defendant relied upon the fact

that, in some of her messages to Mr McCormick, expressed in intemperate terms when he did not immediately come to her flat as requested, she told him to leave it. This led, at one point, to his abandoning his plan to go to her flat that night, before further engagement persuaded him otherwise. In addition, shortly before Mr McCormick arrived at Dodds' flat, after she had telephoned him to encourage him to attend, there were two messages from her Facebook account warning him to "watch out in case he's about" and again to "be careful in case he's outside." I cannot be sure that these messages were, as Mr McDowell suggested, something of a "double bluff." At the same time, I am also not satisfied on the balance of probabilities that these messages, nor the earlier ones mentioned by Ms McDermott, were an attempt to put Mr McCormick off or to put him on his guard to some degree. What is more important, however, is that, *after* these exchanges, there was further contact between Dodds and Mr McCormick, which I am sure has no other explanation but that she was continuing to encourage him to come to her flat. What appears to have been an important call from Dodds to Pat McCormick was book-ended by Dodds having contact with David Gill. At that point, she was not making any attempt to warn Mr McCormick off attending the flat, much less an attempt to thwart the scheme. On two separate occasions after Mr McCormick had become suspicious, she contacted him (after 10.16pm when he demanded to speak to her on the phone and again at around 10.40pm), withholding her number each time, and calling Mr McCormick just after David Gill had called her. I do accept that the formulation of the plan was relatively swift and that its execution somewhat chaotic, but I have no doubt whatever that Dodds played her part in luring Mr McCormick to her flat knowing that he would come to harm there.

[41] Dodds' plea to manslaughter was accepted by the Crown on the basis that it could not be proven that she knew that David Gill intended, or would at some stage develop an intention, to cause Pat McCormick really serious harm. It is for this reason that a plea to manslaughter was acceptable rather than a plea to the original charge of murder. The prosecution suggest that the evidence shows that she *did* know that *substantial* harm was intended and played her role in deceiving Mr McCormick into believing that he was meeting her at her flat where David Gill lay in wait, in order that Gill could attack him. I am sure that this is the case. Her plea of guilty is consistent with her having known that Mr McCormick was to be attacked, with that attack then having led to his death. It is entirely fanciful to suggest, in all of the circumstances, that Dodds anticipated nothing more than a disagreement or minor assault to occur. Indeed, Ms McDermott did not suggest as much. She submitted that I could not be sure that Dodds contemplated substantial harm being caused, if by that was meant harm falling on the borderline with grievous bodily harm.

[42] But Dodds clearly knew that Mr McCormick was going to receive a beating (what she later referred to as "fair digs"). I sentence her on the basis that she did *not* contemplate an attack on the victim which would cause him really serious injury but that she *was* party to a scheme to cause him substantial harm falling short of that. The circumstances whereby Mr McCormick was lured to the particular location at night, alone and unprepared, are entirely consistent with that; as is her knowledge of the

physical mismatch between the two men and Mr Gill's rage at her infidelity with Mr McCormick. I am satisfied that Dodds was an active participant in this plan, albeit that she did not realise things would go so far as they did; and that she could have thwarted the scheme (for instance, by contacting the police, or by giving Pat McCormick a clear and unambiguous warning of what was planned). I found no assistance in the distinction the defence sought to draw between Dodds contemplating some harm but not desiring it. She was an active participant in a scheme where she contemplated substantial harm coming to the victim.

[43] Lesley Ann Dodds is now 25 years of age. She has no previous convictions, which is to her credit. I have a detailed pre-sentence report in relation to her circumstances. She has no formal qualifications and only a limited employment history. Probation have a concern about the lack of structure in her lifestyle. In addition to the pre-sentence report relating to Dodds, there is medical evidence (discussed in further detail below) and a report from her social worker who has provided support to her for the past seven years. It describes her as a vulnerable young person who has a very significant history of difficulties in childhood, which Ms McDermott referred to (accurately) as "extreme childhood trauma." It is not necessary or appropriate to set out the details of all of that in these sentencing remarks. However, this defendant was subject to extreme neglect and exploitation. She was taken into care at a young age and later placed into residential care. There are concerns that she has no concept of risk and places herself in very vulnerable and concerning situations.

[44] Details have been provided of recent social work involvement and supports. These have not displayed significant success, with safeguarding issues having arisen and Dodds reported to be using substances daily. The social worker concludes that, throughout social work involvement, Dodds has dismissed concerns regarding her lifestyle and the negative impact it may have on her; and she has at times withdrawn her engagement with professionals, albeit she is dependent on this support and will seek it out. Her level of engagement with mental health and counselling services has been poor and therefore necessary assessments, and the provision of support, were not completed.

The medical evidence in relation to Dodds

[45] There was a significant amount of medical evidence before me at the sentencing stage in relation to the second defendant. There was a report from Dr Muzaffar Husain (Consultant Forensic Psychiatrist) prepared on 8 March 2023, on the instruction of Ms Dodds' solicitor; and a report from Dr Christine Kennedy (Consultant Forensic Psychiatrist) prepared on 7 June 2023 on the instruction of the Public Prosecution Service. Both of these experts had a joint meeting (by telephone) shortly before the plea hearing and produced a helpful joint statement.

[46] Dr Husain's report goes through Dodds' background and personal circumstances in some detail. As Ms McDermott submitted, they show a life

characterised by extreme neglect, abandonment and repeated exploitation. I do not propose to set out the detail of the matters dealt with in Dr Husain's report, but I have read it in full. Some of the details are indeed shocking. He describes her as extremely troubled and psychologically damaged, having had a very disturbed childhood where there were few or no boundaries as to what was appropriate behaviour. He draws attention to Dodds having been assessed as having a full scale IQ of 56, functioning in the range of mild to moderate learning disability. Having been beset with constant rejection and abandonment crises, she has a history of forging inappropriate and hasty ties with persons who may exploit or control her. She had previously been diagnosed as having Complex Post Traumatic Stress Disorder, as well as non-epileptic seizures. Dr Husain's own diagnosis is one of Emotionally Unstable Personality Disorder (EUPD). He describes her as being "constantly subject to pathological abandonment and rejection anxieties when in relationships", leaving her prone, amongst other things, to exploitation.

[47] Dr Husain describes how Dodds met David Gill when she was 15½ years old and was still living in a children's home. He is almost six years older than her. She moved in with him when she was 17 years old and was, in Dr Husain's view (on the basis of what was said to him by Dodds), subject to severe controlling behaviours at the hands of David Gill, who was very possessive of her, angry and jealous. This analysis is supported to some degree by social work records. Dr Husain's opinion is ultimately that Dodds went along with the plan for Mr McCormick to receive "a beating" to retain her relationship with David Gill, even though this was an abusive relationship, because, at least in part, she was fundamentally unable to see David Gill as an abuser and (by reason of prior psychological damage) rather saw him as her protector and saviour from harm. He concludes that Dodds was "psychologically operating as an extension of Mr Gill at the time and, following his instructions, trying to save him and protect him"; and further, that "her own relational proximity to him was the most important factor for her own sense of psychological security at the time."

[48] Dr Kennedy's report confirms much of what is contained in Dr Husain's, particularly as to the defendant's childhood trauma. She describes Dodds as being of lowish intellectual functioning; and refers to a January 2022 assessment where she obtained a Full-Scale IQ of 71. This places her just outside the cut-off for a mild learning disability; but is within the borderline range of intellectual functioning. Dr Kennedy considers that her presentation could be explained as relating to Complex PTSD or Personality Disorder - although she takes issue with Dr Hussain having treated this (and learning disability) as *established* diagnoses. In Dr Kennedy's view, her symptoms were more characteristic of Emotionally Unstable Personality than C-PTSD; but she nevertheless had unresolved trauma to be addressed. She meets the criteria for Generalised Anxiety Disorder.

[49] The experts' meeting focused on the more recent report of Dr Kennedy in order to establish any areas of disagreement or need for clarification. There were no major areas of disagreement. There were some areas where, following discussion, the experts were content to amend their views. It was agreed that traits of

manipulativeness and deceitfulness in Dodds could be in keeping with an Emotionally Unstable Personality and be adaptive in nature by helping Ms Dodds survive psychologically. Although Ms Dodds' IQ was not so low as to prevent her appreciating the potential for serious harm to Mr McCormick, the experts agreed that Emotionally Unstable Personality characteristics could have impacted her ability to *fully* appreciate any risk arising to Mr McCormick from Mr Gill. Dr Husain clarified that the diagnosis of learning disability and the IQ assessment to which he had referred were taken from a report in 2014 and may not have taken into account more recent psychological assessment reports referred to by Dr Kennedy.

[50] Both experts agree that Ms Dodds has continued to involve herself in abusive relationships. In addition, they both agree that Ms Dodds did have help offered to her after age 18 but that, given her prioritisation of the relationship with Mr Gill (as part of her Emotionally Unstable Personality), even with support she would not necessarily have identified any difficulties or sought help.

[51] I accept the thrust of the objection made by the prosecution to certain parts of Dr Husain's report, where he has gone so far as to provide his own conclusion as to what was happening at the time of Mr McCormick's murder and gone on to offer his own assessment of Ms Dodds' level of culpability. I have no doubt that Dr Husain offered his views in these areas in good faith and in an effort to assist me; but these are matters for the court (see, for instance, the guidance in *Pora v The Queen* [2016] 1 Cr App R 3, at para [24]). Having said that, there is also force in Ms McDermott's submission that, in truth, Dr Kennedy says something similar - although in less conclusive terms - as to the circumstances of the offending. She opines that, despite the fact that Dodds would have been aware of the potential for a serious incident, in light of her emotionally unstable personality, she would have been acting in a way which was self-preservative and focused only on her own needs, which in that moment would have involved seeking to reconcile with David Gill and appeasing him in whatever way she needed to. Dr Kennedy further says, at para 6.34 of her report, that:

"I agree that her low IQ, probable Emotionally Unstable Personality Disorder and unresolved traumatic experience are matters beyond her control which played a *major* role in her behaviour at the time of the index offence."

[my italicised emphasis]

The appropriate sentence

[52] In *R v Magee* [2007] NICA 21, the Court of Appeal gave guidance as to the appropriate sentences in cases of manslaughter, at paras [23] to [27] of the judgment. Paras [26] and [27] of this judgment are of particular assistance and are in the following terms:

“We consider that the time has now arrived where, in the case of manslaughter where the charge has been preferred or a plea has been accepted on the basis that it cannot be proved that the offender intended to kill or cause really serious harm to the victim and where deliberate, substantial injury has been inflicted, the range of sentence after a not guilty plea should be between eight and fifteen years’ imprisonment. This is, perforce, the most general of guidelines. Because of the potentially limitless variety of factual situations where manslaughter is committed, it is necessary to recognise that some deviation from this range may be required. Indeed, in some cases an indeterminate sentence will be appropriate. Notwithstanding the difficulty in arriving at a precise range for sentencing in this area, we have concluded that some guidance is now required for sentencers and, particularly because of the prevalence of this type of offence, a more substantial range of penalty than was perhaps hitherto applied is now required.

Aggravating and mitigating features will be instrumental in fixing the chosen sentence within or – in exceptional cases – beyond this range. Aggravating factors may include (i) the use of a weapon; (ii) that the attack was unprovoked; (iii) that the offender evinced an indifference to the seriousness of the likely injury; (iv) that there is a substantial criminal record for offences of violence; and (v) more than one blow or stabbing has occurred.”

[53] As the *Magee* case makes clear, offences of manslaughter can cover a very wide factual spectrum. I accept that this case is unusual, involving, as it does, a joint enterprise where this defendant was remote from the scene of the violence. Nonetheless, the *Magee* case gives guidance in respect of offences where a young man inflicts violence on another, usually after drink has been taken, with fatal consequences. That was the type of scheme with which Ms Dodds involved herself. Indeed, in some respects the planning of this offence render it more serious than a drunken brawl.

[54] I accept Ms McDermott’s submission that not all of the aggravating factors identified in relation to the first defendant (see para [24] above) apply in the same way or at all in respect of this defendant. Nonetheless, I consider the following factors to be aggravating factors. First, Ms Dodds was party to an attack which was pre-planned and pre-meditated. Second, she was party to, and intricately involved in, the deception which lured Mr McCormick to the scene of the attack (whereby, for instance, he was told that she was in the flat with a child, which was patently untrue). Her calls to Mr McCormick from the landline in David Gill’s home, when she withheld

her number (which she had not done when calling David Gill), are particularly illustrative of this. The call she made to Pat McCormick at 10.42pm was, I am sure, influential in finally persuading him to attend at the flat, notwithstanding his earlier misgivings. Third, as I have found above, she was aware that the victim was due to receive “a beating” (or, in Mr McCormick’s prescient phrase, “a kicking”) which would amount to deliberate, substantial harm, albeit she did not contemplate really serious harm. Fourth, she was party to this plan in the knowledge of Mr McCormick’s vulnerability and the physical mismatch between him and David Gill. Fifth, she made attempts to cover her tracks after Mr McCormick’s disappearance by purporting to try to contact him when she knew that was futile. Sixth, although I cannot be sure of her knowledge of the precise details of the disposal of the body, much less any involvement in that, I am sure that she was aware on the day following the murder of the essential nature of what had occurred (evidenced, for instance, by her messages to the first defendant that his brother, the third defendant, “better not start” when he had been asked for assistance). Notwithstanding this, she sought to cover her tracks in the way mentioned above; she lied to police about her recent contact with Pat McCormick, and she too maintained her silence during the period of the police search, and public appeal, for Mr McCormick or his remains.

[55] I was referred by the defence to the guidelines for unlawful act manslaughter published by the Sentencing Council for England & Wales. I have had regard to these in terms of assisting with identifying relevant aggravating and mitigating factors, and as a very general guide to culpability. However, I found these of no real assistance, bearing in mind the recent comments of the Court of Appeal in *R v Lehd* [2022] NICA 51, particularly at para [67]. Much of the debate about the experts’ reports in Dodds’ case was fixated on the question of whether her responsibility was “substantially reduced” by virtue of her mental disorder, so as to place her in Category D of that guideline in relation to culpability. Para 11 of the Practice Direction approved in *McCandless* for murder cases refers simply to an offender suffering from a disorder “which lowered the degree of his criminal responsibility.” In *R v Ward* [2019] NICA 18, the Court of Appeal identified the question simply as whether the medical evidence warranted the assessment that “for some identifiable medical, psychological or kindred reason the applicant’s culpability at the time of committing the murder was reduced, thereby giving rise to some degree of mitigation” (see para [23]). In addition, there is at least one factor which might render this case a Category B case applying the English guidelines, namely that the body was concealed and thereby degraded; a matter which this defendant assisted in covering up. A case might also be made that culpability falls within Category C, as a case where death was caused (so far as the second defendant is concerned) in the course of an unlawful act which involved an intention by the offender to cause harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability. In short, I found the efforts directed towards this debate to be illustrative of the risks highlighted in *Lehd* that reference to English sentencing guidelines can result in overly technical debates about whether an offender falls into one category or another, when those categories may not be clearly and hermetically defined and, in any event, relate to

starting points and sentencing ranges which have not been adopted by the courts of this jurisdiction.

[56] I have found more assistance in the comprehensive paper presented by Sir Anthony Hart to the Judicial Studies Board in September 2013 entitled 'Sentencing in Cases of Manslaughter, Attempted Murder and Wounding with Intent.' Sir Anthony commented that in cases involving substantial violence to the victim sentences ranged from six years on a plea to 14 years on a contest, with "sentences of 6 to 8 years [tending] to be reserved for cases where there are strong mitigating personal factors, or the defendant was not a principal offender." A range of cases were cited in submissions, but it was accepted by both sides that this was a particular case on its own facts for which comparator cases were not readily available.

[57] I consider there to be considerable force in Ms McDermott's submission, in light of the medical evidence before me, that Dodds' mental health issues represent significant mitigation. I treat with caution much of what Dodds has said about the control David Gill had over her, particularly in light of some of her allegations about domestic violence in the relationship which are not supported by other records; and her obvious willingness to portray herself as the victim and paint either David Gill or Pat McCormick as a violent aggressor as suited her agenda at that point. I am also convinced that, in her discussion with Dr Husain in particular, she has exaggerated, if not entirely fabricated, her sense of fear of Mr Gill in the immediate time preceding the offending. Nonetheless, I am satisfied that Dodds suffers from a personality disorder which, consistent with Dr Kennedy's views set out at para [51] above, played a "major role" in her behaviour at the time of the offence and should be viewed as materially lowering her culpability. This condition rendered her more amenable to participating in the scheme to harm Pat McCormick and less able to foresee the full potential consequences. I make it clear that I have not in any way taken this into account as an aggravating factor in respect of David Gill's offending.

[58] I do not consider there to be significant additional mitigation arising through Dodds' age at the time of the offence (20 years old). The defendant's personal circumstances, summarised at length in Dr Husain's report, also provide material mitigation in my view. I recognise that personal mitigation is rarely viewed as significant in relation to serious offending. In this case, however, the personal circumstances in Dodds' upbringing are extreme; her culpability (for the reasons set out immediately above) is not at the highest end of the range; and, crucially, I am satisfied that there is a degree of causative linkage between the defendant's childhood experiences and the circumstances of her offending. I must be careful, however, not to 'double count' the mitigation arising through her personal circumstances and her mental health issues where they overlap.

[59] Manslaughter is both a serious offence and a specified violent offence for the purposes of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 ("the 2008 Order"). Accordingly, I must consider the question of the dangerousness of this defendant in line with the approach set out in *R v EB* [2010] NICA 40; [2011] NIJB 373.

I do not consider this defendant to be dangerous, notwithstanding the risk factors discussed in Dr Kennedy's report. She has no previous convictions, let alone any for violent offences. Her participation in the offence in this case was remote. Although she is assessed by Probation as presenting a high likelihood of reoffending, she is not assessed as presenting a significant risk of serious harm; and there is no established pattern of violent offending causing significant harm. In light of this finding, I do not need to consider the issue of a life sentence or extended custodial sentence.

[60] However, I am of the opinion that the offence was so serious that only a custodial sentence can be justified for it. As required by Article 10 of 2008 Order, before passing this sentence, I have taken into account the information before me in relation to the defendant's mental condition and the likely effect of this sentence on that condition and on any treatment that may be available for it. In particular, I note Dr Husain's view that, in some respects, "imprisonment will rescue Ms Dodds from the chaotic circumstances of her life in the community" (a view shared by Dr Kennedy). The "slightly positive trends" he notes in her recent presentation go nowhere near enough to persuade me that a community sentence would be appropriate. The contents of the social care report gives me concern as to the defendant's ability (and, indeed, willingness) to benefit from therapeutic work in the community. An earlier report from Dr Mark Davis, Consultant Clinical Psychologist, described that when others have expressed concern about her safety and potential to be abused, "Ms Dodds has been wilful, oppositional and secretive." Dr Kennedy has expressed the view that, given the history, it is likely there will be problems with compliance and responsiveness to intervention; and that she has problems engaging with intervention due to efforts to avoid criticism and a lack of insight into her difficulties. The pre-sentence report supports this concern. It notes that Ms Dodds has disengaged from the supports available to her in the community. Nothing in the defendant's mental condition leads me to conclude that an immediate custodial sentence is inappropriate.

[61] The aggravating features identified at para [54] above would suggest a starting point of a somewhat higher than 8 years (but still within the lower half of the range identified in *Magee*). When the unusual circumstances of this offence and powerful mitigation mentioned above is taken into account, however, I consider that a starting point of 7 years is appropriate. This is in line with Sir Anthony's indication that in a case involving substantial violence to the victim, a sentence of 6-8 years may be appropriate where there are strong personal factors or the defendant was not the principal offender.

[62] As to a reduction in sentence for her plea of guilty, this was at a very late stage and well after the plea of the first defendant, David Gill. However, I accept that, by reason of her mental health issues and "childlike" presentation, taking instructions may have been difficult. A factor of some significance is that I have been informed that she pleaded guilty to manslaughter as soon as the Crown indicated that such a plea would be accepted, albeit the approach to explore this was made at a late stage. However, the contents of the pre-sentence report indicate limited, if any, remorse or

victim awareness. Dodds remains keen to portray herself as a victim in the whole affair. Taking all of these factors into account, a reduction in the region of 20% appears to me to be appropriate.

[63] The sentence will accordingly be one of five and a half years, with the appropriate custodial period being set at 33 months and with the same period of supervision on licence upon release from custody. Pursuant to Article 23(1) of the 2008 Order, I recommend that the conditions set out in the Annex to these sentencing remarks should be included in the defendant's licence upon her release from prison.

The remaining three defendants

[64] The remaining three defendants have pleaded guilty to respective counts of withholding information contrary to section 5(1) of the Criminal Law Act (Northern Ireland) 1967. I have been referred to a number of Crown Court cases as potentially providing assistance in relation to sentencing for this offence, namely *R v Rafcz and Czop* [2011] NICC 5; *R v Seales and Others* [2014] NICC 12; and *R v Bustard and Others* [2015] NICC 12. There are no Court of Appeal guideline cases in this area. I have also found assistance in the authority referred to by Mr Duffy, the decision of McBride J in *R v Sikorskas* [2018] NICC 13, at paras [68]-[70].

William Gill

[65] I am satisfied that William Gill made the journey from his home in Lurgan on the day his brother discovered Pat McCormick's dead body for the first defendant to confide in him as to what he had done. I am further sure that this was, at least, for the purpose of seeking advice or counsel. The third defendant took the first train possible and obviously went to his younger brother's aid as a matter of some urgency. By the end of their conversation that day, I am sure that he was aware that someone had been killed and that his brother was responsible. Indeed, that has not been disputed. William Gill was arrested on 5 June 2019 and interviewed the next day. He admitted travelling to see his brother on 31 May but suggested this was to do with dogs being sick. That was a complete concoction. I am also satisfied that he sent text messages seeking to cover his tracks in terms of the real purpose of his visit to the first defendant on 31 May 2019.

[66] William Gill is now 43 years of age. He has previous convictions for road traffic matters only, which I do not treat as relevant. I have been told he has no pending matters and has not come to the attention of the police in the four years since the commission of the offence. He is in full-time employment.

[67] I accept in this defendant's case – and that of the remaining two defendants – that there is no evidence to suggest that he was in any way involved in the run-up to Mr McCormick's murder; that he had any animus towards Mr McCormick; nor that he was aware of the attack on Mr McCormick in advance or the plan surrounding it. I proceed on the basis that he was contacted by his brother only *after the event*. There

is no doubt that a family member (or close friend) may be placed in an extremely difficult position where an individual discloses to them that they have committed a heinous crime. Nonetheless, by his plea this defendant has acknowledged – as have the fourth and fifth defendants, as they must – that the correct thing to do was to contact the police with information in their possession which would have been likely to lead to the apprehension, prosecution or conviction of the offender. In this defendant’s case and that of Leslie, it is clear that Mr McCormick was known to David Gill to be dead before he involved them. I therefore accept that any action on their part could not have altered the fatal outcome.

[68] William Gill’s account is that, when he saw his brother on 31 May 2019, David Gill told him that he was involved in something “worse” than a fight; and that he told his brother to hand himself in. I have some concern that this account is self-serving. Nonetheless, there is nothing to suggest that William Gill gave his brother any material assistance, other than by way of his silence. Once David Gill had been arrested for murder on 3 June 2019, however, there was a greater onus on William Gill to reveal what he knew. Mr Connor submitted that the effect of Gill’s silence was merely to delay the arrest of his brother by some 2½ days and that – as in the case of *Bustard* – his inaction did not have a significant impact on the police investigation or on the course of justice as a whole. I consider that analysis unduly simplistic. The extent of assistance which might have been given to the investigation if Gill had shared with police all that he knew remains unclear.

[69] A mitigating factor in William Gill’s case is that the pre-sentence report indicates that he has good victim empathy; and that he has stated that he is sorry for the victim and his family. He regrets that he did not take his brother David directly to the police station. I proceed on the basis that he has expressed genuine remorse. The fact that he is in full employment with no relevant record are also matters to his credit.

Andrew Leslie

[70] Andrew Leslie has also pleaded guilty to withholding information. The basis of Leslie’s plea is that, at some point on 31 May 2019, the day on which the body was disposed of, he knew that Pat McCormick’s body had been disposed of in the lake situated behind the cottage where he was living, although he did not know of the intention for this to be done prior to the body’s disposal. As noted above, the lake was accessed through a gate within these premises in order for the body to be disposed of. While the weight of the bin and the difficulty of the terrain would have required more than one person to move it to the lake, the Crown is unable to prove who that was. Accordingly, I sentence Leslie on the basis that he became aware that day of the body being disposed of there; but not on the basis that he assisted in the disposal. He was arrested at Dufferin Cottage on 5 July 2019 and a mobile phone attributed to him was seized. All message content from the phone from 29 May to 2 June 2019 appeared to have been deleted. That appears to me to be an aggravating feature. The fact that he was aware of where the body had been disposed of, which, had he shared this with

police, could have expedited its retrieval and assisted the investigation, is a further aggravating feature of the offending to which he has pleaded guilty. He was interviewed later the same day and made no comment. I also note that, from 31 May 2019, the day the body was disposed of, to 2 June 2019, David Gill, Leslie, Montgomery and Dodds were in frequent contact (or attempted contact) with each other.

[71] Leslie is now 24 years of age. He has no previous convictions. I have received a detailed pre-sentence report in relation to this defendant which I have read in full and taken into account. He lives alone and has one son, with whom he enjoys regular contact. He has a supportive family. He also has mental health issues, including ADHD, which have detrimentally impacted upon his educational attainment and employment opportunities; as well as more recent trauma and anxiety arising from some family difficulties. He is currently unemployed but, I am told, has an offer of employment pending. To his credit, the author of the pre-sentence report considers him to be genuinely remorseful, with good insight into the impact of his offending upon the family of the deceased, as well as on his own family and the local community. An example of this is cited to be his avoidance of a local shop where he knows the deceased's niece works, out of respect for her and her family. He is said to regret not disclosing to police what he knew, and having not done so through fear of the consequences. Probation consider that he presents a medium likelihood of reoffending (at the lower end of medium) and is not considered to present a risk of significant harm.

[72] It was suggested to me that, in assessing a reduction to be given for Leslie's guilty plea, I should take into account that "unusually... this Defendant never sought to wrong foot interviewing police by evasively concocting a false story or blaming anyone." I do not consider this to be a material factor warranting any additional reduction. It is simply the absence of an aggravating factor.

[73] I have also received and considered a number of references from others who know or are related to Leslie, including from his aunt (Nicola Donnelly) and family friends (Elaine Walsh and Joanne Boyd). It is clear that Leslie's family live with the shame and embarrassment occasioned by his part in this affair. The references speak of his withdrawal and depression following his involvement in the aftermath of Mr McCormick's murder, but also his positive relationship with his young son and community involvement.

Jonathan Montgomery

[74] As noted above, David Gill contacted Montgomery shortly after the attack, at 1.14 am on the night of the murder, with the call lasting over 5 minutes. Montgomery was the first person David Gill contacted after his telephone reconnected to the network that night. He too has pleaded guilty to withholding information in respect of the murder. There is a clear inference that he knew about the severity of the assault when David Gill called him in the early hours of the morning on 31 May 2019. He was also aware of the burning of the material at the bottom of his garden, although

the Crown are unable to prove that he knew of that in advance. Montgomery was also arrested on 5 July 2019 and made no comment at interview. A prepared statement was submitted on his behalf in which he accepted making and receiving calls to and from David Gill; but he denied that there had been any mention of Pat McCormick in any of the calls and further denied any knowledge of his disappearance.

[75] Montgomery's offending is in my view more culpable than that of the third defendant, and probably also the fourth defendant's, because he was contacted at an earlier stage by David Gill. There was a possibility, therefore, of altering the course of events – either by Pat McCormick being afforded some assistance before he died or, at the very least, by avoiding his body being disposed of in the lake – if Montgomery had done the right thing at an early opportunity.

[76] Montgomery is now 24 years of age. He too has no previous convictions. I have the benefit of a registered intermediary's report and a further report on this defendant from Dr Bratten. He has significant communication disorder and auditory processing delay, as well as a previous diagnosis of ADHD. He lives alone, although in a property close to his parents, and appears to struggle socially. There are significant family stressors which I need not go into for present purposes, but which require him to contribute towards his parents' care. He was friends with the first defendant mainly through a shared interest in cars but now submits that he was naïve in this friendship. He accepts he should have revealed to police what he knew – that Gill had been involved in an assault and, later, about the burning of material on his property – but says he did not do so due to the fear of consequences for himself and out of a misguided sense of loyalty. His parents condemn his offending but remain supportive and concerned for him. Dr Bratten concluded that he has an “exceptionally high level of suggestibility.” The pre-sentence report again indicates remorse and shame on his part. He is assessed as being a low risk of re-offending and not assessed as posing a risk of significant harm. A variety of character references have also been provided, including from his employer, which I have read and taken into account.

Sentences for these offences

[77] In each of their cases, the third to fifth defendants have no relevant criminal record to speak of. I proceed on the basis that their involvement in the circumstances of Mr McCormick's death was a one-off, in which they were placed in a very difficult situation by David Gill who was either a relative or close friend. I consider William Gill's offending marginally less serious than that of Leslie, who knew where the body was disposed of at an early stage, and of Montgomery, who was contacted by David Gill earlier than the others. All of them contributed to the anguish experienced by Pat McCormick's family when he was missing. In my view, a custodial sentence is necessary in each case to meet the seriousness of the offending.

[78] However, I also consider it appropriate to suspend the sentence in each case given the one-off nature of the offending and the absence of any material criminal record on the part of each of these defendants. I do not consider it necessary to impose

an immediate custodial term which will significantly jeopardise each of their abilities to contribute to society either in their employment or by way of their family responsibilities. In reaching this view I take into account the mitigation appropriate for their pleas of guilt and their remorse and, the length of time that these proceedings have been hanging over them (although there was no suggestion of culpable delay on the part of the Crown). I also note that a suspended sentence was considered an appropriate disposal – to mark the seriousness of the offending but also reflect its one-off nature – in the cases of *Bustard, Seales, Sikorskis* and *Wilson* ([2019] NICC 1). Indeed, in that latter case, Colton J recognised (at para [98]) that this is now a common disposal for the offence of withholding information (or similar offences) where the seriousness of the principal offending requires a custodial sentence but there are no features rendering it appropriate to make that sentence effective immediately.

Conclusion, imposition of sentences and consequential orders

[79] David Gill, in respect of the offence of murder on count 1 of the indictment, I have already sentenced you to life imprisonment. I am fixing your tariff at 16 years. That is the period of time you must serve in custody before you are eligible to apply for release on life licence. The time you have spent in custody on remand and since your plea will be taken into account as service of this part of your sentence.

[80] As is normal, I emphasise, both for your benefit and that of the family of the victim and the public, that the setting of a 16 year tariff does *not* mean that you will be released at that point. Whether or not, having served your tariff, you are eligible for release on life licence will be determined by the Parole Commissioners for Northern Ireland, only after their having made an assessment of whether it is no longer necessary for the protection of the public from serious harm that you should be confined (see Article 6(4) of the 2001 Order).

[81] I am also required by para 25 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 to inform you that the Independent Barring Board will include your name on the barred list relating to adults by virtue of his conviction; and do so now. The offender levy will also apply in your case and in that of each of the defendants.

[82] Lesley Ann Dodds, in respect of the offence of manslaughter on count 13, I sentence you to a determinate custodial sentence of five and a half years, with the appropriate custodial period being set at 33 months and with 33 months supervision on licence upon release from custody.

[83] William Gill, I sentence you to a determinate custodial sentence of 1 year, suspended for a period of two years. Andrew Leslie, I sentence you to a determinate custodial sentence of 15 months, suspended for a period of two years. Jonathan Montgomery I also sentence you to a determinate custodial sentence of 15 months, suspended for a period of two years. Your legal representatives will explain the consequences of those sentences to you. You are not required to serve those

sentences now but, in each of your cases, if you re-offend within the period of two years beginning today, your sentence may be put into effect in addition to any further penalty imposed for the additional offending. At the conclusion of this hearing, therefore, you will be free to go. But your convictions are themselves a stain on your character for your involvement in this gruesome and sorry affair.

[84] The first and second defendants should be taken down.

Annex

Recommended licence conditions for Lesley Ann Dodds

Pursuant to Article 23(1) of the Criminal Justice (Northern Ireland) Order 2008, the court recommends the following conditions which, in its view, should be included in any licence granted to the offender under Article 17 of the said Order on release from prison, namely:

- (i) You must participate in any psychological assessment and/or engage with mental health services if deemed appropriate by your probation officer.
- (ii) You must present yourself, in accordance with the instructions given by your probation officer, to the Probation Board of Northern Ireland (PBNI) at 80-90 North Street, Belfast, BT1 1LD, or such other venue specified by your probation officer, to participate actively in an alcohol and/or drugs counselling and/or treatment programme during the licence period; and you must comply with the instructions given by or under the authority of the person in charge of any such programme.
- (iii) You must actively participate in any programmes of work recommended by your probation officer which are designed to reduce any risk you may present; and to attend and cooperate in assessments by PBNI as to your suitability for programmes and other offence-focused work.
- (iv) You must permanently reside at an approved address and must not leave to reside elsewhere without obtaining the prior approval of your probation officer; and, thereafter, must reside as directed by your probation officer.
- (v) You must not develop any intimate personal relationships with any male, without first notifying your probation officer who will take appropriate steps to ensure that you have been offered guidance and safety measures and that appropriate disclosure has been made.