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IN THE CROWN COURT OF NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE

THE KING

v

GARY BAIRD

SENTENCING REMARKS

McFARLAND J

Introduction

[1] Susan and Gary Baird were a couple who lived in the Four Winds area of south-east Belfast. They had been married for just under 40 years. They had four children, one of whom still lived at home.

[2] Mrs Baird was 60 years of age and worked as an administrator for Orangefield Presbyterian Church. Gary Baird (who I will refer to as 'Baird') was 61 years of age when he killed his wife. He is now 65.

Victim impact statements

[3] Mrs Baird was a much-loved mother and sister. I have received statements from each of her four children and from her brother and sister. I found those statements to be very moving and it was clear that each had taken some time and thought about the content. Each statement, in its own way, spoke eloquently about the devastation caused by the death, about the loss suffered by the sister, brother and children as individuals and also the loss suffered by the members of the wider family. For everyone this has been a deeply emotional experience, particularly for the children knowing that their mother has been killed in such a brutal way by their own father.

[4] I do not propose to quote from these statements to protect the privacy of the

comments, save for the opening lines of one statement from one of the children which I think encapsulates how they have had to deal with the circumstances of their mother's death:

"On 16th August 2020 my dad killed my mum. This will never get any easier to say for me. I struggle to write it never mind say it aloud and I still find it extremely hard to believe this is our reality."

[5] I thank the family members for all of the statements. They have assisted me in gaining a deeper insight into the harm caused by the death and have aided my approach to sentencing.

Background

[6] The Bairds' marriage, although long lasting was not without its difficulties. On many occasions in recent times the couple would not speak to each other. There were issues about finance and Baird's mother. Mrs Baird had contemplated divorce proceedings and a letter was written on her behalf in early 2017 but during the period after that she had been receiving counselling and they, as a couple, attended separate counselling. There never was any separation. It appears that things did improve after that but not completely.

[7] By 2020, they had gone on a cruise together, had holidayed in Portrush, with another holiday in Donegal planned.

[8] One of the contributing factors to the marriage difficulties was Baird's deteriorating mental health, which I will deal with shortly.

16 August 2020

[9] On Sunday, 16 August 2020 Mrs Baird had been dealing with some church work from home around 2:30pm and she was killed sometime after that and before a 999 call made by Baird at 4:51pm.

[10] Police arrived at the home shortly after at 5:00pm with the paramedics not long after that. Although death was not formally certified by a doctor until 8:55pm that evening, it was the clear opinion of the paramedics and the police officers that Mrs Baird, whose body was lying slumped on a settee in the back room, was dead on their arrival.

[11] Dr Ingram, the pathologist, examined the body of Mrs Baird on 18 August. He was of the opinion that the death had been caused by multiple blows to the head resulting in bruising and lacerations to the head, fractures to the skull and catastrophic damage to the brain. He observed seven lacerations of the forehead and a total of eight bruises. He said that the injuries were consistent with the use of a

heavy weapon such as a hammer. Some may have been the result of punches. It was impossible to estimate the number of blows but, in his words, "multiple blows had been delivered." He determined that the cause of death was a laceration to the brain associated with fractures of the skull and facial bones due to multiple blows to the head.

[12] Photographs of the scene show a hammer found standing upright on the floor of the kitchen adjacent to the door into the back room where the body was found.

[13] Blood on the head of that hammer was sampled and there were mixtures of blood from Mrs Baird and Baird.

[14] At the beginning of the 999 call, the caller, Baird, said "I have just murdered my wife" and then "I hit her with a hammer."

[15] It was clear that Baird had sustained a head wound which appears to have been self-inflicted using the same hammer. The blood, human hair and tissue found in the hall, living-room, dining room and kitchen was matched to Baird.

[16] The blood on the wall of the back room and on the sofa matched Mrs Baird's blood, and there were some spots of blood on Baird's lower clothing which matched Mrs Baird's blood.

[17] It is clear that Mrs Baird was attacked in the back room and died rapidly as a result of the injuries in that room.

[18] Baird's injuries were recorded, as was his agitated and confused presentation, on the body worn camera footage from Constable McKimm.

The arrest and medical assessment of Baird

[19] Baird was then arrested at the scene and made no reply when cautioned by the police.

[20] Cheryl Stevenson, a paramedic, attended Baird at the house. She described his wound as exposing the skull. It was on the crown of his head and about 4-5 inches in length and 2 inches in width. When she asked him - "who did this?" he replied, "I did this to myself." She asked, "what did you use?" and he replied, "a hammer." He said to her "The voices in my head told me to do it." She said that "verbally he was calm but his hands were fidgety showing signs of agitation." He was taken to the Ulster Hospital and received treatment for his head wound in the ICU.

[21] I now propose to go back in time to describe Baird's mental health problems in the run-up to the death of Mrs Baird. The evidence came in the form of reports of what Mrs Baird had said about her husband's mental health and his presentation to

others and what their daughter had said. There was also some reference to his presentation in medical records.

[22] Janice Dunseath (a daughter of the couple) is a nurse and in her evidence during an aborted trial she spoke about acute problems with her father's mental health surfacing in 2020. She said that there had been a deterioration, she thought, after the death of her paternal grandmother in 2016. She said that her mother was concerned about her father's mental health and had been trying to get him help. Her father's health was a burden on her mother and she told the jury that her father acknowledged he was a burden on her.

[23] Reference has been made to a large number to telephone calls (in excess of 500) to the GP practice seeking assistance.

[24] Mrs Baird told several family members and friends about her husband's mental health and there is no reason to doubt the accuracy of what she is reported to have said:

- Baird was not coping well with Covid lock-down as he was stuck inside. (Covid lock-down was mid-March – late May 2020).
- After an accident on 6 August involving a bin lorry in the centre of town Baird was pacing the floors.
- Mrs Baird was concerned that on discharge he would be “even more weird” and how she would cope with this. She was dreading his discharge from hospital.
- Mrs Baird said on 12 August that Baird was very quiet.
- Since 2015 Baird had become more paranoid and that it had got worse over the 2020 summer. He was pacing up and down, not speaking and wringing his hands.

[25] A GP record on 21 July 2020 notes that Baird was agitated, anxious at very low ebb. His Mirtazapine dosage was increased and he was referred to the mental health hub. His Mirtazapine was then reduced and he was started on Trazadone. It is unclear if Baird was taking the prescribed dosage as the police discovered a quantity of medication in the home when it was searched.

[26] I have referred to the bin-lorry incident on Bedford Street on 6 August 2020. This would have been a few days or weeks after a holiday with Mrs Baird in Portrush.

[27] CCTV images show Baird reaching the side of Bedford Street, and suddenly turning round or falling back. That resulted in the amputation of several fingers.

[28] Whether that was an accident or a self-harming incident or even suicide attempt is a matter of speculation. Baird consistently denied it was self-harming although my assessment, having seen the images, is that it could well have been at the very least a self-harming incident if not a suicide attempt.

[29] Returning now to Baird's mental condition after the incident. When he was a patient in the Ulster Hospital ICU it was recorded "sleeping poorly prior to incident. Internal voice "his chance to do something - to finish it." Had heard internal voice for past 6 weeks. Not external to him but inside his head. Not heard voices since."

[30] By 26 August (10 days later) he was medically fit for discharge and was examined by Dr Philip Toner (his GP) and by Eugene McNulty an approved mental health social worker. Baird told them he had heard a voice saying, "this is your time, this is your opportunity." The voice was "not a natural voice." He said he had been hearing that same voice since June 2020. He then attacked his wife with the hammer. He said he hit himself with the hammer as he wanted "to share the pain." He was sorry and "wished he could turn the clock back." Baird presented as being very tired, speaking quietly without hostility or aggression.

[31] Mr McNulty said that his impression was that he was not holding anything back and that Baird was making a genuine effort to tell him what had happened.

[32] Dr Toner and Mr McNulty were both of the opinion that Baird should be detained under the Mental Health (NI) Order 1986 for assessment.

[33] This is sometimes referred to as being "sectioned" a reference to the relevant section (or Article as it applies in Northern Ireland) in the mental health legislation.

[34] The legal test for an assessment order is that he was suffering from a mental disorder of a nature or degree which warranted detention for assessment in a hospital and that a failure to detain him would create a substantial likelihood of serious physical harm to himself or to other persons.

[35] Baird was moved initially to a secure unit in Lagan Valley Hospital and then the next day to a similar unit in Belfast City Hospital where he was to be assessed. The medical notes at the time indicated:

- 27 August - "mood extremely low - worsening since June. When he acted, he did not feel like himself - not sure if he could control his body."
- 27 August - "admission diagnosis - severe depression with psychosis."
- 28 August - "continues to hear voices - could not describe the content. The impression was a severe depressive episode with psychotic features with super-imposed delirium or confusion state due to physical illness."

[36] On or about 21 August the medical notes indicated that Baird had a heart attack. A medical report also refers to him suffering from a pulmonary embolism (blood clot to the lung) at or about the same time.

[37] Mr McNulty saw him again on 27 August at Lagan Valley. He said that Baird was pacing round the room, “a slow walk shuffling around the bed and back again.” He would sit for a short time and get up repeating the shuffling around.

[38] Following that assessment it was determined that he should be formally detained for treatment under the mental health legislation. The legal test for a treatment order is the same as detention for assessment - that he was suffering from a mental disorder of a nature or degree which warranted detention for treatment in a hospital and that a failure to detain him would create a substantial likelihood of serious physical harm to himself or to other persons. Before making that order, psychiatrists must also be satisfied whether other methods of dealing with him were available but were not appropriate.

[39] He was detained for psychiatric treatment for approximately one year (376 days).

Police investigation and court proceedings

[40] Turning now to the investigation and court proceedings, as I have already stated Baird was arrested at the scene on 16 August 2020 and then formally released from police custody on 26 August 2020 at which stage he passed into compulsory detention under the mental health legislation.

[41] He was eventually interviewed by the police on 25 and 26 January 2021 but did not respond to any of the questions. He was interviewed in the presence of his solicitor and an appropriate adult and the solicitor indicated that as the defendant had not yet been assessed by a psychiatrist, he was advising his client not to answer the questions.

[42] He was then produced before Newtownards Magistrates' Court on 27 January 2021 and released on court bail while remaining under mental health legislation detention.

[43] He was eventually released from detention under the mental health legislation on 6 September 2021 and was then arrested and remanded into custody.

[44] On 8 December 2021 he was returned for trial and pleaded not guilty to the charge of murder on 18 February 2022. It was clear that in the preparation for the trial the only issue related to the availability of the partial defence of diminished responsibility and to this end opinions were sought both by the defence and the prosecution from consultant psychiatrists.

[45] When the matter first came on for trial on 22 January 2024 Baird entered a plea to manslaughter but this was rejected by the prosecution. A trial before a jury then commenced but was stopped for legal reasons prior to the jury reaching a verdict.

[46] On 20 May 2024, Baird again entered a plea of guilty to manslaughter and this was accepted by the prosecution.

Diminished responsibility

[47] The basis of the partial defence of diminished responsibility arose from the opinions expressed by several consultant psychiatrists, retained by both the defence and the prosecution. Dr Bunn in September 2023 was of the view that Baird suffered from a major depressive disorder with psychotic features. Later reports were obtained from Dr Kennedy and Dr Husain in May 2024.

[48] Dr Kennedy referred to severe depression although she was not convinced that he was actively psychotic but accepted that he may have been. She did confirm her opinion that at the time of the death Baird's ability to form a rational judgment and exercise self-control was substantially impaired.

[49] Dr Husain expressed a similar opinion.

[50] In my supervisory role as trial judge, I accepted the prosecution's approach to the plea to manslaughter on that basis as I considered that in light of the psychiatric evidence, Baird had satisfied the burden placed on him to prove his diminished responsibility.

Pre-sentence report

[51] A pre-sentence report was obtained on 4 July 2024.

[52] It sets out Baird's personal circumstances. After school he worked in the heating and plumbing trade for 10 years before commencing employment with the BBC where he remained for 32 years taking early retirement in 2012. After that he worked in the MAC theatre. He has no previous criminal convictions. There is no history of violence or violence ideation either within or outside the domestic setting.

[53] He has been appropriately behaved within the prison environment and has not been subject to any adjudications. He has enhanced status and is described as using his time constructively.

[54] The report outlines the findings of a risk management meeting held on 18 June 2024 to which I will return shortly.

Sentencing guidelines

[55] Baird falls to be sentenced for the manslaughter of his wife. Manslaughter covers a wide variety of offending, ranging from little more than a death resulting from an accident up to offending just short of murder. For this reason there is very little definitive guidance to assist sentencing judges.

[56] Kerr LCJ in *Magee* [2007] NICA 49 at para [22] stated:

“It is not surprising that there are relatively few decisions in this jurisdiction which could properly be described as guideline cases for sentencing for manslaughter. Offences of manslaughter typically cover a very wide factual spectrum. It is not easy in these circumstances to prescribe a sentencing range that will be meaningful.”

[57] Sir Anthony Hart in a paper presented to the Judicial Studies Board in September 2013 referred to seven broad sub-categories of manslaughter. These included:

- Where substantial violence is caused to the victim with a range of “6 years on a plea to 14 years on a contest.” He added 6 to 8 years is reserved for cases where there are strong personal mitigating factors.
- Diminished responsibility – with a psychiatric history that may suggest a continuing danger – a life sentence with a minimum term of 5 to 6 years.
- Domestic disputes with an element of violence and/or provocation from the victim with a range of 4 to 7 years.

For clarification, I do not consider that this case falls into this final sub-category.

[58] In *Crollly* [2011] NICA 58, Higgins LJ gave some guidance as to the correct approach to sentencing in manslaughter cases. At para [22] he referred to the case of *Magee* and the comments of Kerr LCJ at para [26] where he said that as a general guideline in a manslaughter case involving deliberate serious injury is inflicted without the necessary intent to kill or cause such harm, a range of 8–15 years after a contest would be appropriate.

[59] Higgins LJ then went on to say at para [24] that:

“In a case of manslaughter by reason of diminished responsibility the sentencing court is concerned principally with three separate matters – the seriousness of the offence, the abnormality of mind and the extent to which it diminishes the offender’s responsibility for the

killing and the background of the offender.”

[60] Before leaving the general approach to sentencing in the case law I would briefly refer to three issues.

[61] The first is perhaps obvious. Comparing other sentences imposed for the offence of manslaughter in whatever guise is unhelpful. Each case has its own specific factual background and this case comprises a unique set of circumstances.

[62] The second is that the abnormality of an offender’s mind is already factored into the reduction of the offence from murder to manslaughter.

[63] The third is that the court needs to carry out a full evaluation of the appropriateness of a number of sentencing options. These range, in this case, from:

- A hospital order
- A discretionary life sentence
- An indeterminate custodial sentence
- An extended custodial sentence; and finally
- A determinate custodial sentence.

[64] This will clearly involve an assessment of the risk posed by the offender to the public. In *Wood* [2010] 1 Cr App R(S) 2, Judge LCJ, presiding over a five-judge court gave helpful advice at para [15]:

“Where the defendant constituted a danger to the public for an unpredictable time, the right sentence would probably be life imprisonment. However, if the defendant's responsibility for his acts was so grossly impaired that his degree of responsibility was minimal, then a lenient course would be open, but the length of any determinate sentence depended on the judge's assessment of the degree of the defendant's responsibility and his assessment of the time for which the accused would continue to represent a danger to the public.”

Risk of harm posed by Baird

[65] Turning now to the risk posed by Baird to the public, which would, of course, include members of his own family. Notwithstanding his exemplary conduct throughout his life, this was still a vicious and brutal attack against his wife of nearly 40 years with a hammer. At the time his mind was substantially impaired and he

could not form a rational judgement. Whether there is a potential of a recurrence of this mental state is a relevant factor to be considered.

[66] The evidence suggests that his mental health has now stabilised. His incarceration does provide a stability and routine in his life which will be absent on his release, but there is nothing to suggest that his current state of mind would not continue. Two matters are concerning and are referred to in the pre-sentence report. The first is that he had been using alcohol as a coping strategy and it was considered that he was under-reporting his consumption and the second is that he may not have been compliant with his medication regime as evidenced by the quantity of drugs located by the police at the home. Both these matters are under control within the prison regime.

[67] The Probation Board consider that a prohibition of alcohol consumption would be important. Whether this can be managed on his release will depend on his domestic situation.

[68] These negative factors have to be set against the absence of any prior criminal or violent conduct throughout his life.

[69] The overall assessment of the pre-sentence report and the conclusion of the risk management meeting of 24 June 2024 was that Baird does not meet the Probation Board's threshold for significant risk of serious harm. That is an assessment that is well supported by the evidence and with which I agree.

Consideration of sentencing options

[70] No psychiatrist has suggested that because of his psychiatric history and his current presentation, Baird presents as a current danger requiring detention under a hospital order.

[71] In the circumstances the imposition of a hospital order is not appropriate. As it has not been shown that there is a significant risk of Baird causing serious harm by the commission of further offences, a discretionary life sentence or a sentence for public protection would not be appropriate.

[72] I therefore intend to impose a determinate custodial sentence, the length of which will be commensurate with the seriousness of the offence in accordance with Article 7(2) of the Criminal Justice (NI) Order 2008.

[73] The aggravating factors are as follows:

- There was an intent to kill as evidenced by the use of a hammer as a weapon and the multiple blows;
- The killing was unprovoked;

- The attack involved gratuitous violence upon an innocent victim in her own home.

[74] The mitigating factors are as follows -

- Baird was a 61 year old man at the time with a clear criminal record coupled with a positive good character in relation to his work and community life;
- Baird's mental health at the time;
- Baird's physical health including the injuries sustained after the bin-lorry incident, the head injuries at the time of the killing, and the subsequent heart attack and embolism.

[75] Turning to the three factors referred to by Higgins LJ in *Crolly* this is a most serious offence given the substantial level of violence used but given the state of Baird's mental health the sentence must reflect the extent to which his responsibility for the killing is diminished. In doing so I bear in mind the need to avoid an element of double counting his mental state as a mitigating factor given that his diminished responsibility has already reduced the offence from murder to manslaughter.

[76] Had this case gone to a contested hearing I consider that the correct sentence to be imposed would be one of 12 years in custody. I have reached this conclusion as I consider that the case falls towards the upper part of the range of the brackets suggested by Kerr LCJ in *Magee* and by Sir Anthony Hart in his Judicial Studies Board paper, and then reducing the sentence taking account of the personal mitigating factors.

[77] Given the plea of guilty which had been indicated at the earliest of stages but not accepted until very recently, I consider that Baird is entitled to substantial credit for the plea. Essentially it was entered at the first opportunity. I propose to reduce the sentence by the customary one third to eight years.

[78] I have already mentioned the period of detention when his liberty was restricted under the mental health legislation. Baird will receive no credit for this period unlike the period of detention when he was remanded by the court.

[79] I consider that this can be remedied by a further reduction in the sentence with an appropriate adjustment to the custodial period and licence period as provided for by Article 8 of the 2008 Order.

[80] Judges are required by the legislation to order at least one half of any determinate sentence to be served on licence. If one were to apply the normal 50:50 approach to an eight-year sentence it would be served with four years in custody and four years on licence. Reducing the custodial period by one year (which I have

rounded down for convenience) to take account of the period of detention under the mental health legislation would result in a sentence of three years in custody and five years on licence, which is in effect a nine-year sentence. If imposed, this would over-penalise Baird.

[81] This situation can be remedied by a further reduction of the overall sentence to one of seven years, three years of which is to be served in custody and four years of which is to be served on licence.

[82] The terms of the licence will be a matter for the Department of Justice at the time of his release. I am confident the terms are likely to include reference to alcohol consumption and compliance with any prescribed medication regime, two of the issues of concern. Should Baird be in breach of these conditions then he will be subject to recall to prison.