JERSEY / JUDGMENT

AG -v- Greenan [2005] JRC 182 (07 October 2005)

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JUDGMENT

THE BAILIFF: 1. Greenan you murdered an innocent young woman who was in the prime of life, and a stranger to you, in a vile and hideous manner. You callously abandoned her while she was dying and you even robbed her of some of her possessions as you did so. The law lays down only one penalty for murder and that penalty the Court will now impose by sentencing you to life imprisonment. 2. We have now to consider the minimum period which you will serve pursuant to the Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law 2005 . I must make it clear to Greenan that this is a minimum period of imprisonment. It does not mean that you will necessarily be released after that time. The precise date of release will be a matter for others to decide at the appropriate time. 3. It is clear that this is not a case where the starting point should be fixed as the whole of the offender's life under Article 5, amongst other considerations the accused is not yet 21. The Crown Advocate has submitted that this is a particularly serious case of murder within the meaning of Article 6. The submission is that this was a murder involving sexual or sadistic conduct. 4. The undisputed facts are that the victim was found with her trousers down, and her pubic area exposed and with her top pulled up. The accused's trousers were somewhat down when he was detained. It is an inescapable inference, not indeed contested by the defence, that she had been forced into the parking area where she was found so that Greenan could have sex with her. We conclude therefore that this was a murder involving sexual conduct which is particularly serious within the meaning of the statute and the starting point is accordingly one of 30 years' imprisonment. 5. We turn now to consider how the aggravating and mitigating factors may affect that starting point. The aggravating factors are that she was taken to the place where she was killed against her will, that she was subjected to sexual interference, that she was conscious and frightened, that she was punched, kicked and stamped upon, and that mental and physical suffering were accordingly inflicted upon her. We agree with the Crown Advocate that these are all factors which have contributed to the fixing of the starting point at 30 years' imprisonment. 6. We now consider the mitigating factors. We note first of all that he does not have the benefit of a good record, nor of a guilty plea. The mitigating factors are as follows. Firstly, Greenan told police that he did not intend to kill the victim. We do not ignore the brutality and ferocity of the attack, but we accept this statement and have given some weight to it. Secondly, we accept that there was no premeditation. Grounds characterisation of the

murder as emanating from an evil impulse fuelled by drink seems to us to be correct. We have attached weight to the absence of pre-meditation. Thirdly, and more significantly, we have considered whether any mental disorder, or mental disability, of the accused, not amounting to diminished responsibility within the meaning of the law, lowered the degree of culpability of the accused. There is no evidence that Greenan is suffering from mental illness. All the experts at trial were, however, agreed that he has a disordered personality. The Jury found that that disorder did not substantially impair his responsibility for the killing. 7. Nonetheless there is evidence of a clinical history of psychological disorder. Evidence of a chaotic upbringing, lack of discipline and effective parental guidance during his formative years, episodes of depression and attempted self harm. We take all that into account in mitigation of the crime. Fourthly, and perhaps most significantly, we have considered the age of the accused. He was 18 years and 5 months at the time of the murder. Had he been six months younger, he would have fallen within the regime of a different starting point. 8. The balancing of all these factors against the appalling and unprovoked violence which took away the life of Tracy Burns is not easy. We have however reached the conclusion that the recommendation of the Crown Advocate is correct, and appropriate, and that we should deduct 10 years from the starting point for the mitigating factors. We arrive therefore, against a minimum period of actual imprisonment of 20 years against which will be credited time spent in custody prior to sentence being imposed. 9. Greenan, the Court has arrived at the conclusion that you have committed a vile and heartless murder which attracts a starting point of 30 years' imprisonment. We have made deductions on account of your age, your upbringing, the fact that you did not intend to kill your victim and that there was no premeditation and that you have a history of psychological disorder. These mitigating factors have led us to the conclusion that the minimum term of imprisonment which will be imposed and which you will suffer is one of 20 years. Authorities Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law 2005. Last (2005) 2 Cr, App. R (s) 64. Sullivan

(2005) 1 Cr App R3 . Peters

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