



JUDICIARY OF
ENGLAND AND WALES

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-v-

**Stephen Unwin
William John McFall**

In the Crown Court at Newcastle

25 April 2018

Sentencing remarks of Mr Justice Morris

Stephen Unwin, you are now aged 40. William John McFall, you are now aged 51. You have both been convicted by the jury of the murder of Quyen Ngoc Nguyen. Stephen Unwin, you have also been convicted by the jury of the rape of Quyen Ngoc Nguyen.

It is now for me to pass sentence upon you. I ask that you remain seated whilst I describe the circumstances of your offences.

The Facts in outline

In the early hours of 15 August last year, the badly burned remains of Quyen Nguyen were found in what was left of her car on a dirt track in the Philadelphia area of Houghton-le-Spring. That evening she had been held captive at Stephen Unwin's house in Shiney Row, forced into giving her bank details, raped by Stephen Unwin and ultimately incapacitated. Stephen Unwin and William John McFall then jointly disposed of her body by driving her in her car to the dirt track and setting fire to it. It is likely that she was still just alive when she and the car were set alight.

Quyen Nguyen was a young, healthy and lively woman, a mother of two young children and much loved by her family both here and in Vietnam. It is not possible for any of us to imagine the horrific ordeal to which she was subjected to over a number of hours on that night, but terrifying it most certainly was. Her sister, Quynh, has shown enormous courage in sitting through this lengthy trial – an ordeal in itself brought about by the Defendants' refusal to accept responsibility for their crimes. Today we have witnessed her dignity and fortitude in reading out her victim personal statement, in which she spoke of her anger and grief and that of Miss Nguyen's children, her nieces and her parents. Their loss will stay with them for each of their lives.

The background

Miss Nguyen was 28 when she died. She and her son lived with her sister in Killingworth. She had moved to the UK from Vietnam in 2010 and she and her sister owned a nail salon in Birtley. She was small in stature. She had also been involved in renting properties in the area. It was through the renting of those properties that she came to know Stephen Unwin.

Stephen Unwin and William John McFall had met in prison whilst each was serving a life sentence, each for a previous offence of murder.

On 11 April 1997 at Belfast Crown Court William John McFall pleaded guilty to the murder of an 86 year old widow in her home. In the early hours of 5 May 1996, he broke into her home. It was her misfortune to disturb William John McFall. He struck her in the face and after she fell to the ground, he repeatedly struck her to the head with a hammer. He was released on licence from that sentence on 29 October 2010.

On 29 October 1999 Stephen Unwin pleaded guilty at Newcastle Crown Court to murder. In the early hours of Christmas Day 1998 he murdered a 72 year old man in his home in the course of a burglary. He attacked the victim in his bed, delivering multiple blows to the head and then stabbing him in the chest. He then set three seats of fire in the house, one of which was next to the victim's body. He was released on licence from that life sentence on 20 December 2012.

After their release, the two men had met up again. Stephen Unwin was living in St Oswald's Terrace, Shiney Row and was running his own property maintenance business. William John McFall was living in Blackpool but had been assisting Stephen Unwin in his business. Stephen Unwin and Miss Nguyen met in April 2017 when he had been asked to show her around a rental property in Sunderland. By July or August 2017 Stephen Unwin and William John McFall were involved in stealing substantial cannabis crops and in seeking to obtain guns in furtherance of those criminal activities. In addition to social media content evidencing this behaviour, video footage shows William John McFall brandishing a gun and a chainsaw. In early August and specifically in the days immediately before 14 August, the two men sent each other messages with a lurid sexual content.

The events of 14 August

On 14 August Miss Nguyen had been working at the nail salon and then been viewing properties. An arrangement was made for her to visit Stephen Unwin's home that evening.

Stephen Unwin had invited her on the pretext of them going to make a property visit. William John McFall knew of her impending arrival. But they had no such intention. Their intention, from the outset was to subject Miss Nguyen to an attack for a combination of sexual and financial motives. Shortly after 6pm, whilst both men were inside the house, William John McFall sent a text to Stephen Unwin saying "We raping the Chink xxxx". Stephen Unwin replied immediately telling him to remove "daft shite like that" from his phone.

CCTV footage shows Miss Nguyen arriving at the rear of Stephen Unwin's home at around 730 that evening. She had driven there in her Audi car and parked it round the corner. Just before letting her in by the back gate, Stephen Unwin gestured to William John McFall to keep out of sight. That was the last time she was seen alive by anyone but these two men.

Four hours later she was carried out of the house over the shoulder of Stephen Unwin wrapped in a sheet.

The precise details of what took place in those four hours are known only to William John McFall and Stephen Unwin. Nevertheless it is clear that she was subjected to a sustained and terrifying ordeal. In the light of the jury's not guilty verdict on the count of rape in respect of William John McFall, I find that certain details of his account of events were accurate.

She was dragged through the house and subjected to an attack, to extract information from her, which culminated in her being asphyxiated, by having a pillow or plastic bag placed over her head. Both men participated. In that time, Stephen Unwin raped Miss Nguyen, in the course of which he ejaculated. He used a toy light saber which he placed between Miss Nguyen's legs. A gun, principally owned by William John McFall, was used against Miss Nguyen at some stage, either to strike her or for sexual purposes – the DNA evidence was consistent with both. She was injected with a syringe filled with whiskey.

Her bank cards were taken and her PIN numbers were extracted from her. At around 940pm Stephen Unwin left, and drove to the Co-op where he used those bank cards to withdraw £500 from her account. William John McFall remained at the house. He made no attempt to escape or to attract the attention of anyone else. Stephen Unwin then returned. About half an hour later, William John McFall sent Stephen Unwin a text message asking him to come into the house from the garage. A few seconds later he did. By this time, at the latest, Miss Nguyen had been incapacitated. The two men sought to tidy and clean up the house. Some time at around 1030pm, whilst Miss Nguyen was lying in the house - her life ebbing away - the two men casually cooked and ate a curry.

At around 11pm the two men then took steps to dispose of Miss Nguyen. First, Stephen Unwin went out into the back lane and manoeuvred Miss Nguyen's Audi nearer to the house. As regards bringing a petrol can from the van, there is insufficient evidence for me to make findings as to the purpose for which it was brought into the house.

Then at 1135pm Stephen Unwin can be seen carrying Miss Nguyen's body, covered in a dust sheet, out towards the back lane with William John McFall assisting. The two men put Miss Nguyen in the back seat of her Audi car and drove from St Oswald's Terrace to the track by the allotments. Upon arrival at the allotments, they set fire to the car with Miss Nguyen on the back seat and then left. Half an hour or so later, the fire brigade arrived, and, upon extinguishing the fire, found the deeply charred remains of Miss Nguyen on the back seat. Miss Nguyen had been so badly burnt that she had to be identified by her dental records. According to the forensic evidence, it is likely that, at the point at which the car was set on fire, Miss Nguyen was still alive.

In the meantime Stephen Unwin and William John McFall had calmly walked back from the site of the fire to St Oswald's Terrace. Less than five minutes later, they then got into Stephen Unwin's car and drove to a NISA store at Fence Houses. In the course of that journey William John McFall took, and sent to his girlfriend, a selfie of the two of them in the front of the car looking relaxed and with William John McFall smiling. At the store, Stephen Unwin made further cashpoint withdrawals using Miss Nguyen's bank cards. They then drove back to St Oswald's Terrace, tidied up and went to bed.

The next day Stephen Unwin and William John McFall went about their business as if nothing had happened. CCTV footage from various locations in the area shows the two of them visiting shops and a pub looking relaxed. However as a result of the use of the bank cards, the police identified Stephen Unwin as a suspect and that evening he was arrested on suspicion of murder. William John McFall's arrest following shortly thereafter.

Murder

I consider first the sentences for murder. The sentence for murder is fixed by law. It is a life sentence. The Court must impose a life sentence.

By section 269 Criminal Justice Act 2003 I must consider whether the provisions for early release can apply at all in this case, and, if so, specify the minimum term which must elapse before release on licence can be considered. If the early release provisions do not apply there will then be a "whole life order". In considering those questions I must have regard to the principles set out in Schedule 21 of that Act.

Paragraph 4(1) of Schedule 21 indicates that the appropriate starting point is that the early release provisions should not apply and that there should be a whole life order if the court considers that the seriousness of the offence (or the combination of the offence and one or more offences associated with it) is exceptionally high. In this regard by paragraph 4(2)(d), a case where a murder has been committed by a person previously convicted of murder is normally to be considered to be one of exceptionally high seriousness where the appropriate starting point is a whole life order.

Then having decided upon the starting point, I have to consider and balance the various aggravating and mitigating features of this case.

However as the Court of Appeal has made clear on a number of occasions in the authorities referred to by defence counsel, the matters set out in Schedule 21 are to be applied in a flexible rather than a mechanistic manner. Although the passing of a sentence of life imprisonment for an offence of murder is mandatory, in contrast the assessment of the appropriate minimum term or indeed the decision to make a whole life order is discretionary. In this regard it has to be borne in mind that a minimum term of 30 years or more is in itself a very severe penalty, such that the decision to make a whole life order should be a matter of last resort, reserved for the few exceptionally serious offences, which, bearing in mind all of the features of aggravation and mitigation, requires its imposition in order to satisfy the element of just punishment and retribution.

The features of the present case

This was a second murder committed by each of Stephen Unwin and William John McFall. This murder of Miss Nguyen was premeditated. It involved sexual motivation and sadistic conduct, as evidenced by the use of the gun and the light saber. It was murder conducted for gain. I find that there are no circumstances in this case to justify departing from the normal starting point. The starting point is a whole life term. Further aggravating factors were that Miss Nguyen was vulnerable, given her size and build, when confronted by two men. The text messages and the motion to go back into the house attest to the significant planning and premeditation. I find that she endured great physical and mental suffering in the course of her 4 hour ordeal prior to her death. Finally, her body was virtually destroyed in the fire. Additionally this was all conducted against a background of criminal enterprise involving stealing highly valuable cannabis crops the use of violence and attempts to procure guns. I am not satisfied, however, that the offence was racially aggravated for the purposes of s.145 Criminal Justice Act 2003.

In the case of Stephen Unwin, I find that he took the leading role in the events on that night. Whilst he also committed the rape, I do not take that conduct specifically into account as an additional aggravating feature of the murder. As for William John McFall, I accept that he was partially in the thrall of Stephen Unwin and to that extent took a secondary role. Whilst there was no sexual conduct in his involvement in the murder, nevertheless, as evidenced by the text messages he sent, he was party to the sexual and financial motivation behind the luring of Miss Nguyen to the house and he was a party to the attack whilst she was there. His role was not merely confined to dealing with the aftermath.

In addition to their convictions for murder, each man has a substantial record of previous offending. Stephen Unwin has previous convictions for burglary and two convictions for arson. William John McFall has been convicted of numerous offences, including for robbery, arson, and possessing firearms and offensive weapons.

By contrast, none of the statutory mitigating factors are present and there is no other relevant mitigation.

Rape

I turn to Stephen Unwin's conviction for the rape. I have considered the relevant sentencing guidelines. As regards harm, this was category 1. Miss Nguyen was subjected to severe physical harm, degradation and humiliation. It was a sustained incident involving prolonged detention and Miss Nguyen was particularly vulnerable. The significant planning and the use of alcohol place the offence into Culpability category A. The guidelines indicate a starting point of 15 years imprisonment and a range of 13 to 19 years imprisonment. Aggravating factors include the fact that the offence was committed whilst on licence, there was ejaculation and the use of a weapon to frighten or injure. There are no mitigating factors. In these circumstances the determinate sentence for this offence would be 18 years imprisonment.

I consider that this offence of a different type should be marked with a separate sentence. However, since the offence of murder and of rape were part of the same

chain of events, applying the principle of totality, the sentence for the rape will be concurrent.

The provisions of section 224A Criminal Justice Act 2003 apply to this conviction. Rape is an offence listed in part 1 of Schedule 15B. But for this section the Court would impose a sentence of imprisonment of 10 years or more and at the time that the rape offence was committed, Stephen Unwin had been convicted of a previous offence listed under Schedule 15B, namely, murder, for which a life sentence was imposed with a minimum term of more than 5 years.

In these circumstances, unless the Court is of the opinion that there are particular circumstances related to the offence, the previous offence or the offender which would make the imposition of such a life sentence unjust in all the circumstances, the Court is obliged to impose a life sentence.

Taking account of everything about the circumstances of the current offence, the previous offence of murder and Stephen Unwin's personal circumstances, I find that it would not be unjust not to impose a life sentence. Accordingly I will do so, with a minimum term of half the determinate sentence that I would have passed, had I not imposed a life sentence.

The Sentence

Stephen Unwin, you are a calculating, manipulative and ruthless killer. William John McFall, you are an extremely violent man, capable of monstrous behaviour.

It is against this background that I have considered whether the circumstances of this murder are such that it is one of those exceptional cases where its seriousness is of such a magnitude so as to require the making of a whole life order. In my judgment they are. You have both murdered before. On this occasion you did so in a cold-blooded and callous manner, having deliberately lulled your victim into a trap. She suffered an unimaginable ordeal. Both during and after that ordeal, the two of you casually went about your everyday tasks, chillingly devoid of any human empathy. In my judgment, this offence, on its own, would have justified a minimum term of substantially in excess of 35 years. But on top of all that, you have both murdered before and are still subject to a life sentence for those offences.

Stephen Unwin

Stephen Unwin, please stand. For the murder of Quyen Ngoc Nguyen the sentence is life imprisonment. Pursuant to section 269 (4) of the Criminal Justice Act 2003, I order that the early release provisions shall not apply.

For the rape of Quyen Nguyen, the sentence is life imprisonment, to be served concurrently with the sentence on Count 1. You will serve a minimum term of 9 years. The days which you have spent on remand in custody will automatically count towards that sentence. You will be subject to the sex offender registration requirements for life.

You may go.

William John McFall

William John McFall, please stand. For the murder of Quyen Ngoc Nguyen the sentence is life imprisonment. Pursuant to section 269 (4) of the Criminal Justice Act 2003, I order that the early release provisions shall not apply.

You may go.

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