

3 NOVEMBER 2023

JORDAN MCSWEENEY

- and -

THE KING

### JUDGMENT SUMMARY

**Important note for Press and public: This summary is provided to assist in understanding the Court of Appeal's decision. It does not form part of the reasons for that decision. The full judgment of the Court of Appeal is the only authoritative document. That judgment is a public document and is available online at Judgments Archive: Courts and Tribunals Judiciary.**

1. The Court of Appeal has today handed down its written judgment in *Jordan McSweeney v R*, in which the appellant, Jordan McSweeney, sought leave to appeal against his sentence for the murder of Ms Zara Aleena.

#### **The sentence imposed by the Crown Court**

2. In November 2022, McSweeney pleaded guilty to the murder and sexual assault of Ms Aleena. On 14 December 2022, he was sentenced to life imprisonment for her murder and to a concurrent sentence of four years' imprisonment for the sexual assault. No appeal was brought in relation to the latter sentence.
3. For the offence of murder, judges must sentence in accordance with Schedule 21 to the Sentencing Act 2020. As the law required her to do, the sentencing judge specified the minimum term which McSweeney would serve. The judge arrived at a minimum term of 43 years, to which she applied a discount of five years as credit for McSweeney's guilty plea. Thus the final minimum term was one of 38 years.
4. It is important to emphasise that the minimum term is the period which a person serving a life sentence must serve before becoming eligible to be considered for release on licence by the Parole Board. An offender will not necessarily be released at the end of that term, or at any time after that.

#### **McSweeney's offences**

5. On the evening of Ms Aleena's murder, McSweeney had been drinking at a public house. Whilst there, he had made unwanted advances towards a female member of the public and had then been ejected for doing the same thing to a female member of staff. He had next followed a third woman along the street and into a supermarket, before hiding and then following her again, when she left the supermarket. He had, seemingly, masturbated whilst looking at a fourth woman, in a chicken shop, whom he had then followed along the street. He had put his arm around, and his hand between the legs of, a fifth woman, before following a sixth woman, overtaking her and hiding

in a driveway. It was then that he had followed Ms Aleena, over some distance, before grabbing her from behind and dragging her to the ground, into the darkness and out of sight of any passers-by.

6. The repeated attack which followed had been sustained over nine minutes, had been vicious, caused multiple injuries and included the sexual assault. Twice McSweeney had returned to Ms Aleena's motionless body, to stamp on it. He had taken, and then discarded nearby, a number of items belonging to her, including her mobile telephone. Such had been the nature and ferocity of his attack that Ms Aleena had been rendered unconscious after approximately 30 seconds. She had been found by members of the public, who had alerted emergency services and had themselves been traumatised by what they had seen.

### **The Court of Appeal's decision**

7. The Court of Appeal granted leave to appeal. Its task was to assess whether or not the sentence was manifestly excessive, not by reference to historic sentencing practices, or by reference to possible future sentencing regimes, but by reference to Schedule 21 as it stands.
8. It held that the judge had been faced with a difficult sentencing exercise. These were abhorrent offences. The judge's findings in relation to planning and premeditation could not be faulted. She had correctly identified the seriousness of the murder as "particularly high" — because it had involved sexual conduct — and the statutory starting point for the minimum term as being 30 years. That starting point reflected the mental or physical suffering inherent in a murder involving sexual conduct and was double the starting point which applies to an offence of murder at the bottom end of the range for which Schedule 21 provides. It was already a very severe penalty.
9. However, having correctly found that Ms Aleena must have been rendered unconscious at an early stage in the attack, the judge had lacked a sufficient evidential basis on which to be sure that there had been additional mental or physical suffering such as to justify an increase in the 30-year starting point. Mercifully, Ms Aleena was unconscious from early on in the attack. The number of items taken from Ms Aleena and then discarded meant also that it was not safe to conclude that Ms Aleena's mobile telephone had been taken in order to prevent her from seeking help. Further, the suggestion that McSweeney had committed his offences in the expectation that he was likely imminently to be returned to custody for breach of licence conditions relating to earlier offending may have been overstated.
10. There had been ample evidence to justify the judge's conclusion that McSweeney was a pugnacious and violent man. The judge had taken appropriate account of the evidence of his mental health and background and had been entitled to conclude that it offered no excuse or explanation for offences of such gravity, so as to reduce his culpability, or to provide meaningful mitigation. McSweeney's disengagement with the court process had entitled her to conclude that remorse was not available as a mitigating factor and her approach to credit for his guilty plea could not be criticised.

## **Conclusion**

11. Paying tribute to Ms Aleena and observing that no sentence for murder can ever reflect the value of the life taken away, or attempt to do so, the Court of Appeal held that, having regard to the multiple aggravating factors, and the lack of mitigating factors, it was undoubtedly the case that a significant uplift to the 30-year starting point for the minimum term had been warranted: there had been significant planning and premeditation; McSweeney had been on licence at the time; under the influence of alcohol; the offences were committed in public, partly witnessed by members of the public, in the early hours of the morning; McSweeney had attempted to dispose of, or conceal, evidence. There was no real mitigation, apart from his guilty pleas.
12. Nevertheless, viewed in the round, the sentence which the judge had imposed for Ms Aleena's murder had been manifestly excessive and would be quashed. The uplift of 13 years from the starting point of 30 years was far too high.
13. An uplift of eight years from the starting point of 30 years was appropriate, meaning a minimum term of 38 years before credit for guilty plea. Five years' credit for guilty plea would then be applied.

## **The sentence substituted by the Court of Appeal**

14. The Court substituted a sentence of life imprisonment with a minimum term of 33 years.