

IN THE CROWN COURT AT NEWCASTLE

R v Thomas KWAN

SENTENCING REMARKS

The Honourable Mrs Justice Lambert DBE

6 November 2024

1. On 22 January 2024 you went to the home which your mother shared with her partner Patrick O'Hara in St Thomas Street in Newcastle. You were in disguise, wearing a hat, tinted glasses, and a surgical mask. You were masquerading as a community nurse attending to perform a routine health check upon Mr O'Hara. Your intention in visiting the home in this way was to administer a lethal injection of poison to Mr O'Hara on the pretence of administering a Covid booster. It was an audacious plan: to murder a man in plain sight. You very nearly succeeded in your objective. You were in the home, in the presence of Mr O'Hara, for around 40 minutes. For some part of that time your mother was also present, and you took her blood pressure. Extraordinary though it seems, so trusting were they, that neither recognised you under your disguise. The injection of poison which you administered caused Mr O'Hara immediate pain and he attended the local hospital where doctors were baffled at the cause of

the inflammation and blistering around the injection site. Mr O'Hara went on to develop the condition called necrotising fasciitis which required him to undergo multiple surgical excisions of dead muscle tissue in the upper arm. Mr O'Hara remained seriously unwell for some weeks, and he required treatment in the intensive care unit. Fortunately, he survived although, as I learned from his evidence, he still suffers from the physical and psychological consequences of your attempt to kill him.

2. You pleaded guilty to the offence of attempted murder on 7 October 2024, and I now sentence you for this offence. Your plea of guilty came very late in the day. The jury had been empanelled and the case had been opened by the prosecution before you communicated your intention to change your plea on 4 October. I adjourned the sentencing hearing until a pre-sentence report had been obtained. You have not given evidence to challenge the detail of the prosecution case and no other evidence has been called on your behalf. Mr Greaney KC who represents you invites me to review all of the material available to me and to reach such firm conclusions as I am able in the light of the submissions which he has made on your behalf. This is the approach which I have taken, and I now sentence you on the basis of the following facts of which, I am sure.

3. You are now aged 53. You were born in Hong Kong but were brought to the UK at age 13 to go to boarding school. You studied medicine at Newcastle University and at the time of your arrest in February 2024 you were working as a general practitioner in Sunderland at the Happy House Surgery. You lived in

Ingleby Berwick a southern suburb of Sunderland. Your mother lived in Newcastle with her partner of many years, Mr O'Hara. You and she had fallen out and you had been effectively estranged from her for some months before you attempted to murder Mr O'Hara.

The Planning

4. I cannot be sure when you started to plan the murder. But the plan was obviously well underway by early November 2023 when you sent the first of two forged letters to Mr O'Hara purporting to be from a registered general nurse called Mr Raj Patel of the Community Associated Nursing Team. Neither Mr Raj Patel nor the Community Associated Nursing Team existed. Both were inventions by you. In this first letter Mr O'Hara was informed that he was due to receive a community home visit for the purpose of health monitoring and seasonal vaccinations, including for Covid 19. You were laying the foundations of your plan to get into the house at St Thomas Street and perform the nursing assessment of Mr O'Hara under the cover of which you would administer the fatal injection. The letter was a forgery of some sophistication. It featured the NHS logo which you had copied and pasted. There were hyperlinks. You used medical language. You identified the various data privacy notices which typically appear on letters from organisations. It was, to Mr O'Hara, utterly convincing. You sent a further forged letter on 3 January 2024. This letter provided the date and time of the proposed appointment of Monday 22 January between 9 and 1pm. The letter also contained the NHS logo, relevant

hyperlinks, and this time, a QR code and link to a short health questionnaire to be completed by Mr O Hara before the appointment.

5. On 12 January 2024 you and your wife stayed overnight at the Premier Inn in Newcastle. You had it in mind that this would be your base for operations, and I am sure that your purpose in staying at the hotel on this date was so that you could check out its suitability. You obviously found it to be a suitable base because on 15 January you booked another room in the hotel for Sunday 21 January 2024, this time however you booked under a false name and used a false address.

6. On Sunday 21 January you sent Mr O'Hara a text message reminder to his mobile phone concerning the home visit appointment. You used an unregistered SIM card for that purpose, no doubt to cater for the possibility that Mr O'Hara might recognise your mobile number. You drove to Newcastle in the early hours of 22 January. You had sourced false plates for your car. The next day, after breakfast, you left your hotel room in your disguise. You wore a long coat and cap, blue surgical gloves and a clinical mask covering your face.

7. You were let into the house by Mr O'Hara. He did not recognise you but, after all, he had no reason to suspect that you were not the nurse from the local community health team who had written to him on two occasions and texted him the day before. You disguised your voice by speaking in broken English with an Asian accent. You went through a medical questionnaire about his general health. You took his blood pressure. Your mother came downstairs,

and she too was duped. At her request you took her blood pressure. You then administered the injection of poison to Mr O'Hara telling him that it was a Covid booster. When he complained of a severe stinging pain you explained to him that he had had an allergic reaction, but Mr O'Hara sensed that you were speeding up your exit from the house. As you left, your mother came down the stairs and commented in passing that you were the same height as her son. It was only at this point that Mr O'Hara suspected that all was not quite right. He hurried out of the house after you but by this time you had gone.

8. For all your extensive planning, the police were able to track you down after hospital staff discovered that the NHS organisation purporting to send the letters to Mr O'Hara did not exist and that he had been poisoned by an unknown substance. CCTV of St Thomas Street was examined which showed you leaving the area and you were traced back to the hotel and from there back to your home address in Ingleby Barwick. You were arrested on 5 February 2024. When asked questions by the police you offered few responses.

9. When you were arrested the search of your home and computer revealed your obsessive interest in poisons and toxic chemical harm. Your home and garage contained liquid mercury, thallium, sulphuric acid, and arsenic. The garage contained the ingredients and materials needed to produce ricin, a highly toxic poison and scheduled chemical weapon and examination of your phone showed that you had made a number of internet searches using the word ricin between 6 and 21 January 2024. In order to obtain these poisons, you had set up a shell company in early 2023 in which you claimed to be a research

officer within the research unit of the company. You registered the company to the Happy House Surgery claiming to your practice manager that the company was a holding company for properties.

10. Your home contained a library of material describing and giving instructions on the use of the various chemicals in killing human beings. By way of example only, there was a document entitled “Aspects of Chemical and Biological Warfare”; a textbook called “Poisons, their Effect and Detection.” The police found a book which detailed the amount of each poison required to kill a person, the clinical effects and the time taken for the chemical to take effect. There was a list of chemicals and naturally occurring poisons and their characteristics; a recipe for the production of sodium cyanide and a number of books on toxicology The police recovered from the hard drive of your computer a copy of the 2006 National Centre for Policing Excellence guidance on murder investigations.

11. Mr O’Hara was admitted to hospital on 22 January. Doctors were baffled at the cause of the inflammation and pain in his arm. The medical team attempted to identify the poison which had been injected but cell samples and blood tests were not revealing. An expert, Dr Emmett, was instructed. He formed the view that the most likely toxin was iodomethane, a substance predominantly used as a fumigant pesticide. I am sure that this was the poison which you injected because a glass tube containing the poison was found in your home along with a hypodermic syringe and needle. Additionally: your phone showed that you had carried out internet searches for iodomethane on 97 occasions

between 6 and 24 January; a video showing how to produce iodomethane was found on your computer; the expert concluded that the poison was highly reactive and on external contact with skin would lead to burns and blisters similar to those which affected Mr O'Hara. He noted that the substance was highly toxic if ingested inhaled or absorbed. As an industrial fumigant there were no reports of the effect of that poison on the human body if injected. This made the substance a particularly dangerous one to inject because of the difficulties in isolating and detecting it from biological samples taken from a victim.

12. Your planning and preparation for this attempt to murder Mr O'Hara was detailed and extensive. I am sure that the specific plan was active for at least 3 months, from November 2023. But you had obviously been obtaining lethal chemicals well before then. You had also considered alternative ways of killing Mr O'Hara. The police found a document created by you purporting to be from an organisation called Northern England Men's Sporting Association addressed to "Patrick." It offered him free drinks and free ready meals because he had been identified as an eligible recipient due to his contribution to the North East throughout his working life. There was a further document, this time a compliments slip, purportedly from an organisation called Northern Wine and Drinks Tasting Gentlemen's Club. You had clearly been pondering whether other better and, from your perspective, safer ways of poisoning Mr O'Hara by lacing food and drink with chemicals might be possible.

Your Motivation

13. You have had a strained and difficult relationship with your mother for many years. You told the author of the pre-sentence report that the relationship worsened when your mother divorced your father 27 years ago. Your mother had, you said, withdrawn £1 million from the joint account which she held with your father and had then forced him to divorce her. In Chinese culture you said that it was usual for the eldest child to receive the largest proportion of the financial proceeds of a parent's will. However, when your father died your younger brother received the largest proportion. You considered this to be unfair. In a letter to your mother dated January 2022 you referred to her having stolen money from your father and family and told her that you had never given up your rights to your inheritance. You wrote this: "*You say that I am selfish or greedy, but I would like you to make me the sole executor of your will, as well as giving me the most and largest proportion of the properties and inheritance as ... you have told me many times that I am the one you love the most out of all children*."

14. At some point before December 2020, you gave your mother a laptop computer. She must have thought that this was a generous gift. She did not know that you had pre-loaded it with spyware which enabled you to monitor her digital financial dealings and general financial affairs in real time as well as watch what was going on in the house using the covert webcam. In November 2022 you went to the house in St Thomas St unannounced and forced your way in,

pushing past Mr O'Hara to get to your mother. You pestered her again about her financial affairs. The police were called and were told that there were ongoing money issues between you and them in particular concerning money that you thought that you were entitled do. They referred to a housing dispute. Your mother said that she did not want criminal charges to be brought against you because of the effect that it may have on you as a general practitioner. You were warned about your conduct. Following this incident contact between you and your mother was minimal and only indirect. But even following your arrest, intercepted correspondence from you to your wife demonstrated a continued interest in your mother's finances. You referred to your mother and her partner taking all of "*our hard-earned money and home*."

15. You described your mother as being "money obsessed." Whether she was or not I do not know. You however were certainly obsessed by money and more particularly by the money to which you considered yourself to be entitled. I have no doubt that the reason why you tried to kill Mr O'Hara was for financial gain. You knew that your mother had left the house at St Thomas Street to her children, but you also knew that she had changed her will to give Mr O'Hara a life interest in the house. By killing him you would have removed the obstacle which lay between you and your immediate recovery of your share in the property following your mother's death in the event of her pre-deceasing him.

16. You have not given evidence in this sentencing hearing although you know that you could have done so. Mr Greaney on your behalf accepts that financial gain formed part of the motivation but, he submits, on the basis of the material before

me I cannot be sure that it was the sole or even the main motivation. He draws my attention to the comment which you made to the probation officer that by killing Mr O'Hara you wanted to exact "*a kind of revenge*" against your mother by hurting her and that by assaulting her partner you would achieve this end. He also draws my attention to other parts of that letter of January 2022 in which you speak of past family arguments and grievances and how you perceived that your mother had treated you. Mr Greaney argues that hostility towards your mother and your wish to cause her pain and harm was the motivation at least in part for the attempt on Mr O'Hara's life.

17. I accept that there had been bad blood between you and your mother for some time and that its origin may lie in the events of your childhood and a sense that you had not received your fair share of maternal love and affection. But I am satisfied that whatever may have been the deep-rooted causes, by 2024 (and probably well before then) your resentment and bitterness towards your mother and Mr O'Hara was all to do with money and your belief that you were not being given money that you were entitled to. The reason that you barged into the house in November 2022 to confront your mother was all about money. You spoke to the probation officer of your resentment about being cut out of your rightful inheritance. Even following your arrest, intercepted correspondence from you to your wife demonstrated a continued interest in your mother's finances. When you learned that Mr O'Hara might bring a claim for financial compensation from you wrote to your wife: "*mother and elderly man wins and take all our hard-earned money and home. We will have nothing, how could this be justice*."

18. I accept Mr Greaney's point that, in the context of your overall wealth and all that you stood otherwise to gain from your inheritance from your mother, the accelerated receipt by you of your share of the house at St Thomas Street was not so very great. But your crime was not just about money, it was about the money to which you felt entitled and I have no doubt that you were prepared to kill to get it.

Mr O'Hara

19. Mr O'Hara was admitted to hospital on 24 January 2024. He was in great pain and even by this stage some of the flesh on the arm had begun to die. Imaging showed extensive swelling beneath the skin and inflammation of fat within the left upper arm. Necrotising fasciitis was diagnosed. The dead skin and muscle tissue was removed under general anaesthetic and Mr O'Hara was admitted to the intensive care unit. Mr O'Hara returned to theatre on further occasions when more dead tissue was removed. He remained on the intensive care unit until 29 January 2024 when he was sent to a plastic surgery ward. He later underwent reconstructive surgery but still bears scars and some disfigurement.

20. Far greater than the physical consequences of your attack has been the psychological effect upon Mr O Hara. His relationship with your mother broke down and they are now separated. He suffered a delayed emotional reaction, a well-recognised phenomenon when emotional and psychological effects emerge only after the immediate medical or physical crisis has subsided. He

currently suffers from Post Traumatic Stress Disorder with flashbacks in which he relives the very severe pain which you caused him. Mr O'Hara read his statement to the court with great dignity and composure, but it is clear to me that he has been transformed from the tough and stoical person that he was before the attack. His emotional reaction is in part due to disbelief that this terrible crime could have been perpetrated by the son of his partner under the guise of a trusted healthcare professional.

Sentence

21. In sentencing you I apply the Sentencing Council Guidelines for attempted murder. I first address culpability. I am in no doubt that your offending falls into the highest category of culpability because, for the reasons which I have set out above, it was an attempt to murder Mr O'Hara for financial gain. Both prosecution and defence agree that the level of harm which you inflicted falls into category 2. I agree with this assessment. Fortunately, Mr O'Hara's psychological condition is not so severe as to have caused him to suffer a substantial and long-term effect on his ability to carry out normal day to day activities. The starting point in the Guidelines is therefore 30 years imprisonment with a range of 25 to 35 years imprisonment.

22. There are no statutory aggravating factors. There are however a number of other aggravating factors. The degree of planning and premeditation which your crime involved is one such factor. You were laying the plans from, at the very latest, November 2023 when you sent the first carefully crafted NHS letter

to Mr O'Hara. There were a number of practical aspects to your planning including your obtaining poisons and your research into them; the sending of fake NHS letters to Mr O'Hara; your reconnoitre of the hotel which was to be your base; your booking the hotel in a false name and false address; your obtaining and using false number plates for your car; the use of the temporary SIM card for the purpose of contacting Mr O'Hara; your use of a disguise. I am satisfied that your choice of iodomethane as a poison was calculated and that you used that poison because you knew that it was going to be particularly difficult to detect. You had, as I have found, also considered alternative ways in which you might be able to poison Mr O'Hara, using the medium of the fake sports association or fake wine club.

23. I accept Mr Greaney's caution that I should be careful not to double count aggravating factors and that any crime perpetrated for a financial motive is likely to involve at least a degree of planning and premeditation. But your planning was extensive, detailed, and calculated. The planning may have been in some respects unsophisticated. Mr Greaney points out that the false car plates did not match the model of your car. Your planning did not take into account the CCTV coverage of the area around St Thomas Street. But you found the means of obtaining false plates which cannot have been straightforward, and those plates matched the make of the car, if not the model. Your plan was always going to involve risks and if there were areas where the plan was wanting, this was not due to any absence of effort by you. In my judgement the extent of your planning and pre-meditation justifies a very significant increase from the starting point in the Guidelines.

24. A further factor which justifies an increase from the starting point in the Guidelines is that you set out to harm Mr O'Hara when he was in his own home, where he had every right to feel safe. You gained entry to his home in the most calculated and callous of ways, under the guise of a trusted healthcare professional. You sought and obtained his (and your mother's) trust by abusing your knowledge of the healthcare system by faking letters purportedly from an NHS institution. They were good forgeries, but such is the trust and confidence that Mr O'Hara and your mother and the wider community place in the NHS that no one would have thought to review those letters in a critical way. I agree with the prosecution that the wider impact of your offending cannot be ignored. By your masquerade you struck at the heart of public confidence in the healthcare profession.

25. I must balance these aggravating factors against the mitigating factors. The only mitigating factor available to you is the absence of previous convictions. I give you credit for that mitigation. Taking everything into account I find that the appropriate figure is in the order of 34 years imprisonment before discount for your guilty plea. When considering the appropriate discount for plea I apply the relevant Sentencing Council Guidelines. Your plea of guilty was made very late in the day, a jury had been empanelled and the case had been opened. But you are nonetheless entitled to some modest credit to reflect that a trial was substantially avoided. I allow 7.5% credit for your guilty plea. The final figure for determinate sentence is therefore 31 years and 5 months.

26. However, in your case this is not the end of the matter because I must go on to consider whether you are a dangerous offender and if so whether I should impose an extended sentence or a life sentence of imprisonment under s. 285 Sentencing Act 2020.

27. The first issue for my determination is whether I am satisfied that there is a significant risk to members of the public of serious harm occasioned by the commission by you of further relevant offences. In making this assessment I must take into account all of the information that is available about the nature and circumstances of the offence, any information about any pattern of behaviour of which the offence forms part and any information about you. I have read the pre- sentence report. The author concluded that you posed a high risk to Mr O'Hara and medium risk to your mother of further serious harm by violence. I accept this assessment as does Mr Greaney. It follows from this assessment that I find that you are a dangerous offender.

28. Given this conclusion I must consider whether to impose an extended sentence or a life sentence of imprisonment under s 285 Sentencing Act 2020. I do not consider that an extended sentence is appropriate in this case in which you will be, in any event, subject to a very long period of licence. In considering whether to impose a life sentence I apply the guidance of the Court of Appeal in the case of *AG Ref 27/2013 R v Burinskas* [2014] EWCA Crim 334 and take into account the following matters:

    a. the seriousness of the offence itself;

    b. any previous convictions;

c. the level of danger which you pose and whether there is any reliable estimate of the time during which you will remain a danger;

d. and the availability of other sentences.

29. I have no doubt that the offence to which you have pleaded guilty is an exceptionally serious offence. You intended to kill Mr O'Hara in all of the circumstances which I have outlined, and your attempt caused him serious physical and psychological harm. The real issues for me concern the level of danger which you pose and the extent to which it can be addressed other than by a life sentence. These are matters for my broad judgement taking into account all that I know about you and the offence. The author of the pre-sentence report identifies two people only as being at significant risk of serious harm by you, your mother and Mr O'Hara. However, she said that your responses in interview "highlighted a troubling level of distorted thinking, a distinct sense of entitlement and a capacity for the most extreme behaviour in order to meet your own needs and ends no matter the cost or consequences." Such distorted thinking may have the potential to expose to risk people other than your mother and Mr O'Hara, namely anyone who has something which you think of as yours. I also bear in mind your morbid obsession with toxic chemicals including those found in your garage and the library of poison literature.

30. However, my assessment must also take into account that you are now 53 years old and have no previous convictions. You are well into middle age and have not sought to harm anyone other than Mr O'Hara. Taking into account all

that I have read about you and your offending I am satisfied that your obsession with the money to which you felt you were entitled has arisen in circumstances which are particular to your mother and Mr O'Hara. There is no evidence before me that you have posed, or will pose on release, a risk to the wider community. I also bear in mind that the determinate sentence which I am imposing is a long one and that you will serve two thirds of that sentence before release on licence. You will be well over 70 years old when released and will remain on licence for many years thereafter. I take into account that life imprisonment must always be a sentence of last resort.

31. For all of these reasons I have concluded that the risk which you pose will be adequately addressed by the imposition of a term of imprisonment of 31 years and 5 months imprisonment.

Please stand

For the attempted murder of Patrick O'Hara, I sentence you to a term of imprisonment of 31 years and 5 months. You have been in custody on remand for 273 days which will be brought into account. You will serve two thirds of that term before you are released on licence. You will remain on licence for the remainder of the term of imprisonment. I make an order prohibiting you from contacting or attempting to contact directly or indirectly Patrick O'Hara by any means. The victim surcharge will apply.