

Review Report

R v

**John Michael McDermott, James Francis McDermott, Owen Roe
McDermott and Peter Paul McDermott (now deceased)**

Purpose

1. This report outlines the findings of a review of the court records and orders issued in the above case and identifies the required remedial action.

Background

2. John Michael, James Francis, Owen Roe and Peter Paul McDermott were committed to Omagh Crown Court on 8 June 2009 on 61 counts (charges), 35 related to John Michael, 13 to James Francis, 8 to Owen Roe and 5 to Peter Paul.
3. All defendants appeared at Dungannon Crown Court on 1 July 2009 for arraignment on a Bill of Indictment (the Bill). John Michael pleaded guilty to 31 counts and Peter Paul pleaded not guilty to 5 counts, John Michael pleaded guilty to the remaining 4 counts on 8 October 2009. Peter Paul committed suicide on 5 May 2010.
4. Fitness to plead issues were raised in respect of James Francis and Owen Roe. On 6 October 2009 the Judge found them unfit to plead and adjourned the case for a finding of fact hearing. On 26 November 2009 a jury found that the James Francis and Owen Roe McDermott had committed the acts specified in the offences with which they had been charged.
5. The case was concluded at Omagh Crown Court on 18 June 2010.

Findings

Bill of Indictment

6. The PPS were granted an application to sever the Bill of Indictment to allow James Francis and Owen Roe to be dealt with separately. Additional Bills were provided by the PPS to the court, however the ICOS court IT system was not updated to reflect this.

Remedial action

- Copies of all Bills have been obtained and ICOS records will be amended to reflect these.
- Court Clerks will be retrained in data entry and verification procedures to ensure that ICOS promptly and accurately reflects case records and court orders.
- Procedures for lodging and recording new and severed Bills of Indictment will be reviewed.
- More robust monitoring will be implemented to ensure effective oversight of data entry procedures.

Supervision and Treatment Orders (STOs)

7. The residence requirement was omitted from the STOs issued on 18 June 2010 in respect of James Francis and Own Roe McDermott. The ICOS court IT system did not allow the residence requirement to be entered as standard text. In such circumstances the court clerk is expected to contact the ICOS Support Team and arrange for the necessary additions to be made. This did not happen in this case. Amended orders including the residence requirement were issued on 20 August 2010.

8. Some of the orders produced reflected incorrect ICOS charge details as a result of the failure to update the changes to the Bill of Indictment (see above).

Remedial action

- The STOs will be reissued containing the correct charges.
- ICOS order frames have been revised to include a residence requirement.
- Retraining of staff and improved monitoring of data entry will be implemented as above.

Sexual Offences Prevention Orders (SOPOs)

9. The SOPOs issued by the court office in respect of James Francis and Owen Roe McDermott stated that they were for 5 years rather than for life. The whole life SOPO issued in respect of John Michael McDermott was issued correctly.
10. The SOPOs issued by the court office in respect of James Francis and Owen Roe McDermott stated that they followed a conviction whereas they followed a finding of fact.
11. John Michael, James Francis and Owen Roe McDermott should have received a separate copy of the notification requirement to register with the police. While they had previously been advised of the notification requirement on 26 November 2009, additional documentation should have been provided to them on 18 June 2010.

Remedial action

- Revised SOPOs and associated notification documentation will be issued.
- The SOPO order frame on ICOS will be revised to encompass a finding of fact as an option.
- Retraining of staff and improved monitoring of data entry will be implemented as above

Summary

12. The administrative errors in the McDermott case are as follows:

- the Bill of Indictment before the court was not accurately reflected in the ICOS case records;
- the STOs did not include the residence requirement and when reissued on 20 August 2010 did not fully reflect the charges before the court;
- the duration of the SOPOs in respect of two of the brothers was incorrectly stated as 5 years;
- the SOPOs also incorrectly stated that they followed a conviction, whereas they actually followed a finding of fact; and
- notification documentation was not issued to John Michael, James Francis and Owen Roe McDermott on 18 June 2010.

13. The Minister has directed the following remedial action:
- an audit of all Supervision and Treatment Orders currently in force in Northern Ireland has been completed (one further error in an STO in another case was identified and remedial action is being taken);
 - case records are being corrected and amended orders will be issued;
 - staff will be retrained and more robust monitoring procedures will be implemented;
 - an audit of all Sexual Offences Prevention Orders made in Northern Ireland has been initiated and will be completed by mid October;
 - a review of the administrative arrangements for preparing, checking and issuing court orders in the Crown Court in Northern Ireland has been initiated; an interim report will be produced by the end of September; and
 - court orders in complex cases will be verified by the trial Judge before issue, as agreed with the Lord Chief Justice.
14. The Minister has also requested Dr Michael Maguire, Chief Inspector of Criminal Justice in Northern Ireland, to carry out a detailed investigation of the way in which such cases are managed by the justice system.

NI Courts and Tribunals Service
20 September 2010