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**THE QUEEN**

**v**

**JAMES MICHAEL McKEE**

**ANDREA LOUISE McKEE**

**Before**

**HIS HONOUR JUDGE** 

**On**

**7 MAY 2002**

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**CROWN OPENING**

MR. [REDACTED]: Your Honour, James Michael McKee and Andrea Louise McKee are both charged with providing false information to the police, Mr. McKee in respect of the fact that he made a telephone call and in respect of Mrs. McKee that she confirmed that it was her husband Michael McKee who made the telephone call and contrary to common law.

In the early hours of 27 April 1997 Mr. Robert Hamilton was attacked in Portadown town centre. As a result of the injuries he sustained he died on 8 May 1997. A number of persons were involved in this attack and one of those suspected was at the time a boyfriend of a niece of Mr. McKee and she also was in the town centre on the night in question and saw the attack (Inaudible) there.

Amongst the police attending at the scene at that time was a full-time Reserve police officer. The defendants at this time were married and living in the Craigavon area and they owned and ran a gym teaching martial arts (Inaudible). They had become very friendly with this Reserve police officer and his wife and that was through the fact that the Reserve officer's daughter was a member of this gym and both couples visited each other's homes and attended social events and went on trips together in connection with the gym.

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After the attack on Mr. Hamilton information came to the attention of the police that this Reserve constable had made an early phone call (Inaudible) to the home of the suspected attacker, namely the boyfriend of the defendant's niece, advising him to dispose of the clothing that he was wearing earlier. Indeed, if your Honour please, might I say at this stage Mrs. McKee played a significant part in ensuring that this information came to the attention of the police and at one stage accompanied the person (Inaudible) to the police station.

As a result of this information coming to police notice the Reserve constable was interviewed by an investigating detective. However, he denied making the phone call throughout that interview. The police were able to establish that the phone call in fact had been made from his telephone to the home of a person suspected (Inaudible). The Reserve constable (Inaudible) and recognised that it had serious consequences (Inaudible) so far as he was concerned and so he got Mr. McKee to take responsibility for making the phone call saying that he, Mr. McKee, and Mrs. McKee stayed over at his home on the night of the attack with his wife. The next morning the Reserve constable's wife (Inaudible) and he, Mr. McKee, thinking that his niece would also be in the town centre, was concerned for her safety and therefore rang the suspect's home, the boyfriend, to enquire about her safety. Mrs.

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McKee was told that she was needed to support his account and accordingly Mr. McKee made a statement to the police to that effect on 9 October 1997 and Mrs. McKee made her statement corroborating what her husband had said on 29.10.97 and added that in fact it was her who gave him the number to call.

As a result of these two statements coming to the police the particular investigations which the police were involved in were brought to an end. Later, your Honour, the marriage of Mr. and Mrs. McKee broke up and the gym was closed and the defendants went their separate ways, Mrs. McKee moving away from Northern Ireland, and it wasn't until June 2000 when police visited Mrs McKee that the situation changed. She then told police that she had not stayed at the home of the Reserve constable on the night in question, that the Reserve constable spoke to her husband and asked him to cover the phone call that he, the Reserve constable, made to the home of someone suspected of involvement in the attack and that Mrs. Hamill was asked to support that story.

Later on 25 October 2000 Mrs. McKee made a further statement to police basically elaborating on what she had said on 20 June and reiterating that the Reserve constable made it known to Mr. McKee that he needed someone to take responsibility for the phone call from his home to the suspect's house and that a meeting was arranged in the Reserve constable's house to prepare

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a story and the Reserve constable came up with a story about them staying over at his house (Inaudible) and Mr. McKee was then to say he rang and asked about his niece's safety.

In April 2001 Mrs. McKee was formally interviewed about the offence of providing false information and she agreed under caution that the statement she made on 29 October '97 was false, it was made up by the Reserve constable, it was totally untrue and she regretted making it. She knew of the attack and later heard there was a phone call from the Reserve constable to the boyfriend's home, ie. Mr. McKee's niece's boyfriend (Inaudible) and that she had (Inaudible) when she told the police about the phone call. She then repeated the request made to her to give false information by the Reserve constable and while (Inaudible) she did it to support her husband.

Mr. McKee was also visited by the police in June 2000 but he told them at that time that the position was still the same, that he had in fact stayed over at the police officer's house (Inaudible). He was interviewed on 14 April 2001 for providing false information and in the course of that interview he admitted that in fact he had made a statement which was false, that he had not stayed in the Reserve constable's house on the date in question nor had he made the phone call. He said he was a friend of the Reserve constable for a number of years and he was asked to say

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that he had made the phone call and because he was a friend and the only friend he had in Northern Ireland he said "Yes". He agreed to cover it and to say he made the phone call (Inaudible) about the matter, your Honour. All he said was that the Reserve constable wanted this done and he decided to do it. He said he had been drinking heavily at the time and didn't realise the seriousness of it.

It is the prosecution case, your Honour, that both persons knew the reason why they were being asked to say that Mr. McKee had made the phone call was to give a false alibi to the Reserve constable knowing that he had been (Inaudible). Indeed, your Honour, they were aware also, the prosecution say, that it would interfere with investigations going on at the time. Those are the facts, your Honour.

Mrs. McKee has no record at all. As far as Mr. McKee is concerned, he has a record but nothing of a similar nature or a related nature. Your Honour will see that his last appearance in Court was in (?) '92.

JUDGE [REDACTED] Thank you.

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### **PLEA IN MITIGATION**

MR. [REDACTED]: May it please your Honour, I appear for James McKee with my learned Friend Mr. [REDACTED]. Mr. McKee is 48 years of age. His date of birth is 17 March 1954. As you will see from the voluminous reports, your Honour, he was originally born in Northern Ireland but his father was in the Royal Navy and he spent a large part of his life in England, reared in the Portsmouth area. He left school at fifteen and a half, was in the Royal Navy for four and a half years and has had an excellent work record since that date, culminating with him becoming a martial arts instructor in the early 1990s, very highly qualified in that regard and, as you can see from the references, your Honour, very highly thought of in that particular capacity and I will come back to that shortly.

He married for the second time in 1991. He had just returned to Northern Ireland with his wife. He has three children to his first marriage aged 28, 25 and 18. He came back, as you have already heard, to this jurisdiction in 1989/1990, married, and having been reared and spent most of his life in England he had no connections really with the jurisdiction apart from the fact that his wife was from here.

Therefore it is against that background, very brief background which is set out in great detail in the reports, that the

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Court I respectfully submit might find that as far as the incident is concerned the Court may add some weight to these submissions. Firstly, your Honour, the charge is such that the Court might feel that he has of course nothing to do with the notorious killing in the incident involving Robert Hamilton.

Secondly, the essence of the charge is that he agreed with the Reserve constable to cover up a phone call which of course had been made by the Reserve constable and he agreed to do that in this context. That as the papers before you indicate, he had formed only one friendship really on coming back to the country and that was with the Reserve constable and his wife. He had no other friends whatsoever, no other acquaintances, no other connections apart from of course his wife.

It is clear from the material before us that the marriage had become particularly unhappy in the early 1990s and he had resorted to taking far too much drink. He in fact became and accepts that he became between 1993 and indeed 1999, over a six or seven-year period, an alcoholic. The papers reflect that certainly at the time at which he was approached, which appears to be in 1997, to say that he made this phone call he was drinking something between 20 and 30 beers a day and was living in an alcoholic haze. He clearly wasn't thinking straight. His judgment was impaired and he was a person who had formed a close connection, he and his wife, with the Reserve constable's family



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and it is against that background that he on, he says, the morning of 27 April 1997 received a phone call from the Reserve constable asking him to agree to do this and he subsequently met him briefly that day.

He has little recollection of exactly what he had agreed to at that time and I can indicate to the Court that any knowledge of what he had agreed to do developed between that initial approach by the Reserve constable and the ultimate statement that of course he made to the police, which he deeply deeply regrets, in October of 1997.

As his statement indicates to the Court, in the state that he was in he was picking up snippets and anecdotal snippets of what this was all about during the course of the summer of 1997 and it makes it quite clear that his knowledge was maybe anecdotal by virtue of (Inaudible) and rumours in the Portadown area. Ultimately, of course, by virtue of his plea he accepts that when he made the statement to the police in October 1997 he had become aware that he was in fact covering for this particular phone call and what that cover-up was about and he accepts that.

I would urge the Court to place that acceptance and that plea in the following context. Firstly, that he was and accepts that he is an alcoholic; secondly, that he was clearly depressive; he was at the point where he was having black-outs, he was having the shakes, he was drinking 24 hours a day. Thirdly, that he had

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nothing whatsoever himself to gain, your Honour. This was clearly related to the desperate need that he had for the only friendship that he had formed and it perhaps might be of interest to the Court to refer to a statement made by his wife Andrea during her interviews with the police at Page 108 when she is generally asked what she thought Michael was about and why he was doing this. In a rather quieted way she sets out that he didn't want to do it. "He discussed it with me, Michael, about, you know, he knew this was all going wrong and it was sour and he knew it was something he shouldn't be doing but he felt obliged to the Reserve constable for some reason. Why I don't know. Looking back now, why, I can't understand why he did it but at the time he felt obliged to sort of help him out and that's what he did. He agreed that he would cover a phone call".

In essence she is summing up really in that answer my essential to you, that having agreed to do something he was on the slippery slope. After that my submission is that he was exploited, abused and ultimately pressurised. He says himself to the police: "I was gullible. I was stupid". He became trapped and he became more and more committed as the months went by before the eventual approach by the police. In crude terms, he was landed in it and, in his own words, he says: "I was more than (Inaudible) all of that time".

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It appears in fact that a solicitor was indeed organised for the approach by the police in October by the Reserve constable and what I can say to this Court is that by the end of the year 2000 when this was all coming out he received a threat in the form of a jiffy bag with a bullet in it (that's before he made any statement to the police) and a statement in that saying: "If you don't keep your mouth shut you'll be dead next".

He made a statement to the police in April 2001. He has been living through a nightmare. It's been a living hell being associated in particular with this particular incident and the notoriety attached to it in any shape or form. I would urge the Court (and I know the Court will), having analysed the papers and hopefully analysed all the remarks that are made to you today, to focus on the fact that this really was a favour that went badly wrong. I would urge the Court to consider that his record isn't relevant and, in conclusion, to give him credit for the plea, to give him credit for the frankness ultimately with which he answered questions from the police. That came of course after his wife had made her statements and I accept that.

Secondly, your Honour, on the positive side, you can see from the reports that a two and a half year relationship has developed with a young lady who is the mother of three children aged 12, 7 and 4. She is described in the reports as intelligent, strong and a good support. The references before you indicate

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that he has picked up the pieces, he has got back to work. He is instructing families in the Portadown area in martial arts. There is a strong positive letter from the girl's mother indicating the support and the strength of the family unit that has now been formed and perhaps the Court will attach great credit for that. In other words, he is coming out of this alcoholic haze and all reports indicate that that has taken place really over the last two and a half years. It began, it appears, just before this all broke, your Honour, in the summer of 2000 and the relationship has been particularly strong.

He suffers himself, as you can see from the papers, enormous guilt and remorse. The experts say that his alcohol consumption at the time impaired his brain and liver function, affected processing of information and appreciation of the consequences of cognitive activity and retention of information. Perhaps the Court might feel that this is a completely changed individual before you, having had two and a half years where he has come right out of that and has to face the consequences of the unfortunate actions which I essentially submit to you is an unfortunate agreeing to do a favour, having agreed to it then found himself, as it were, on the wheel and couldn't get off it and had to follow it through.

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He accepts that. He is deeply, deeply sorry. He accepts the consequences of that today and he knows he has to face them. Having said that, I urge your Honour to be as lenient as you can see fit in view of that particular background and all the information before you.

MR. [REDACTED]: Your Honour, as far as Andrea McKee is concerned, the Court should have by now received a very full report which has been prepared in respect of her. There is just one other document which I would hand into the Court. I have already shown this to my learned Friend. Your Honour will see that this is in the form of a letter from Detective Chief Superintendent Stewart. This confirms, of course, what has already been indicated by the Crown and that is that she has already provided considerable assistance to the police and it was highly probable that without her assistance they wouldn't have made the progress they have made in the investigation to date. You will see that in the first paragraph.

It also confirms in our respectful submission and one also finds it referred to in the probation report that her crime was really committed out of a sense of misguided loyalty to her then husband, as a result of which she made a statement corroborating the account which he had given to the police, although it's right to say that following that - and we see this again in the fourth paragraph of Detective Chief Superintendent Stewart's report - she

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was then contacted by the police and during the course of that contact she readily admitted that she had lied on behalf of her husband and has been of immense assistance to the police in consequence.

She is 30 years of age. She has no previous record. Your Honour will also have seen from the report that she is now the mother of a 7-month-old child for whom she is the prime carer. Her current partner is in full-time education and works at the weekends and she is the principal carer. In those circumstances and having regard to the full probation report and the recommendations contained within it and the fact that she pleaded guilty at the earliest opportunity in this case we would respectfully ask the Court to consider imposing a sentence which would not involve her in an immediate custodial sentence. Unless there is anything further, your Honour, those are our submissions.

### SENTENCE

HIS HONOUR JUDGE [REDACTED]: James Michael McKee and Andrea Louise McKee, you have both pleaded guilty to the serious offence of perverting the course of justice. It is very important that I establish at the outset that neither of you played any act or part in the killing of Mr. Hamilton nor, indeed, did you know anything whatsoever about that until some stage after the

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investigation was commenced this individual with whom you, James Michael McKee, had formed a friendship asked you to take responsibility for a phone call at his home and you did that and you subsequently persuaded your wife to go to a solicitor and make a statement to the same effect.

It is crystal clear that this seemed, as far as you were concerned and in your state of alcoholic stupor, to you at the time as just doing a favour for a friend but it was in fact obstructing a serious police investigation. The investigation of course might well have uncovered (and probably would have uncovered) material facts sufficient to put your friend out of the Police Force for a start and possibly behind bars, but of course (and probably at the worst level) he might have been charged under something like Section 4 of the Criminal Law Act, assisting an offender. So this is not an adjunct to a murder trial. It is not people perverting the course of justice in the course of an actual charge of murder where someone has been charged and some person tries to prevent their conviction or even actually ensure a wrongful acquittal by reason of false information given to the police. It did, however, hold up enquiries into this case substantially.

Had it not been for the background of alcoholism and the very good record you have built up in this community apart from

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that I would have sent you away for a considerable time, Mr. McKee, but I see that you have two minor convictions and one more serious matter of taking and driving away in 1981 and since then you have nothing of any consequence. So for practical purposes you can be treated as a person with a virtually clear record.

I know that the hope and belief might be on the part of your Counsel that I could see my way to imposing a non-custodial sentence in your case. That cannot happen and could not happen in a case of this gravity. I sentence you to 6 months' imprisonment.

So far as you are concerned, Andrea Louise McKee, I would have imposed on you a similar sentence but for the fact that it is quite clear that you by coming clean and telling the police when they went to you in Wales what had happened were instrumental in having these charges brought and it's also quite clear you possibly but slightly reluctantly to support your then husband went to a solicitor and made a statement some weeks after he already made his statement to the police taking responsibility for this phone call, but your actions have assisted the police considerably and what I have read indicates that fact.

In the circumstances, bearing in mind in particular that you are now the mother of a 7-month-old child, the sole carer of it, I



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sentence you to 6 months' imprisonment but I suspend that for a period of 2 years. The effect of that is that if you keep out of all trouble in the next 2 years you will not serve any sentence, but if you commit any offence and you are sentenced for that you will have to serve this 6 months after that sentence.

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