

THE PEOPLE
(at the suit of the Director of Public Prosecutions)

-v-

FRAN HENNESSY

SUMMARY OF THE FACTS

On Saturday the 9TH January 2016, FRAN HENNESSY, the accused, was awakened by a noise outside his /her house at 3am .On looking outside saw a green jeep with one occupant. S/He went outside, approached the jeep and asked “what’s up?”

The driver drove away at high speed and the defendant’s attention was drawn to more noises at the back of the dwelling. He/she went to the shed where his/her shotgun had been stored for such eventualities, checked it and on raising his/her head saw another person (who we now know to be Sean “Snake Eye” Sullivan) coming out of the back door of the house. Fran says he/she ran towards the house and in the process stumbled, causing a shot to be discharged from the shotgun he /she was holding, which struck Snake Eye Sullivan in the leg causing him to fall to the ground, and a fight ensued during which the accused admits hitting Snake Eye several times with a stick .Snake Eye Sullivan, battered , shot and beaten ,struggled to his feet and was attempting to escape on foot when Fran Hennessy raised his/her shotgun and from **about ten feet** fired a second shot. The second shot killed Sean “Snake Eye” Sullivan dead, There is no dispute about that.

FRAN HENNESSY was arrested and charged with the Murder of Sean “Snake Eye” Sullivan. Hennessy pleads Self Defence and the Defence of ones Dwelling.

The Trial is set down in the Central Criminal Court.

THE LAW

MURDER is the intentional and unlawful killing of a human being, by a human being ,and is contrary to common law.

Murder is further defined as follows:

“Where a person kills another unlawfully the killing shall not be murder unless the accused person intended to kill or cause serious injury to some person, whether the person actually killed or not. Pursuant to sec 4(1) of the Criminal justice act 1964.

The common law defence of self defence applies if one uses force to defend ones self from attack, including ones person , family or property, provided

the force used was reasonable in the circumstances .Where more force than is reasonable in the circumstances is used that force may be lawful if the person using the force has a reasonably held belief that ,at the time of so using they honestly believed it to be necessary ,even though it was not necessary.

The , Non Fatal offences against the Person Act 1997 allows this defence only if there was no avenue of escape, while the, 2011 Defence and the Dwelling act, enacted on 13th Jan 2012, allows force to be used including lethal force ,and does not require one to use avenue of escape , even if one exists. Again, only” as much force as is necessary in the circumstances” will suffice for the defense to succeed. So everything depends on the circumstances of each case.

In a Criminal Trial under Irish Law, Art. 38 of the Constitution of Ireland (Bunreacht na hEireann) provides that an accused is entitled to a Trial by Jury.

CASE BACKGROUND

The accused is a Spinister/Bachelor, Farmer of 350 acres with one sister/brother. He /she made a lot of money during the Celtic Tiger era selling land to developers and for the Castlebar bypass.

Locally Fran would be known as a “good catch”.. S/He had been acting a bit odd lately according to locals, talking about being killed in /her bed while asleep and encouraging the locals to stand up and be prepared to defend themselves, by force if necessary. S/He was also heard mention a great dislike of “criminal types”.

The Deceased is a well known member of a criminal gang ,”Snake eye and sons” who specialize in eyeing their victims during the day and striking at night, mostly lone victims with money. His son/daughter was with him on this night. He had a history of robbing vulnerable individuals, and of using violence. He was a suspect in a similar robbery in which two sisters were tied up and left in an isolated area some two years previously but there was not enough evidence to charge him with it. He had 214 previous convictions for robbery and assault having been recently released from Castlerea Prison having served a 6 month sentence for stealing a horse from a Galway farmer.

INDICTMENT

THE PEOPLE
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-v-

FRAN HENNESSY

COUNT 1

STATEMENT OF OFFENCE

**You ,Fran Hennessy, are Charged With the Murder Of Sean”Snake Eye” Sullivan,
Contrary To Common Law**

PARTICULARS OF OFFENCE

**That you FranHennessy did unlawfully kill one Sean “Snake Eye” Sullivan on the
9th day of January 2016 at Ballinahowin,Kaltra,in the County of Galway.**

HOW DO YOU PLEAD?

G/NOT GUILTY?

COUNT 2

STATEMENT OF OFFENCE

**Fran Hennessyis charged with murdering Sean “Snake Eye” Sullivan
Contrary to Section 4 of the Criminal Justice Act 1964.**

Particulars of offence

**That you Fran Hennessy did; on the 9th day of January 2016 at
approximately 03;20 in the forenoon, unlawfully and intentionally, kill one
Sean “Snake Eye” Sullivan at his/her home, namely at “Ballinahowen”
Kaltra, in the County of Galway.**

How do you plead,

Guilty or not guilty?

EVIDENCE OF ARREST ,CHARGE AND CAUTION

Detective Garda McMahon said that from initial enquiries there was enough evidence to charge Fran Hennessy with Murder. D/Garda McMahon arrested Hennessy at the house for murder contrary to common law and h/she was brought to Kaltra Garda station. S/he was detained there under sec 30 of the Offences Against the State Act 1939 and s/he was later also charged under section 4 of the Criminal Justice Act 1964 in the District Court.

After being cautioned with the usual caution, s/he remarked s/he was innocent and said, "I've been livin in fear for ages now, I was only defending me Castle!" in reply to the charges and pleaded "Not Guilty" to murder.

FURTHER INFORMATION

The state pathologist gives the time of death as 315am approximately on 9th January 2016.

- Cause of death, shock from acute loss of blood as a result of a shotgun blast to the back left hand side of the upper chest area. Two empty shotgun shells were recovered along with a shadow 7 u/o shotgun at the scene and removed for examination.
- Death was not instantaneous and could have taken him from 1 to 8 minutes to die. There was no exit wound.

Ballistic expert states that the gun used in the killing is Japanese made Shadow 7 and the one in exhibit A is the actual gun that was used. The experts also say that at ten feet the shot spread would be at its most lethal.

The shotgun was licensed to Fran Hennessy under the wildlife act 1925, as amended, to shoot vermin on his farm. The deceased's son/daughter, **Saoirse Sullivan** was not willing to come forward to give evidence on behalf of the state, however after much pressure (and a promise of immunity from prosecution) from the guards he/she decided to give their account of the nights events.

A neighbor, **Chris Hayden**, who was walking the dog at the time did come forward.

Fran's Sister /brother, **Phil**, also made a statement.

The Defendant also made a brief statement.

The matter was investigated by **Garda McMahon**, who sent a file to the Director of Public Prosecutions, which was returned in the positive to proceed as charged.

THE PROSECUTIONS CASE

Our case is that Fran Hennessy. (The accused) was motivated by Hatred to kill the deceased. The accused owns a large farm worth over 1.5 million

Euro and has over 2.5m in savings from the Celtic Tiger era. As there was no sign of an actual break in and nothing was actually removed by the deceased from the Accused premises, WE say there is no evidence that the deceased actually intended to commit any crime at all. There will be evidence from the driver of the Jeep, Saoirse O’Sullivan that Sean O Sullivan was only looking for directions, having gotten lost in the fog. On the day of the murder the accused was overheard by neighbor Chris Hayden telling a friend that he had no time for losers, and he was prepared for any late night “visitors” and the accused was said to be holding up his shotgun at the time.

It is our case that the accused Fran hid the shotgun in the shed with live rounds nearby so that he would be able to send a message to anyone who might have their eye on his money that he was not to be messed with. That he never gave Snake Eye a chance and that in fact the deceased was trying to walk away when he was gunned down in cold blood. He/she had shot and wounded him, beaten him with a stick and tried to hide the body after by covering it with straw. We say there is no defence for such unnecessary force and the defence of the dwelling legislation was not available to the accused on this occasion. We say that to allow the defence of self defence on this occasion would be perverse and an abuse of the spirit of the law.

We now call our first witness Garda McMahan.
Examination in Chief;

1. D/GARDA MCMAHON PROSECUTION FIRST WITNESS

I arrived on the scene of the crime at Ballinahowin, Kaltra, in the County of Galway on Saturday 9th January 2016 around 4.30am following up a 999 call. I found the body of Sean “Snake Eye” Sullivan face down in the yard in a pool of blood. He was apparently dead. There were signs that there had been a struggle. The dirt in the yard at the back of the house had several foot marks scrapes and drag marks concentrated in one area and a big stick was found nearby, with blood and hair matted into it. The stick was sent off for examination and the results indicated that it contained the blood and hair of the victim. There were tyre marks of a Mitsubishi Jeep short wheel base in the dirt in the front yard of the house. Half way between the front yard and the back yard lay the body. This was about ten meters from the scuffle marks. The body was loosely covered with straw. We found straw in a nearby shed, along with an open box of no. 4. shotgun Cartridges. The safe inside was untouched. The rest of the furniture was undisturbed also. There

was a large amount of blood on the ground. The weapon used in the killing was found at the scene. The house and yard was closed off to carry out forensic tests. The state pathologist and forensic team arrived from Dublin early next morning at about 8 o Clock; I preserved the scene until then. The pathologist confirmed the victim had been dead for about 4 ½ hours and the time of death was approximately 315am that day and that Sean “Snake Eye” Sullivan died from a shotgun wound to the rear chest fired at close range. He also had a shotgun injury to his left thigh region. An empty shell No.4 was found on the ground near the shed door and another in the Shotgun, a Japanese Shadow 7 Model now discontinued and worth quite a sum of money. After preliminary examination, the body was then removed to the city morgue. Some weeks later the funeral of the deceased took place in Castle Island, Co Kerry, where his people were from.

I canvassed the neighborhood and one neighbor has made a statement. From my observations, there was no need to kill Sean Sullivan. It would appear he was leaving the yard when he was shot in the back. I wasn’t there but it would appear that if Hennessy waited another few minutes he’d be gone. Nothing was taken and the accused received no serious injuries. In my view the force used here was excessive, and no way could it be deemed to be reasonable. If he had any concerns for his safety he could have called us sooner, The Guards, I Mean.

.
(Thank you Garda, You might now answer, my learned friend.)
Defence now cross examines the Garda.

2. Prosecution; “We now call our **second witness**, Chris Hayden.

I am a neighbor and I live about 150 meters away at Capard, Kaltra, in the County of Galway. At around 3am on the morning of the 9th of January 2016, I was walking with my little Springer Spaniel dog “Rover” . I usually take him for his daily walk around mid- day to a nearby park but I had been at the mart in Ballinasloe earlier that day and hadn’t gotten round to it . By 3am Rover was agitated beyond belief so I had no choice but to bring him out. It was that or get no sleep at all at all.. When I approached the entrance of the house that I know belongs to Fran Hennessy I could hear noises like grunts and shouts almost like someone was having hard time breathing. I then heard a thump like someone being hit with a stick ,I heard someone shout “ya Big donkey”, get off me would you” ,I thought that maybe Fran’

might be having trouble with his Ass, so I bent down to tie up Rover, I was going to go in for a look to give a hand like, and while I was doing that I heard what was a very loud bang a shotgun blast, I could feel the wind of it pass over my head! After that there was a silence, I ran into the yard and saw Fran holding the smoking shotgun, he was muttering “I got the B*****d”. He was shaking and as he was still holding the gun I shouted to him to put it down before I came any closer. Fran then went into the shed to get some straw he said it would soak up the blood, to avoid rats, I took out my new iPhone 6 and dialed 999 and was put through to Ballinasloe Garda station as Kaltra was closed at this hour of night. I did not see anybody else that night. I am a trained first aider so I tried to resuscitate the victim but there was no pulse. I thought Fran looked rather pleased with him/herself with a strange smirk on his/her face.

Thank you Mr./s Hayden, you might answer my learned friend.

Witness is cross examined by Defence.

3. Prosecution. We call our third witness, Saoirse Sullivan

I am the son/daughter of the deceased, Sean Sullivan, he was my father. This is a tragedy. On the night in question my father and me self were cumin home from a days fishin' on lough Mask, we had stopped for a bite to ate in Cong, I cant remember the name of the Pub but when we got out, after midnight there was a very bad fog, and against my advice, my Da wanted to get home and he drove around and around until we ended up in this farmers yard. I could see it was a farmer's yard because of the bales of silage and the sheds etc when we pulled in. He got out to ask for directions, and was gone for a little while when a man/woman who I now know to be the Defendant, approached the window of the Jeep. I took one look at his /her face and drove off as fast as I could. I pulled in down the road a bit to wait for my father until I heard a shot, I called the guards immediately and came back to the yard to check on me Da. We were only lookin for directions we never did anythin' to this man before, I never saw him before in my life and neither did my father.

DEFENSE NOW CROSS EXAMINE.

END OF PROSECUTION CASE.

THE DEFENCE CASE

Fran Hennessy Denies Murder. He/she admits shooting Sean “snake Eye” Sullivan, but says it was in self defence and to prevent his house being robbed by him. He/she says she/he has been pestered by the Snake Eye

Sullivan Gang for years and has lived in fear of them for years. S/He says they robbed a friend of his only a few months ago and left them tied up and alone for dead. S/He said s/he had to get ready for this day ever since they tied up and robbed his friends. He had a legally held firearm, a shotgun which was licensed to shoot vermin on his farm, and while not coming under the definition set out in the Wildlife act of 1925 as amended ,Fran believes he was not acting outside the licence.Further more we submit that the new 2011 legislation justified Fran in his actions. Should the Court decide that this should not be the case, then we will rely upon the common law entitlement to use reasonable force and in the circumstances entitled him to use the lethal force and shoot the deceased. We will show how this defendant lived a life in fear of attack and on the night in question had no choice but to shoot dead his attacker to save his/her own life and protect the farm and its contents. S/He was a single man/woman who enjoyed farming and his/her sister stayed with on occasions for company. S/he was a school teacher in nearby Claremorris, Co.Mayo .The defendant has no previous convictions, is a God fearing citizen and we will show only did what he honestly believed to be necessary on the night in question.

Although the accused has the right to remain silent, the accused wants to take the stand to give his/her version of events.

I now call our first witness ...**Fran Hennessy.**

DEFENCE WITNESS NO. 1-

On the morning in question, Saturday January 9th 2016, I had gone to bed after the Late Late show (actually the night before) sometime after half eleven ,before midnight. I had been up talking to my sister/Bro Phil and discussing how Tubs could never top Kenny or Gaybo.I had been aware of the danger of keeping money in the house due to the media coverage of lone people being robbed by travelling criminal gangs. I had heard of the Snake Eye Sullivan Gang before as a couple in the nearby village had been robbed tied up and left for three days before being discovered when one of them had eventually broken free. There is no interest in the banks nowadays so it made no financial sense to leave money on deposit in the banks. I had sold a few cattle over the past six months and had gotten a good price. I had over 100,000 in cash in the mattress in my room. I had a wall safe also but only kept a few grand there. Since the other robbery, my si/bro had begun staying with me from time to time, for security, company, like.

At about 3am that night/morning I had heard a vehicle pull up outside, as I was already dressed, I slipped downstairs and out into the yard via the front

door. I saw a Mitsubishi Jeep parked in the yard. I did not recognize it so I approached the drivers side and asked “what’s up?” At that the driver a young man/woman drove the Jeep out the road at high speed. I then heard a noise in the back yard and headed for the shed to get my shotgun. I had it there, just in case, as I’d often have crows and Jackdaws attacking my silage bales. I put in two No.4 cartridges and headed out. As I did I saw a man coming out of the back door of the house with what I thought was something of mine in his hands. I shouted out loud and began to run in his direction. As I did I stumbled and the gun went off. I heard the man shout in pain and he fell to the ground. But he didn’t stay down and as I reached him he swung at me with his right fist cursing and swearing at me. I picked up a piece of wood which was on the ground nearby and hit him several times with it .he fought back furiously hitting me more than once. I swung harder with the piece of wood, and eventually he got away and ran for the gap ,as he did he shouted to his accomplice to “kill the B*****d”,so, thinking I was going to be killed by him or someone else I raised my shotgun and fired ,hitting him in the back .

He fell and didn’t move again. I got up and walked over to where he lay and gave him a little kick to see if he was moving. He wasn’t.

I looked up and saw my neighbor Chris Hayden from up the road running down the yard, at first I thought it was more trouble but then recognized Chris.

I told him I was after being robbed but that they would be robbing anyone else for a while. I then went to the shed and got some straw to soak up the blood .I asked Chris to call the guards. The guards arrived after a while and Garda McMahon spoke to me and I told him what had happened. he said he’d probably want to talk to me again and to make a statement officially after the forensics had done their stuff. I never intended to harm anyone; I was just protecting my home and family. My sister had been asleep upstairs all the while. It was only because I believed they would get help and come back and kill me if I let him out of the yard alive, that I shot him the second time. The first time was just an accident. I honestly thought I was going to die that night.

PROSECUTION CROSS EXAMINE

We now call **Defense 2nd witness Phil Hennessy**

I am the sis/bro of the accused. I am a teacher in Scoil Naofa Claremorris. I live normally in Wall, County Mayo, but recently I had been asked by my bro/sis to stay with her/him as he/she was afraid of being robbed. On the night in question, we'd watched the Late Late together, and I went to bed before Fran, Its never been that good since Pat, quit. Sometime in the middle of the night I was awakened by a loud bang, I thought I was dreaming ,I then heard voices outside and recognizing Fran's I went outside to see what had happened. Fran is a good person who wants to help others and is a good neighbor's know he was scared for the last while . This crowd brought it on themselves, coming onto another person's house like that in the middle of the night, what did they expect!

Thank you Phil, you might answer my learned friend.

PROSECUTION CROSS EXAMINE WITNESS

THIRD WITNESS FOR DEFENCE

PASTOR ROACHE

I am the accused pastor and spiritual advisor and have been for the last 35 years. I am a member of the First Pentecostal Church of Elijah. We have our head office in Philidelphia,USA. Our beliefs are simple, love one another and if you cannot do good, do no harm, but self defence is encouraged. This is why I don't believe Fran committed any crime. We believe in the 4th amendment, the right to bear arms. So if Fran shot that man then he probably deserved it and Fran and the world are better off!

I have been counseling Fran on his/her recent concerns about his/her safety. I am treating professionally a condition of paranoia and restlessness called "paranormia insomniacitus" this displays as loss of sleep symptomatic of bags under the eyes and irratalability. Chronic irritability! Persons suffering with this are easily upset and fly off the handle easily, but more importantly they can mistakenly believe they are in danger, and suffer from paranoia. I feel sorry for Fran, it will probably take years of therapy to recover from this ordeal!.

CROSS EXAMINATION

END DEFENSE CASE

Case concludes with closing statements from both sides, prosecution first, defence last.

Judge charges jury and jury return with verdict , sentencing ,if not acquitted.

THIS PAGE IS ONLY REQUIRED BY THE REGISTRAR/ TIPP STAFF.

Tip staff BRING IN JUDGE, SAYS; SILENCE IN COURT ,ALL RISE.

(close door after judge follow judge to bench .All SIT DOWN

REGISTRAR DOES FOLLOWING;

Judge asks for name of case at hearing (reg reads title,” the people at the suit of the dpp etc) ,

Accused is then identified, judge asks registrar to ARRAIGN the accused.

Reg reads out indictment above

Then swear jury

“members of the jury ,please stand,(wait for them to stand)

Please raise your right hand and repeat after me..

I will faithfully/ (pause after each break) Try the defendant/ and a true verdict give / according to the evidence.

Reg sits

Judge charges jury

Calls on counsel for the state to open case....opening speech and after

Counsel calls first witness REG swears in witness as follows,

Go over to witness box , if witness is sitting say,

“Please stand, Please take the book in your right hand and repeat after me.”.

“I promise /that the evidence I shall give/ shall be the truth / the whole truth/

And nothing but the truth”.

Now take back book, ask witness their name, tell them to be seated , then shout name to jury and return to your seat (repeat this for each witness)