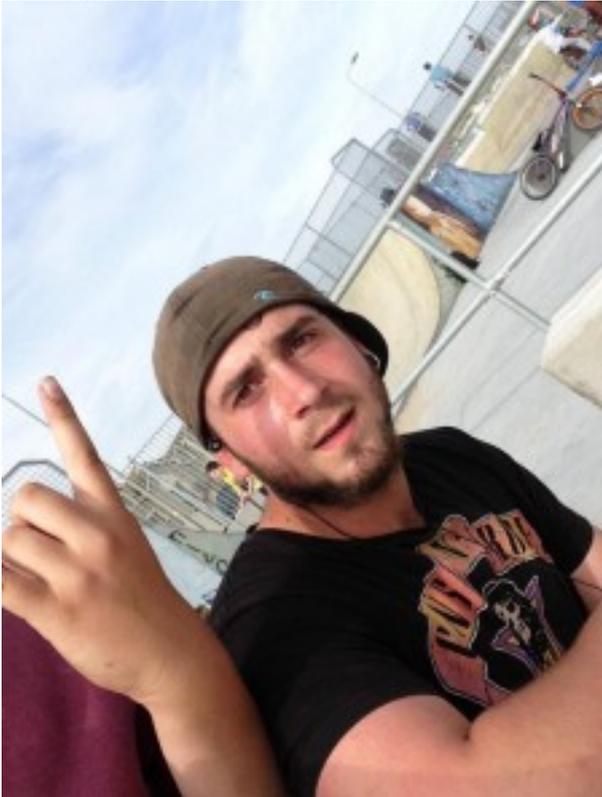


## Suspended sentence for Tramore man in assault case

**Edmund Rice (54) died on Lower Strand Street in 2017**

Niall Hewison (22) of Clarinwood, Tramore was before Waterford Circuit Court last Thursday and received a suspended sentence for three years over an incident in Tramore, in which Edmund Rice (54) died after an assault on Strand Street on June 24th, 2017.

The forgiving approach of the Rice family in an impact statement was crucial in keeping Mr. Hewison out of prison.



Niall Hewison received a suspended sentence.

There had been two charges, one of Section 3 for assault and another of Section 13 for causing injury with intent with reckless endangerment to create risk of harm or death.

Mr. Rice's medical issues prior to his death were one of a few mitigating factors that saw Mr. Hewison receiving a 3-year sentence suspended for 5 years and 200 hours community service.

This was conditional on good behaviour and he must also abstain from intoxicants and alcohol for two years immediately.

Guilty pleas were entered but the judge, on hearing the medical evidence of a coronary event prior to Mr. Rice's fall, decided to give Mr. Hewison a chance.

Judge Eugene O Kelly of the Circuit Court was also influenced by the kindness of the Rice family. He met them on the Thursday during an adjournment and, having read the victim impact statement issued by the family, was strongly influenced by their level of forgiveness when passing sentence. He suspended the jail terms on the basis of good behaviour by Mr. Hewison and an abstention from intoxicants for two years and for him to continue co operating with the probation service.

It was stated that there was a very low risk of re offending. The defence counsel was led by Philip Sheahan, senior counsel. He put in a strong plea for leniency and this was noted by the judge, given the age of the accused and no previous convictions. Earlier, the details of the case were read out and CCTV footage shown outside Strand Cabs, Strand St. Tramore. Both parties had earlier been in the Hi-B and at the taxi rank was there contact between the parties. Mr. Hewison had been at

a 21st party in a house and went to the Hi-B afterwards with Kayla Williams, Tramore based. Garda Sergeant O Flynn noted her witness statement in his evidence.

Mr. Rice, who lived in Waterford, had been out in Tramore during the day and went drinking with a Mr. M that evening after the day's work. The other man went home and Mr. Rice went down the town afterwards and ended up in the Hi-B. At the taxi rank there was a discussion between Mr. Hewison and Miss Williams about the music in the Hi-B. Mr. Rice interjected and said he liked the music and then words were exchanged. Mr. Hewison asked Mr. Rice not to bother Miss Williams or them and then Mr. Rice began to move towards them.

Mr. Hewison stepped out, the taxi arrived, Miss Williams got in it as did Mr. Hewison. Then he got out again as words were exchanged with some, as the Sergeant put it, un-parliamentary language. The CCTV footage showed Mr. Hewison being pushed to the ground by Mr. Rice, having earlier grabbed him around the upper body. Then he got up and responded with two punches injuring Mr. Rice on the nose and lip.

Mr. Rice fell to the ground with a thud and did not try and break his fall with his hands.

He was then unconscious and 999 calls were made by many at the scene, including Mr. Neville, the taxi driver, and Mr. Hewison. Within minutes, gardai were on the scene. Mr. Hewison had to be restrained by Gardai as he was very excitable on the night. He later apologised to Garda O Flynn for this when he saw it on CCTV later. An ambulance came for Mr. Rice, who was conscious and he would die the next day in hospital.

### **Drink induced incidents**

The judge said it showed how two men had been out for a night out, got intoxicated and ended up with Gardai and ambulances called instead of going home in a cab as originally intended. Across towns in Ireland, the judge said, such drink induced incidents occur between people, which would not happen in normal circumstances. Sergeant O Flynn said that the Mr Hewison he met the next day was normal and a good lad and a different person to the night before. He was very contrite and apologetic and was very co-operative.

He came from a good family that was well respected in the town of Tramore. Also he had told the court that the defendant had no previous convictions.

He had been co-operative with the probation services, he had not changed his statements in various interviews although he initially said there was self-defence but he would later pull back on that point. Both families were in court and despite the terrible outcome of the night, the Rice family did not hold any ill will and the statement by Mrs. Rice on behalf of the family showed a great level of forgiveness that was quite remarkable and was noted by the authorities.

### **Victim impact statement**

The prosecuting counsel asked for the victim impact statement to be read in court that was composed by Mrs. Rice and read by the barrister. The judge was moved by the victim impact statement. The family said their life had forever been changed by the incident. A wife no longer had a husband, children had lost a father and they did not get a chance to say goodbye to him. They mourn his loss daily and not a single day passes that he is not on their mind.

They would miss him for family events like Christmas, christenings other celebrations. He loved Leeds United and would no longer go there with his son for a birthday match at Elland Road.

He would also miss special days with his 7 grandchildren or their graduation days. He loved music and his musical instruments were still on the wall and reminded them of him.

Mrs. Rice had been off work for 10 months and had to take anti-depressants for a period.

He had admirable qualities and his family in Derry would miss him too, where he grew up and had great rapport with his family. He had a sense of forgiveness if things went wrong and in keeping with that they did not want further distress. They would later express family forgiveness to the judge at the summing up of the case. This was unique in the circumstances.

There was a sense of something spiritual and forgiveness in this case for all who were there to witness this unusual and tragic case, where a man died.

### **Apology**

The defendant spoke briefly in the witness box and apologised to the family of the Rice's for what had occurred that night.

He has since decided to devote his life to help others and has taken up a job of a lifeguard in Tramore at the sea and in a pool.

He said he cannot change what happened that night and apologised to the Rice family and also to his parents and family.

His defence counsel pointed to the probation report as evidence of his willingness to be remorseful and low chance of reoffending and pleaded for leniency. There were references from places he had worked in Tramore and from Alan Gillane and the Gardai noted the family were well respected. There was no malicious intent when he went out that night and up to then he had led a blameless life as far as the law was concerned. Now there is trauma and a fact he must live with for the future. Now he has this insight, he understands and is unlikely to re offend. He engaged well with the probation officer and is off drink since September 2016. He has seen his error and the consequences. He is now almost 23 years and has a brother also and lives at home with his parents.

The offence of manslaughter was reduced to assault with intent to endanger a person that led to death and a guilty plea was offered said prosecuting counsel Mr. Sheil.

The judge queried this particular charge and the 'men's rea' or intent, on whether it was appropriate in that it included that it can include the intention to cause harm and in this matter the event ended up in death as the medical evidence showed a cardiac event close to the time of the assault.

There had been an inflammation of the artery prior to the altercation and a coronary arrhythmia issue, noted by Dr. Mulligan in a report. There was a cardio vascular issue.

Medical evidence In determining the judgement the medical evidence was crucial. The cardiac arrest prior to Mr. Rice falling and being struck was critical as the blow was to the nose and could not have caused it. The victim had a serious coronary disease as was judged in the medical reports, by Dr. Crane the pathologist. The severity of the artery disease was outlined and that a fatal heart attack could have happened at any time. The assault affected the nasal bone, which could not have caused the man's death in life.

The stress of the argument or assault might have been an influence but not to create a big fall as happened and for this to be the prosecution case it must be proven by all reasonable doubt, which is not proven here with the medical evidence. The judge noted that the self defence plea was withdrawn and unlikely to succeed. He noted there was no defence to the drunken intent in the assault and the plea of guilty. The defendant could have withdrawn from the situation and not engaged in assault and responded to a man who was twice his age.

The section 13 charge was in the mid range of assault in this case and the section 3 assault was in the upper range. He gave a 4 year sentence on the first charge, later reduced by one year to three years and the assault to one year. The judge said it was 60 seconds of madness that happened and, given the age, reduced the sentence and noted the Garda evidence too and probation reports also. There was an impact on all the families concerned and community. The defendant had to abstain from alcohol and intoxicants and needs to mature in his age. He was moved by the offer of clemency by the deceased family and showed warmth and kindness to the young family. The family were very charitable in their statement.

He thus reduced the sentence. The 4 years was reduced for one year to 3 on the sections 13 charge and then was suspended for 5 years depending on behaviour, and the assault from 2 years to community service of 200 hours. The case will come up again in 14th January in 2020 when they will assess how Mr. Hewison is suitable for community service of 200 hours which the judge imposed for the assault charge, when there will be an update from the probation service, so that he is seen as a suitable candidate for community work.

The judge extended sympathy to the Rice family of Bellfield, Ferrybank and he was moved by their spirit of generosity. There were many hugs after the case, the two families also hugged afterwards and the Hewison family were extremely grateful for the forgiveness of the Rice family and their statement to the court.