

GROUNDS FOR JUDGMENT

Form UK 1

Ref. no

II K 200/20

If the request for justification of the judgment relates only to certain acts or certain defendants, the court may limit the justification to the part of the judgment covered by the request. If the judgment was issued pursuant to Article 343, Article 343a or Article 387 of the Criminal Procedure Code, or if the request for justification of the judgment covers only the decision on punishment and other legal consequences of the act, the court may limit the justification to the information contained in sections 3-8 of the form.

FINDINGS OF FACTS

Facts considered as proven

<i>item No.</i>	<i>Accused</i>	<i>The act attributed to the accused (or, if not attributed, the act charged)</i>	
1.1.1.	John D., Mary K.	<p>Act attributed to: on 26 March 2021 in Cracow, acting with the direct intent to deprive Bill G. of life, after having directed at him the words "I'll kill you, you bastard" he thrust a screwdriver six times into his chest and abdomen and inflicted a blow to the carotid artery with a screwdriver, but he did not achieve the intended result due to the medical action taken and emergency medical surgery performed, causing however serious damage to the wronged party's health</p> <p>the act allegedly committed by Mary K.: On 26 March 2021 in Cracow together with John D. participated in beating Bill G., during which John D. stabbed Bill G. six times in the chest and abdomen with a screwdriver and hit John D. with a screwdriver in the carotid artery, causing grievous bodily harm</p>	
<i>For each act, indicate the facts considered proven</i>		<i>Evidence</i>	<i>Card number</i>
<p>On Friday - 26 March 2021. Jack D., John D., and Mary K. decided to spend time together to celebrate the raise John had received that morning. At approximately 8:00 p.m., they took John's car to his favorite bar, the Blue Moon, for a meal and a few drinks. Jack did not drink alcohol, while John, on the other hand, drank one beer after another.</p>		accused's explanations - Jack D.	
		accused's explanations - Mary K.	

<p>Around 10:30 p.m., John was quite drunk - his blood alcohol concentration was 1.2 ‰. He got into a serious/sharp argument with another bar guest, Bill G., and his two friends, Bob L. and Ben K., whom he had not previously known.</p>	accused's explanations - Jack D.	
	accused's explanations - Mary K.	
	Bill's G. testimony	
	Bob's L. testimony	
	Ben's K. testimony	
	expert opinion of Dr. Ellen A.	
<p>After five minutes, Jack and Mary convinced John to leave the bar area. After paying the bill, they set off together toward John's car. John's gait was quite shaky, and Jack and Mary kept telling him that he should not be driving. John, responding angrily and angrily that he could drive and that they should shut up, opened the driver's door and got into the car.</p>	accused's explanations - Jack D.	
	accused's explanations - Mary K.	
<p>Meanwhile, Bill, Bob and Ben walked into the parking lot and noticed John's car. Bill took a screwdriver out of his own car and made a long and deep scratch on the hood of John's car. John was furious, got out of his car, threw himself at Bill and yanked the screwdriver out of his hands. He yelled at Bill, "I'm going to kill you, you scumbag bastard!" Mary pushed Bill, shouting: "You idiot! Why did you provoke him!". Then, John stuck a screwdriver into Bill's chest and abdomen several (6) times, holding him down. As Bill fell to the ground, Mary "fell" over him. Then John put the screwdriver to Bill's neck and wounded an artery in Bill's neck. Bill began to bleed profusely from his neck. Mary began applying pressure to the injured man's artery to stop the bleeding. Bill's friends, Bob L. and Ben K., were shocked by the incident, pushed Mary away, and took</p>	accused's explanations - Jack D.	
	accused's explanations - Mary K.	
	Bill's G. testimony	
	Bob's L. testimony	

<p>steps to stop the blood flow themselves. Pushing Mary away, they got up and fled the scene.</p> <p>Jack lifted John off the ground and dragged him to his car. Jack put John in the passenger seat and got behind the wheel. In his haste, he did not fasten his seat belt for himself or his brother. He drove off at high speed without turning on his headlights. Hearing the car engine, Bob L. ran to his own car to catch up with Jack and John, while Ben K. stayed with Bill to stop the bleeding. Ben K. also managed to call an ambulance, which arrived seven minutes after Jack left. Bill was taken to a nearby hospital. His condition was promising to save his life with quick surgery.</p>			Ben's K. testimony	
			Arthur's Z. testimony	
<p>Mary, while fleeing the scene, headed toward the residence of her brother Steve, who is a paramedic, to obtain his assistance in saving the life of the victim Bill G. Steve lives two blocks from the scene on Rose Park Lane, where Mary was stopped by Police Officers before reaching her brother.</p>			Steve's J. testimony	
			Greg's D. testimony	
			Cathy's P. testimony	
			accused's explanations - Mary K.	
<p>John is 25 years old, single, and has no dependents. He works in an auto repair shop. He has two previous convictions for theft. On the first conviction he was given a fine. On the second conviction, he was sentenced to a term of 18 months' imprisonment. Both sentences were served in full.</p>			accused's statements - John D.	
			information from the national criminal register	
1.1.2.	Jack D.	On 26 March 2021 in Cracow, failed to provide assistance to Bill G. in a situation posing an imminent threat to his life, while being able to provide such assistance without endangering himself or another person with the loss of life or grievous bodily harm		
<p><i>For each act, indicate the facts considered proven</i></p>			<p><i>Evidence</i></p>	<p><i>Card number</i></p>
<p>At the time and place that is specified above, Jack D., although he saw that Bill G. had sustained multiple screwdriver injuries to his abdomen, chest and artery, drove away from the scene</p>			<p>accused's explanations - Jacka D.</p>	

<p>in a Saab passenger car with registration number KR 000UV; thus, he failed to render assistance to Bill G. who was in a position of imminent danger of loss of life while being able to do so without exposing himself or another person to the danger of loss of life or grievous bodily harm.</p>				
			accused's explanations - Mary K.	
			Bill's G. testimony	
			Bob's L. testimony	
			Ben's K. testimony	
1.1.3.	Jack D.	<p>On 26 March 2021 in Cracow obstructed criminal proceedings by providing John D. with assistance in evading criminal liability for a crime committed to the detriment of Bill G, which is to be classified pursuant to Article 13 § 1 of the CC in connection with Article 148 § 1 of the CC and in connection with Article 156 § 1 of the CC in connection with Article 11 § 2 of the CC, in such a way that, after John D. had committed the aforementioned crime, in order to avoid identification and apprehension of John D. by the police, he dragged him away from the police. by the police, he dragged him away from the scene of the offence and took him to his Saab passenger car with registration number KR 000UV, after which he drove away from the scene of the offence, unintentionally causing a traffic accident in the course of driving, in such a way that he intentionally violated the rules of safety in land traffic by driving the above specified Saab passenger car over the speed limit by several dozen kilometers, without the car lights on and disregarding the traffic lights, as a result of which, while crossing the red light for cars at a speed of 120 km/h, he hit Olivia F., who was correctly crossing the pedestrian crossing. , causing her body to be thrown back and striking her head on the wall of a building, as a result of which she suffered multiple skull fractures and extensive traumatic brain injury, resulting in her death at the scene, and then he struck a lamp post with his car at 90 km/h, as a result of which his brother, John D., who was a passenger in the car, fell through the windscreen, suffering severe fractures to his skull, neck, shoulders and ribs</p>		
<p><i>For each act, indicate the facts considered proven</i></p>			<p><i>Evidence</i></p>	<p><i>Card number</i></p>

<p>At the time and place set forth above, and so after, on the date fixed for March 26, 2021, a few minutes after 10:30 p.m., when Jack D. had picked up his brother and dragged him away to his car, he started his car from the scene where the victim Bill G. and his friends Bob L. and Ben. K., attempting to stop his heavy bleeding from the carotid artery. Jack's brother, John, was in the passenger seat. Jack has little driving experience; he was driving at 130 mph on poorly lit downtown streets, repeatedly running red lights at major intersections and failing to slow down. Suddenly, on a curve 20 feet ahead, Jack spotted Olivia F., who was crossing the road at a green pedestrian light. Despite immediately applying the brake, Jack hit Olivia F., traveling at 120 km/h. The impact caused her body to be thrown back and her head to hit the wall of a nearby building with great force. This caused the instantaneous death of Olivia F. due to multiple skull fractures and extensive traumatic brain injury. As a result of the shock of hitting Olivia F. and a sudden braking maneuver, Jack lost control of his car. At 90 mph, he struck a lamp post, which resulted in the car coming to an immediate stop. Because his brother, John D., was not wearing a seat belt, he fell through the windshield of the car as a result of hitting the lamppost, suffering severe skull, neck, shoulder and rib fractures in the process. In Jack's case, the collision with the lamppost, despite being cushioned by the driver's airbag, resulted in fractures to five ribs and a severe spinal injury.</p>	accused's explanations - Jack'a D.	
	expert opinion of Dr. Ellen A.	
	expert opinion of Dr. Ernest B.	
<p>Olivia lost her husband a year ago; she was a single mother and also the sole caretaker of three young children ages three, five and ten.</p>	Oswald's F. testimony	
<p>Jack D. is 18 years of age and was 17 years of age at the time of the acts described; he has no dependents and no prior criminal record.</p>	accused's ID	
	accused's statements	
	information from the national criminal register	
The facts found not to be proved		
<i>item No.</i>	<i>Accused</i>	<i>The act attributed to the accused (or, if not attributed, the act charged)</i>
1.2.1.	Mary K.	On 26 March 2021 in Cracow together with John D. participated in beating Bill G., in the course of which John D. stabbed Bill G. six times

		in the chest and abdomen with a screwdriver and hit John D. in the carotid artery with a screwdriver, causing him grievous bodily harm	
<i>For each act, indicate the facts found not to be proved</i>		<i>Evidence</i>	<i>Card number</i>
It was not proven that Mary K. participated in the beating of Bill G.		accused's explanations - Jack D.	
		accused's explanations - Mary K.	
		Bill's G. testimony	
		Bob's L. testimony	
		Ben's K. testimony	
1.2.2.	John D.	act attributed to: John D. on March 26, 2021 in Cracow, acting with the direct intent to deprive Bill G. of life, after having said to him "I'm going to kill you, you bastard", he stabbed him 6 times in the chest and abdomen with a screwdriver and inflicted a blow to the carotid artery with the screwdriver	
<i>For each act, indicate the facts found not to be proved</i>		<i>Evidence</i>	<i>Card number</i>
The act attributed to John D., committed against Bill G., was not proven to have exhausted the elements of the crime of participation in battery		accused's explanations - Jack'a D.	
		accused's explanations - Mary K.	
		Bill's G. testimony	

	Bob's L. testimony	
	Ben's K. testimony	

EVALUATION OF EVIDENCE

Evidence on which the facts are based

<i>Item of the fact referring to the point 1.1</i>	<i>Evidence</i>	<i>Briefly state the reasons for admitting the evidence</i>
1.1.1	accused's explanations - Jack D.	The explanations of the defendant are consistent, logical and correspond with the remaining evidence gathered in the case, deserve the Court's recognition as credible.
	Bill's testimony G.	The victim's testimony is consistent and logical and harmonizes with the other evidence gathered in the case.
	Bob's testimony L.	The testimony is consistent and logical and consistent with the other evidence gathered in the case. Based on direct contact with the witness at the main hearing, the Court finds him credible.
	Ben's testimony K.	The testimony is consistent and logical and consistent with the other evidence gathered in the case. Based on direct contact with the witness at the main hearing, the witness appeared credible in the opinion of the Court.
	expert opinion of Dr. Ellen A.	The expert's opinion is reliable, clear, complete and consistent with the principles of logical reasoning.
	expert opinion of Dr. Ernest B.	The expert's opinion is reliable, clear, complete and follows the rules of logical reasoning.

	Arthur's testimony	Z.	The testimony is consistent and logical and is consistent with other evidence gathered in the case. It should be emphasized that the witness is a police officer, a stranger to the defendants.
	Cathy's testimony	P.	The testimony is consistent and logical and harmonizes with other evidence gathered in the case. It should be emphasized that the witness is a police officer, a stranger to the defendants.
	Greg's testimony	D.	The testimony is consistent and logical and consistent with other evidence gathered in the case. It should be emphasized that the witness is a police officer, a stranger to the defendants.
	Oswald's testimony	F.	The testimony is consistent and logical. It should be emphasized that the witness was not an eyewitness to the incident and testified as to the circumstances concerning the personal situation of the victim Olivia F. and her children.
	accused's explanations - Mary K.	-	The Court found the defendant's explanations credible. It needs to be emphasized that the defendant, in the opinion of the Court, explained convincingly; her evidentiary statements were coherent and logical. In the opinion of the Court, which had direct contact with the defendant during the main hearing, her explanations deserved full credibility, also and especially as regards the motivation for her actions.

**Evidence not considered in the determination of facts
(evidence that the court found to be unreliable and not relevant to the finding of fact)**

<i>Item of the fact referring to the point 1.1 or 1.2</i>	<i>Evidence</i>	<i>Brief reasons for disregarding evidence</i>
1.1.1	Peter's testimony	V. This testimony was not taken into account by the Court because it does not directly relate to the circumstances surrounding the commission of the acts charged against the defendants.
	Craig's testimony	H. This testimony did not form the basis of the findings of fact, as it relates solely to the previous criminal record of the defendants, and in

		this regard the Court relies on official information from the National Criminal Register.
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LEGAL BASIS OF THE JUDGMENT		
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	<i>Decision point of the judgment</i>	<i>Accused</i>
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<input checked="" type="checkbox"/> 3.1. Legal grounds for conviction or conditional discontinuance consistent with the charge	III	Jack D.
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<i>Briefly on the reasons for the legal qualification adopted</i>		
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According to the article 162 § 1 CC: Whoever does not provide assistance to a person being in an immediate danger of loss of life or sustaining a grievous bodily harm, even though he could have provided it without exposing himself or another person to a danger of loss of life or a danger of sustaining a grievous bodily harm, is subject to the penalty of deprivation of liberty for up to 3 years.

The defendant by his conduct realised the elements of the crime described in Article 162 § 1 of the Criminal Code. It must be emphasized that the defendant saw John D. inflict several blows with a screwdriver on Bill G., including blows to the carotid artery. He saw the consequences of the blows inflicted, including hemorrhaging from the carotid artery, and thus was fully aware that Bill G. was in a position of imminent danger of loss of life or grievous bodily harm. The defendant could have certainly rendered assistance to the victim without endangering himself or another person to the danger of loss of life or serious injury. Nevertheless, he moved away from the scene without ensuring that the victim was assisted by others. Thus, in the Court's opinion, the defendant by his conduct exhausted all elements of the crime under Article 162 § 1 CC. The act of the defendant is punishable, culpable, unlawful and reprehensible. Following the criteria set forth in an enumerative manner in Article 115 § 2 CC, the Court assessed the degree of social harm caused by the alleged act as medium. In the same way, the Court assessed the degree of guilt of the defendant, deeming it average. In terms of guilt, it should be emphasized that the defendant was fully sane at the time of the act, while he certainly acted in a state of strong emotions caused by the view of the consequences of the attack on Bill G. by his brother John D.

3.1. Legal grounds for conviction or conditional discontinuance consistent with the charge	IV	Jack D.
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<i>Briefly on the reasons for the legal qualification adopted</i>		
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According to the provision of Article 239 § 1 CC: Whoever obstructs or frustrates criminal proceedings by assisting a perpetrator of a crime or a fiscal crime in evading criminal liability, especially by harbouring the perpetrator, obliterating evidence of the crime or by serving a penalty instead of a sentenced person, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.

The provision of Article 177 § 1 CC states that: Whoever, by violating - even unintentionally - the safety rules for land, water or air traffic, unintentionally causes an accident inflicting a bodily injury referred to in art. 157 § 1 upon another person, is subject to the penalty of deprivation of liberty for up to 3 years,

In accordance with the provisions of article 177 § 2 CC: If the consequence of the accident referred to in § 1 is the death of a human or a grievous bodily harm, the perpetrator is subject to the penalty of deprivation of liberty for between 6 months and 8 years.

The established facts show that the defendant, acting with the intention that his brother John D. should avoid criminal liability for the offence under Article 13 § 1 CC in connection with Article 148 § 1 CC and Article 156 § 1 CC and in connection with Article 11 § 2 CC, committed to the detriment of Bill G, he dragged him away from the scene of the offence and placed him in his Saab car with registration number KR 000UV, without wearing a seatbelt either for himself or his brother and immediately breached the rules of road safety. In the course of driving, knowingly violating the rules of land traffic safety by driving at a speed of 130 km/h on downtown streets and passing through red lights, he led to an accident as a result of which the victim Olivia F. died and his brother, the victim John D. suffered injuries in the form of serious fractures of the skull, neck, arms and ribs. It must be emphasized that in the Court's opinion the defendant knowingly and intentionally violated the rules of safety in land traffic, whereas causing the accident was not intentional on his part.

It should also be emphasized that Jack D. committed the described act in order to avoid identification of himself and his brother John D. and to prevent his brother from being apprehended and re-imprisoned in prison. This clearly shows that the defendant Jack D. acted with a direct intention that his brother should avoid criminal liability for a crime under Article 13 § 1 CC in connection with Article 148 § 1 CC and Article 156 § 1 CC and in connection with Article 11 § 2 CC.

Based on the presented facts it should be stated that the defendant Jack D. by his act exhausted all material and subjective elements of the crime described in Article 239 § 1 and Article 177 § 2 CC in conjunction with Article 11 § 2 CC. The Court is of the opinion that it is necessary to assume the identity of the act charged against the defendant within the meaning of the criminal law, despite the fact that his conduct fulfilled the prerequisites of the two indicated provisions providing for the types of offence of "aiding and abetting" (Article 239 § 1 CC) and qualified traffic accident (Article 177 § 2 CC). Such legal and factual assessment is justified - in the opinion of the Court - by the clear concurrence of behaviors that constitute the elements set forth in the above-mentioned provisions in connection with the established fact that the defendant was accompanied by the same intention and impulse of will - Jack D. wanted his brother to avoid criminal liability and for this purpose drove away from the scene of the accident violating the traffic safety rules and, in violation of these rules, continued driving the car, which in fact meant fleeing from the scene of the crime committed by John D. Breaking the defendant's conduct at issue into two acts and subjecting them separately to criminal law would violate the natural unity of the act and would offend artificiality.

The act of the defendant is unlawful, culpable, punishable and reprehensible. The degree of the defendant's guilt was assessed as high. The defendant, despite his young age, should and certainly was aware of the applicable legal norms prohibiting driving a car with gross disregard for the rules of safety in land traffic, which he did. No doubts arose in the case as to the defendant's sanity. In the Court's opinion, the degree of social harmfulness of the defendant's act should also be deemed high. This assessment is influenced, on the one hand, by the fact that the defendant intentionally violated the rules of safety in land traffic and, on the other hand, by the consequences of his act, as a result of which a person died and another sustained numerous serious bodily injuries. Such an assessment was also induced by the fact that the defendant, by his act, exhausted not only the elements of the crime of causing a traffic accident, classified pursuant to Article 177 § 2 CC, but also the elements of the crime specified in Article 239 § 1 CC.

<input checked="" type="checkbox"/> 3.2. The legal basis for the conviction or conditional discontinuance not in conformity with the charge	I	John D.
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Briefly on the reasons for the legal qualification adopted

According to the provision of article 148 § 1 CC: Whoever kills a human, is subject to the penalty of deprivation of liberty for no less than 8 years, the penalty of deprivation of liberty for 25 years or the penalty of deprivation of liberty for life.

The provision of Article 13 § 1 CC states in turn that: Whoever, with the intent of perpetrating a prohibited act, by his conduct directly pursues its commission, which however does not take place, is liable for an attempt.

Case law indicates that "In murder cases, it is extremely rare that the perpetrator articulates his intent. It is usually established on the basis of the circumstances surrounding the killing. It is not enough to establish that the perpetrator had the intention to commit any crime against life and health or, foreseeing the possibility of its commission, consented to it. It is necessary to establish that he also intended to have an effect in the form of human death. Such factors as the causes and background of the incident, the type of tool used, the location and intensity of the blows inflicted or causing specific bodily injuries, the perpetrator's personality, his/her behaviour before and after the act, his/her attitude towards the victim constitute certain indications as to whether the perpetrator had the intention to commit murder." Judgment of the SA in Poznań of 27.05.2021, II AKa 22/21, LEX No 3196736.

In the present case, the accused articulated his intention to deprive the victim Bill G. of life by addressing him with the words: "I'm going to kill you scumbag/drone". This intention is also clear from the material circumstances of the criminal act attributed to the accused. It should be emphasized, first of all, that the defendant used a dangerous tool in the form of a screwdriver, which he thrust six times into the victim's chest and abdomen, holding him down, and he also used it to strike him in the carotid artery. The number of stabs as well as the blow to the artery supplying blood to the head and neck in connection with the established background and causes of the criminal incident in the form of a violent argument in a bar and scratching the body of the defendant's car by the victim Bill G. prove irrefutably that the defendant acted with the intention to deprive the victim of life, and that he did not achieve his effect only due to the rescue operation undertaken and the emergency medical operation performed.

The action of the accused caused grievous bodily harm to the victim, as referred to in Article 156 par. 1 CC. According to this provision: Whoever inflicts a grievous bodily harm in the form of:

1) deprivation of sight, hearing, speech or the ability to procreate, 2) another severe disability, a severe, incurable illness or a protracted illness, a life-threatening illness, a permanent mental illness, a permanent total or substantial incapacity to work in a profession or a permanent, substantive disfigurement or deformation of a body, is subject to the penalty of deprivation of liberty for no less than 3 years.

The Court did not share the legal classification adopted by the Prosecutor in the indictment, because the facts of the case do not provide grounds to ascribe to the defendant Mary K. participation in beating up the victim, Bill G., while in order to classify an act as battery under Article 158 § 1 CC, cooperation of at least two persons is necessary, which will be discussed in more detail in the further part of these reasons, in relation to the act charged in the indictment against Mary K. Defendant's act is unlawful, punishable, culpable, and reprehensible.

The court held that the degree of the defendant's guilt is high. The defendant is of age and fully sane, so there are no circumstances mitigating his degree of guilt. The court also considered the degree of social harm caused by the act attributed to the defendant to be high, taking into account, first of all, the form of the intent, i.e. the fact that the defendant acted intentionally with direct intent, as well as the type and nature of the legal good that he violated, i.e. the fact that he attacked the most precious good protected by law, which is human life. The manner in which the act was committed, consisting of inflicting several

stab wounds with a dangerous tool on the victim, each of which could in fact lead to the death of the accused, should also be emphasized.

3.3. Conditional discontinuance of proceedings

A concise explanation of the legal basis and briefly the reasons for the conditional discontinuance

3.4. Discontinuance of proceedings

Concise explanation of the legal basis and briefly on the reasons for discontinuing the proceedings

3.5. Acquittal

II

Mary K.

A concise explanation of the legal basis and concise reasons for the acquittal

According to the provision of article 158 § 1 CC: Whoever takes part in a brawl or a beating exposing a human to an immediate danger of loss of life, or the consequence referred to in art. 156 § 1 or in art. 157 § 1, is subject to the penalty of deprivation of liberty for up to 3 years.

On the other hand, according to the provisions of article 158 § 2 CC: If the consequence of the brawl or the beating is a grievous bodily harm, the perpetrator is subject to the penalty of deprivation of liberty for between 6 months and 8 years.

According to the provision of article 159 CC: Whoever uses a firearm, a knife or another similarly dangerous object, while taking part in a brawl or a beating, is subject to the penalty of deprivation of liberty for between 6 months and 8 years.

The doctrine states that "(...) in order to achieve the elements of the criminal offence from article 158 § 1 CC, it is necessary to establish the behaviour which fulfils the executory activity of "taking part in beating" another person as described in this provision. For this element to be realized, it is not sufficient to simply be present at the scene of the incident, during which another person uses physical violence threatening at least to cause an average bodily injury. Such participation must consist of intentional, active involvement in the beating" (J. Giezek [in:] D. Gruszecka, K. Lipiński, G. Łabuda, A. Muszyńska, T. Razowski, J. Giezek, Kodeks karny. Particular. Commentary, Warsaw 2021, art. 158).

It should be emphasized that the crime qualified in articles 158 and 159 CC "(...)" can only be committed intentionally, with a direct or possible intent. The perpetrator must want or at least accept the fact that he/she participates in an incident, in which a person is exposed to direct danger of loss of life or health

damage no less than that specified in article 157 § 1." (J. Giezek [in:] D. Gruszecka, K. Lipiński, G. Łabuda, A. Muszyńska, T. Razowski, J. Giezek, Kodeks karny. Particular. Commentary, Warsaw 2021, art. 158).

The established facts do not show that Mary K. participated in beating the victim. It is true that the defendant pushed the victim, Bill G., but it cannot be assumed that this constituted an element of beating the victim, because the pushing was only a nervous reaction to the fact that the victim provoked John D. and it occurred before the defendant used physical violence against him. The fact that the defendant Mary K. fell "over" the victim Bill G. cannot be considered at all in the category of using physical violence against him and thus manifesting "participation in the beating". The fact that the defendant did not intend to participate in the beating is further supported by the fact that she was the first to try to stop the bleeding from the victim's neck and then she went to get further help when her colleagues took over the life-saving activities.

**PENALTIES, PENALTY MEASURES, RESTRICTION, COMPENSATION AND
MEASURES RELATING TO THE PLACING OF AN OFFENDER ON PROBATION**

<i>Accused</i>	<i>Decision point of the judgment</i>	<i>Decision point of the judgment relating to the attributed act</i>	<i>Citing circumstances</i>
John D.	I	I	<p>The Court imposed the penalty in accordance with all directives for the assessment of penalty laid down in Article 53 § 1 CC, i.e. observing that its onerousness does not exceed the degree of fault, taking into account the degree of social harmfulness of the act and taking into consideration preventive and educational aims it is to achieve with regard to the sentenced person, as well as the need to develop legal awareness of the society. As aggravating circumstances the Court acknowledged the previous criminal record of the defendant, the high degree of his guilt and the high degree of social harmfulness of the act ascribed to him. It should be emphasized here that the defendant inflicted several stab wounds on the victim, one after another, each of which could have led to the death of the defendant.</p> <p>The Court treated as a mitigating circumstance the fact that the defendant provoked the victim by damaging the body of his car, considering the</p>

			<p>defendant's reaction to be completely disproportionate to the victim's behaviour.</p> <p>Taking into consideration the above mentioned circumstances, the Court decided that the penalty of 9 years imprisonment is just and adequate to the crime ascribed to the accused in the light of the above mentioned directives for the assessment of penalty, listed in Article 53 § 1 CC.</p>
Jack D.	III	III	<p>The court imposed the penalty following all the directives of the penalty, observing that its onerousness does not exceed the degree of fault, taking into account the degree of social harmfulness of the act and taking into consideration preventive and educational aims it is to achieve with regard to the sentenced person, as well as the need to develop legal awareness of the society. The Court considered as an aggravating circumstance the fact that by the actions of the accused two persons were injured, one of them was killed, and the other sustained a serious injury. The Court also considered as an aggravating circumstance the fact that the defendant knowingly violated the rules of safety in land traffic. As mitigating circumstances, the court considered that the defendant did not have a criminal record and that he fully admitted his guilt and gave explanations in which he presented a comprehensive description of the events subject to criminal law in the case in question, which was consistent with the description of the events in question.</p>
Jack D.	IV	IV	<p>The court imposed the sentence guided by all the sentencing directives, observing that its onerousness does not exceed the degree of fault, taking into account the degree of social harmfulness of the act and taking into consideration preventive and educational aims it is to achieve with</p>

			<p>regard to the sentenced person, as well as the need to develop legal awareness of the society.</p> <p>The Court considered as an aggravating circumstance the fact that by the actions of the accused two persons were injured, one of them was killed and the other sustained a serious injury. The Court also considered as an aggravating circumstance the fact that the defendant knowingly violated the rules of safety in land traffic.</p> <p>As a mitigating circumstance the Court considered the fact that the defendant did not have a criminal record and fully admitted his guilt and gave explanations in which he gave a comprehensive description of the events subject to criminal assessment in the case in question, which was consistent with the remaining evidence collected during the trial.</p>
Jack D.	VI	IV	<p>Pursuant to Article 44 § 1 CC the Court banned the defendant Jack D. from driving any motor vehicles for the period of 5 years, assuming that a ban on driving any motor vehicles in this amount will be sufficient to achieve the objectives of the punishment.</p>
Jack D.	VII	IV	<p>Pursuant to Article 46 § 2 CC, the Court awarded the defendant, Jacek D., compensation for the children of Olivia T. in the amount of PLN 30,000 for each child, taking into consideration material deterioration of their situation due to the death of their mother as a result of the crime of causing a traffic accident committed by him.</p>
Jack D.	V	III and IV	<p>The aggregate penalty of 2 years and 2 months of imprisonment is based on the principle of accumulation, assuming appropriate increase of the highest of the penalties subject to aggregation. The fact that the acts attributed to the defendant are concurrent in terms of location and time alone would support</p>

			<p>imposition of a joint penalty approximating to full absorption of the lower penalty by the higher one. On the other hand, the fact that the acts ascribed to the accused offender had different legal consequences and harmed different persons spoke in favour of imposing a joint penalty in the amount corresponding to the cumulation of individual penalties. Consequently, taking into account first of all the preventive and educational purposes which the penalty is supposed to achieve in relation to the convicted person, as well as the needs in terms of shaping legal awareness of the society and other directives for determination of penalty, the Court applied the rule of aggregation of penalties within the indicated limits.</p>
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OTHER JUDGMENT 'S ISSUES

<i>Accused</i>	<i>Decision point of the judgment</i>	<i>Decision point of the judgment relating to the attributed act</i>	<i>Citing circumstances</i>

OTHER ISSUES

At this point, the court may address other issues relevant to the decision and not explained in other parts of the statement of reasons, including an explanation as to why the court did not apply a particular institution of criminal law, especially if a party requested that such an institution be applied.

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7. COSTS OF PROCEEDINGS AT LAW

<i>Decision point of the judgment</i>	<i>Citing circumstances</i>
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VIII	Pursuant to Article 624 § 1 Criminal Procedure Code in conjunction with Article 17.1 of the Act of 23 June 1973 on Fees in Criminal Proceedings (consolidated text: Journal of Laws of 1983 No 49 item 223), the defendants Jack D. and John D. were exempted from court costs in their entirety due to their financial and personal situation and the fact that they were sentenced to absolute imprisonment.
IX	Pursuant to Article 632 § 2 CPC, he stated that the costs of the proceedings in connection with the indictment against Mary K. shall be borne by the State Treasury since the defendant was acquitted of the charge.

SIGNATURE

Jan Nowak