

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
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4 INDICTMENT NO: 60 & 61A & 61B of /2010
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7 THE QUEEN
8

9 v.
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11 RAZIEL OMAR JEFFERS
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14 **Appearances:**

15 Mr. Andrew Radcliffe, Q.C., and Snr. Crown
16 Elisabeth Lees for the Crown

17 Mr. Charles Miskin Q.C. instructed by Ms.
18 Amelia Fosuhene of BRADY for Prisoner
19

20 **Before:**

The Hon. Mr. Justice Charles Quin Q.C.

21 **Heard:**

24th – 25th January 2018; 5th February 2018

22 **Further Written Submissions:**

1st February 2018
23

24 **HEADNOTE**
25

26 *Criminal Law – Conditional Release Law – Conditional Release Law*
27 *Regulations – Murder – Tariff for Life Sentence – Aggravating and Mitigating*
28 *factors – Whether exceptional in nature.*
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32 **JUDGMENT**

33 **PURSUANT TO THE CONDITIONAL RELEASE LAW**
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1. The Prisoner, Raziel Omar Jeffers was sentenced to seven terms of life imprisonment arising from two separate Indictments (as set out below) prior to the implementation of the *Conditional Release Law 2014* ("the Law") on 15th February 2016.
2. The Prisoner is returned to the Grand Court for the court to exercise its powers under s.14 and s.23 of the Law and to specify the period of incarceration the Prisoner shall serve before he is eligible to be considered for conditional release on licence.
3. The proceedings under Indictments 61A/2010, 61B/2010 relating to the murder of Marcus Ebanks, and allied offences, will be referred to as '*Jeffers #1*'.
4. The proceedings under Indictment 60/2010, regarding the murder of Damion Ming, will be referred to as '*Jeffers #2*'.



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GRAND COURT PROCEEDINGS:

INDICTMENT 61A/2010, 61B/2010 - (JEFFERS #1)¹

5. The Prisoner faced an Indictment containing six counts, each arising from a shooting on 8th July 2009 at Bonaventure Road, West Bay, when the Prisoner was 26 years old.

a. Count 1: Murder of Marcus Ebanks, contrary to s.181 of the *Penal Code (2007 Revision)*

b. Count 2: Attempted murder of Jose Sanchez, contrary to s.194 of the *Penal Code (2007 Revision)*

c. Count 3: Attempted murder of Adryan Powell, contrary to s.194 of the *Penal Code (2007 Revision)*

d. Count 4: Attempted murder of Rod Aaron Ebanks, contrary to s.194 of the *Penal Code (2007 Revision)*

e. Count 5: Attempted murder of Al Martino Bush, contrary to s.194 of the *Penal Code (2007 Revision)*

f. Count 6: Possession of an unlicensed firearm, contrary to s.15(1) and (5) of the *Firearms Law (2008 Revision)*



¹ (Indictment [Jeffers #1], Case Records Bundle, Indictment 61/10, tab 1)

INDICTMENT 61A/2010, 61B/2010 - (JEFFERS #1)

SUMMARY OF FACTS

6. In the early evening of 8th July 2009, the Prisoner left his home in West Bay, together with another male known as 'Ozzy' to collect firearms stored by 'Ozzy' in the Scranton area of George Town.

7. At about 7.30pm, a group of about six males, including those named in the Particulars of Offences, in Counts 1-5 inclusive, were sitting in the yard of 9 Bonaventure Road, West Bay.

8. The Prisoner was armed and masked. The other masked man – whom the Prisoner later named to his then girlfriend, Meagan Martinez, as 'Ozzy' - came from the direction of Bonaventure Road and randomly opened fire on the group of young men.

9. Marcus Ebanks, who was aged 20 years, was shot dead as he tried to run away from the attack – receiving three gunshot wounds to his back and shoulder (Count 1)

10. Adryan Powell, then aged 14 years, received eleven (11) gunshot wounds, leaving him paralysed from the waist down (Count 3)

11. Rod Ebanks, then aged 18 years, and the brother of Marcus, received four gunshot wounds – that is, to his hip, hand and two to his leg (Count 4)

12. Jose Sanchez (a.k.a. Peto) (Count 2) and Al Martino Bush (Count 5) fled to safety in the nearby house to which the yard was attached, and were uninjured.



1 13. The motive for the attack was the ongoing hostilities between the gang-related factions
2 of young men from the Birch Tree Hill Road area, which included the Prisoner, and, on
3 the other hand, those from the Logwoods area, which included, in particular in this
4 context, Jose Sanchez. Evidence was given at the trial that the Prisoner had previously
5 threatened to kill persons from Logwoods.

6 14. Sometime later, probably in about March 2010, the Prisoner admitted to Meagan
7 Martinez that he was one of the two gunmen involved in the shooting and that his
8 intended victim was Jose Sanchez. He, himself, shot Marcus Ebanks thinking he
9 (Marcus Ebanks) was Jose Sanchez.

10 15. Two further factors increased the Prisoner's personal animosity towards Sanchez: First,
11 Sanchez's sexual relationship with Kendra Powery, the mother of two of the Prisoner's
12 children, and, secondly, some months before the shooting, Meagan Martinez told the
13 Prisoner that she had been assaulted by Sanchez, resulting in her requiring hospital
14 treatment. Subsequently, in early 2009, the Prisoner had assaulted Sanchez outside
15 Kelly's Bar, West Bay.

16 16. The Crown relied in evidence upon a positive identification of the Prisoner as one of
17 the gunmen by Adryan Powell, together with the confession the Prisoner made to
18 Meagan Martinez.

19 17. The evidence was supported by:

20 a. Motive;

21 b. The presence of gunshot residue found on a rizla packet in the Prisoner's trousers;



1 c. By telephone and cell site evidence which effectively plotted the movement of two
2 cell phones attributed to the Prisoner (and thereby implicating the movement of the
3 Prisoner himself) from West Bay to George Town, where he collected the guns to
4 be used, back to West Bay into the cell site sector best serving the crime scene at
5 the time the murder took place and then the Prisoner's immediate flight after the
6 time of the shooting, eventually to the Bodden Town area where he was arrested
7 early the next morning.

8 *TRIAL*

9 18. The Prisoner was tried between the 16th January 2012 and the 1st February 2012. He
10 was convicted on the 23rd February 2012. The mandatory life sentence was imposed on
11 Count 1 and discretionary life sentences were passed on Counts 2-6, inclusive, on that
12 date.

13 *APPEAL*

14 19. The Prisoner applied for leave from the Cayman Islands Court of Appeal ('CICA') to
15 appeal against his convictions. His application was heard on 24th and 26th July 2012
16 and then dismissed.





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INDICTMENT 60/2010 (JEFFERS #2)

20. This Indictment contained a single count of murder, contrary to s.181 Penal Code (2007 Revision) arising from a further shooting and alleged that, on the 25th March 2010 at 177, Birch Tree Hill Road, the Prisoner murdered Damion Ming.

INDICTMENT 60/2010 (JEFFERS #2)

SUMMARY OF FACTS

21. On the afternoon and evening of 25th March 2010, Earl Ebanks and others, including Damion Ming, were working on a boat that was loaded onto a trailer in the yard of 177, Birch Tree Hill Road by the side of the house, changing its engine.

22. Shortly after 9.30pm the Prisoner came from the rear of the property, armed with a handgun and opened fire on Damion Ming, who had been standing at the back of the boat by the rear corner of the house, shooting him dead from close range.

23. The Prisoner then fled the scene via the rear yard and cycled away to where a motor car awaited him. Telephone and cell site evidence showed that the Prisoner was promptly driven away from West Bay to the south of the island.

24. The initial 911 call reported the *sound* of gunfire; at that stage it was not known (by anyone other than the gunman) that any person had been killed or injured.

25. Prior to the police arriving on the scene, Earl Ebanks heard Travis Bodden, who had been inside the house, speaking on a cell phone saying '*he already called to find out if he was dead or not*'. The Prisoner, who gave evidence at trial, agreed that only someone involved in the shooting could have been asking that question.

1 Telephone data showed that the only call to the cell phone being used by Travis
2 Bodden that evening in the 20-minute period after the murder, was a call made by the
3 Prisoner.

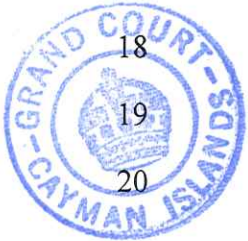
4 26. Shortly after police arrived the body of Damion Ming was discovered underneath the
5 boat and trailer.

6 27. The post mortem examination revealed that Ming had been shot twice, both bullets
7 having exited his body. The first bullet shot him through the heart whilst the second
8 wound was when he was shot in the back. Although fatally wounded when first shot,
9 the injuries would not have prevented him from walking or crawling for a brief period
10 before his injuries overcame him. The clear implication was that Ming was shot in the
11 back as he tried to crawl away from the trailer.

12 28. Eight fired 9mm shell casings, all fired by the same 9 mm auto-loading gun, were
13 recovered from the rear of the house and, later, two .38 calibre warheads or projectiles,
14 being the type of bullets normally loaded into 9mm cartridges were also recovered
15 from the scene.

16 29. As to the motive for the shooting, again it appears to have been influenced by the gang-
17 related factional dispute between young men from the Birch Tree Hill Road area (such
18 as the Prisoner) and those associated with the Logwoods area (who included Ming). In
19 the weeks prior to the shooting, the Prisoner had repeatedly referred to Ming as his
20 'enemy'.

21 30. In addition, jealousy is likely to have played a part. The Prisoner and the mother of
22 another of his children, Meagan Martinez, had separated in January 2010 before
23 reconciling in early March 2010. In the interim, Martinez had associated with Ming, a



1 matter which, following their reconciliation, led to the Prisoner repeatedly accusing her
2 of having had a sexual relationship with Ming – a fact she denied.

3 31. Within days of the murder, the Prisoner boasted to Martinez of having been
4 responsible for it – describing in detail its circumstances and how he had made
5 arrangements, in advance, to borrow a 9mm handgun (which was controlled by a, then
6 inmate of HMP Northward) and had then stored it at an address of associates of his,
7 Justin and Jordan Manderson, in Capt. Joe and Osbert Road.

8 32. The Crown's case relied principally upon the boasted confession by the Prisoner to
9 Meagan Martinez and, separately, the plain inferences to be drawn from Earl Ebanks'
10 overheard cell phone conversation. Those primary sources of evidence were supported
11 by the evidence of motive and, in particular, the telephone and cell site evidence. The
12 cell site evidence tracked the route taken by the cell phone associated with the Prisoner
13 as it (and by clear implication, he) travelled from his home address near George Town,
14 up the island, arriving less than half an hour before the shooting in the exact cell site
15 sector that covered both where he told Meagan Martinez he had hidden the gun and,
16 secondly, the crime scene, itself. Within 20 minutes of the murder having been
17 committed, the Prisoner's cell phone journeyed back down the island, avoiding his
18 home address and arriving in the vicinity of Prospect Point.





1 *INDICTMENT 60/2010 (JEFFERS #2)*

2 *TRIAL*

3 33. The trial of the Prisoner took place between 17th March 2014 and 3rd April 2014, upon
4 which date he was convicted and the mandatory sentence of life imprisonment was
5 passed.

6 *APPEAL*

7 34. The Prisoner applied for leave to appeal against his conviction from the CICA. His
8 application was heard on 7th and 8th May 2015 and was dismissed. Written reasons for
9 the decision were given on 24th July 2015.

10 35. Thereafter, the Prisoner sought to reopen both unsuccessful appeals by making further
11 applications for leave to appeal to the CICA but abandoned those applications on 29th
12 August 2017, the day of the hearing.

13 *THE PRISONER*

14 36. Raziel Jeffers was born on 19th July 1983 and is currently 34 years old.

15 37. He was aged 25 years at the time of the commission of the offences in the first
16 Indictment (*Jeffers #1*) and was 26 years old at the time of the commission of the
17 offence in the second Indictment (*Jeffers #2*).

18 38. He pleaded not guilty to all six counts on Indictment 61A/2010, 61B/2010 (*Jeffers #1*)
19 and was convicted of each.

20 39. He pleaded not guilty to the single count on Indictment 60/2010 (*Jeffers #2*) and was
21 convicted by the jury.



TIME IN CUSTODY

40. He was remanded to HMP Northward from 27th May 2010 until 23rd February 2012, when he was sentenced in respect of Indictment 61A/2010, 61B/2010 – a period of 638 days. That should be deducted, and any further time spent in police custody should also be deducted.

41. Previous Convictions

42. The Prisoner has a number of previous convictions, details of which are provided below.

THE LAW

43. Section 182 of the *Penal Code* provides that “*Any person convicted of murder shall be sentenced to imprisonment for life*”.

44. However, with the introduction of the *Conditional Release Law (2014)* which came into effect on the 15th February 2016, it is now the law that when sentencing to a term of imprisonment for life the Court shall specify the period of incarceration the prisoner shall serve before the prisoner becomes eligible to be considered for conditional release on licence.

45. Section 14(1) further provides that for murder, the period of incarceration shall be thirty (30) years before the prisoner is eligible for conditional release, unless there are extenuating or aggravating circumstances, exceptional in nature, which may cause the court to impose a lower or a longer period of imprisonment.

46. Section 14 of the *CRL* reads:

1 14. (1) Notwithstanding any other Law to the contrary, when sentencing a
2 prisoner to a term of imprisonment for life, the court shall specify
3 the period of incarceration the prisoner shall serve before the
4 prisoner is eligible to be considered for conditional release on
5 licence, the period being such as the court considers appropriate
6 to satisfy requirements of retribution, deterrence and
7 rehabilitation, but for murder, the period shall be thirty years
8 before the prisoner is eligible for conditional release unless there
9 are -

10 (a) extenuating circumstances, exceptional in nature, in which
11 case the court may impose a lower period of
12 incarceration; or

13 (b) aggravating circumstances, exceptional in nature, in
14 which case the court may impose a longer period of
15 incarceration.

16 (2) In making a decision under subsection (1)(a) or (b), the court shall
17 state the extenuating circumstances or the aggravating
18 circumstances, as the case may be.
19

20 47. Section 21 of the Law provides:

21 “The Cabinet may make regulations prescribing all matters that are required or
22 permitted by this Law to be prescribed, or are necessary or convenient to be
23 prescribed for giving effect to the purposes of this Law.”
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25 48. In accordance with s.21, on the 9th February 2016 the Cabinet made ***The Conditional***
26 ***Release of Prisoners Regulations 2016 (the Regulations)***.

27 49. Regulation 14 provides:

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29 “For the purposes of determining the earliest possible conditional release date in
30 relation to a prisoner on a term of imprisonment for life, the circumstances set out
31 in Schedule 12 shall be considered.”
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34 50. In the circumstances it is necessary to set out the first two paragraphs of Schedule 12
35 of ***the Regulations*** (the Schedule) in full as follows:
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1. (1) *Where a mandatory life sentence for murder is prescribed by any Law, for the purposes of section 14 of the Law the aggravating and extenuating circumstances are outlined in this schedule.*
 - (2) *For offences other than murder, for the purposes of section 14 of the Law, the aggravating and extenuating circumstances may include all the relevant circumstances of the offence and or the offender.*
 - (3) *For murder, the period shall be thirty years before the prisoner is eligible for conditional release unless there are extenuating or aggravating circumstances, exceptional in nature, in which case the court may impose a shorter or longer period of incarceration respectively;*

Aggravating circumstances and extenuating circumstances

2. (1) *Detailed consideration of aggravating or mitigating circumstances may result in a minimum term of any length.*
- (2) *Aggravating circumstances that may be relevant to the offence of murder include –*
 - (a) *a significant degree of planning or premeditation;*
 - (b) *the fact that the victim was particularly vulnerable because of age or disability;*
 - (c) *mental or physical suffering inflicted on the victim before death,*
 - (d) *the abuse of a position of trust;*
 - (e) *the use of duress or threats against another person to facilitate the commission of the offence;*
 - (f) *the fact that the victim was providing a public service or performing a public duty;*
 - (g) *concealment, destruction or dismemberment of the body;*
 - (h) *previous convictions;*
 - (i) *abduction and sexual or sadistic conduct; and*
 - (j) *any other circumstances which may be considered relevant.*
- (3) *Extenuating circumstances that may be relevant to the offence of murder include –*
 - (a) *an intention to cause serious bodily harm rather than to kill;*
 - (b) *lack of premeditation;*
 - (c) *the fact that the offender suffered from any mental disorder or mental disability which (although not falling within section 185(1) of the Penal Code (2013 Revision)), lowered the offender's degree of culpability;*
 - (d) *the fact that the offender was provoked (for example, by prolonged stress);*
 - (e) *the fact that the offender acted to any extent in self-defence or in fear of violence;*
 - (f) *a belief by the offender that the murder was an act of mercy;*
 - (g) *the age of the offender; and*



1 (h) any other circumstances which may be considered
2 relevant."
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4 51. Section 14(1) of *the Law* requires the court that sentences a person to imprisonment for
5 life to fix a period of incarceration that satisfies the requirements of retribution,
6 deterrence and rehabilitation. In the case of murder that period shall be 30 years unless
7 there are extenuating or aggravating circumstances exceptional in nature². If there are
8 such circumstances, the Court is permitted to fix a shorter or longer period.

9 52. In paragraph 1(1) of Schedule 12 to *the Regulations* it states that for a mandatory life
10 sentence for murder, for the purposes of s.14 of *the Law*, the aggravating and
11 extenuating circumstances are outlined in the Schedule. However in paragraph 1(3) of
12 the Schedule the expression "exceptional in nature" is again used to describe the
13 extenuating or aggravating circumstances.

14 53. Included in the principles that may be extracted from s.14 of the Law and Schedule 12
15 of *the Regulations* are: In the case of a mandatory life sentence for murder Schedule
16 12 paras 1(1) and (3) apply and, *inter alia*,—the aggravating and extenuating
17 circumstances are prescribed by the Schedule as set out above.

18 54. A tariff of 30 years shall be set before the prisoner is eligible for conditional release
19 unless there are aggravating or extenuating circumstances which are exceptional in
20 nature. Taken individually or in combination, either or both of the aggravating and
21 extenuating circumstances must be exceptional in nature.

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² (my emphasis)



1 55. For offences other than murder, where a discretionary life sentence has been imposed,
2 and thus in respect of Counts 2-6, inclusive, of Indictment 61A/2010, 61B/2010
3 (Jeffers #1) Schedule 12 para 1(2) applies and the aggravating and extenuating
4 circumstances may include all the relevant circumstances of the offence and the
5 offender.

6 56. In interpreting the phrase '*exceptional in nature*', the phrase '*exceptional*
7 *circumstances*' was considered by the English Court of Appeal in the context of s.2 of
8 *the Crime (Sentences) Act 1997* under which, absent '*exceptional circumstances*', an
9 automatic life sentence had to be passed for repeated serious offending in *R v Kelly*³.
10 The words of Lord Bingham, the then Lord Chief Justice, were:

11 *"We must construe 'exceptional' as an ordinary, familiar English adjective, and*
12 *not as a term of art. It describes a circumstance which is such as to form an*
13 *exception, which is out of the ordinary course, or unusual, or special, or*
14 *uncommon. To be exceptional a circumstance need not be unique, or*
15 *unprecedented, or very rare; but it cannot be one that is regularly, or routinely, or*
16 *normally encountered."* (per Lord Bingham CJ at 182)

17 57. This dicta has been adopted and applied by Henderson J in *R v. Tareek Ricardo*
18 *Ricketts*⁴ and by myself in *R v. Ramoon & Douglas*⁵.

19 58. By s.14(2) of the Law, any such aggravating or extenuating circumstances found to
20 exist must be stated by the court.

21 59. By s.14(1) of the Law, the period of incarceration fixed in the case of a life sentence
22 must satisfy the requirements of retribution, deterrence and rehabilitation.
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³ [1999] 2 Cr App R (S) 176

⁴ Indictment 114/2012

⁵ Indictment 53 of 2015





CROWN SUBMISSIONS

Indictment 61A/2010, 61B/2010 (Jeffers #1)

60. The Crown identifies the following aggravating circumstances under Schedule 12 para 2(2) in relation to the Prisoner.

61. **Para 2(2)(a) – ‘a significant degree of planning or premeditation’**

a. By unknown means, the Prisoner learned of the whereabouts of José Sanchez and the victims of the shooting. By reference to the cell site evidence, he travelled from his address in West Bay to George Town to collect the two firearms to be used, was *en route* before 17:55hrs, in the George Town area by 18:08hrs and journeying back prior to 18:52hrs. At 19:21hrs his cell phone, and by implication the Prisoner, were in the cell site sector best serving the murder scene approximately 20 minutes before the shooting.

b. Mr. Radcliffe submits that a very significant and substantial degree of premeditation and planning is demonstrated by the steps necessary to organise and collect the firearms and pinpoint the location of his target. Such planning involved the assistance of at least one other associate.

62. **Para 2(2)(h) – ‘previous convictions’**

a. The Crown’s submissions in relation to previous convictions under Schedule 12 para 2(2)(h) and Schedule 12 para 3 are set out, below, at paragraphs 68-71 of this Judgment.

1 63. Para 2(2)(i) – ‘any other circumstances which may be considered relevant’

2 a. Mr. Radcliffe Q.C. submits:

3 i. This was a gang-related intended execution of a rival who, as with the
4 others present in the yard of 9 Bonaventure Road, was unarmed.

5 ii. The multiple shots, randomly fired by the Prisoner and the other masked
6 gunman not only killed Marcus Ebanks – an innocent bystander whom the
7 Prisoner mistook for José Sanchez when he shot him – but also resulted in
8 serious injuries to Rod Ebanks (Count 4) and left Adryan Powell, a 14-
9 year-old boy, a paraplegic.

10 iii. The planned, deadly assault involved the use of two firearms. The *Law* and
11 the *Regulations* are silent in this regard in the Cayman Islands but, by
12 reference to the corresponding provisions in England & Wales in Schedule
13 21 of the *Criminal Justice Act 2003* – where four separate starting points
14 (15 years, 25 years, 30 years and whole life) are specified in respect of the
15 minimum term in relation to mandatory life sentences – the use of a
16 firearm to commit a murder is sufficient on its own to elevate and double
17 the appropriate starting point from 15 years for a murder to one of 30
18 years.



1 *INDICTMENT 60/2010 (JEFFERS #2)*

2 64. The Crown identifies the following aggravating circumstances under Schedule 12 para
3 2(2):

4 65. Para 2(2)(a) – ‘a significant degree of planning or premeditation’

5 a. Mr. Radcliffe Q.C. submits:

6 i. This was a gang-related execution by shooting of an unarmed and
7 defenceless man that involved not merely significant but substantial pre-
8 meditation and substantial and careful planning, and, which required the
9 cooperation and assistance of others to carry it into effect.

10 ii. In the weeks before the murder the Prisoner had frequently referred to
11 Ming as his ‘*enemy*’.

12 iii. To carry out the shooting, the Prisoner first had to acquire the means to do
13 so and made arrangements with a serving prisoner at HMP Northward to
14 borrow a 9mm handgun.

15 iv. Having obtained the unlicensed firearm, he then stored it at the home of
16 Justin and Jordan Manderson in Capt Jos and Osbert Road until the
17 opportunity to kill Ming arose.

18 v. The Prisoner needed to know when Ming would be at a location suitable
19 for his deadly purposes and plainly must have made arrangements in
20 advance to be tipped off in that regard. On the evening of the murder he
21 received information by telephone from an associate, who was then at 177



1 Birch Tree Hill Road, where Ming was present outside, working on the
2 boat.

3 vi. He engaged the assistance of another associate to drive him to the vicinity
4 of 177, Birch Tree Hill Road – enabling him to collect the firearm and
5 carry out the murder.

6 vii. These arrangements extended to his associate remaining in the car nearby
7 and promptly driving the Prisoner from the area of the crime scene and
8 then to the south of the island

9 viii. Shortly before the murder, the Prisoner telephoned Travis Bodden, who
10 was present at 177 Birch Tree Hill Road – by clear implication to confirm
11 Ming’s continued presence in the yard there.

12 66. **Para 2(2)(i) – ‘any other circumstances which may be considered relevant’**

13 a. Mr. Radcliffe Q.C. submits that:

14 i. This was a further gang-related execution of an unarmed rival; and

15 ii. The murder was committed by the use of an unlicensed and illegal firearm.
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PREVIOUS CONVICTIONS – SCHEDULE 12 PARA 3

67. The Crown went on to the Prisoner's previous convictions and referred the Court to Schedule 12 para 3 of the *Regulations* which states:

"In considering the seriousness of an offence committed by an offender who has one or more previous convictions, the court must treat each previous conviction as an aggravating circumstance if (in the case of that conviction) the court considers that it can reasonably be so treated having regard, in particular, to the nature of the offence to which the conviction relates and its relevance to the current offence; and the time that has elapsed since the conviction."

68. The Defendant has a total of 20 previous convictions, most of which are irrelevant for the purposes of Schedule 12 para 3.

69. However, the Crown point(s) out that on 6th May 2005, the Prisoner was convicted of causing grievous bodily harm and was sentenced to 6 years' imprisonment. He was released on 6th March 2008 – sixteen (16) months before the date of the murder of Marcus Ebanks and the associated offences in Indictment 61A/2010, 61B/2010.

70. On 31st August 2005, the Prisoner was further convicted of an assault occasioning actual bodily harm and was sentenced to 30 days' imprisonment to run concurrently with sentences then being served.

71. The Crown submits that the court should consider that a conviction for causing grievous bodily harm or any significant assault, as described, can reasonably be treated as an aggravating circumstance when considering the seriousness of the offences for which a tariff is now to be imposed.





EXTENUATING CIRCUMSTANCES

(INDICTMENTS 61A/201, 61B/2010 AND 60/2010 – JEFFERS #1 AND JEFFERS #2)

72. The Crown does not identify any extenuating circumstances for the purposes of s.14 of the Law or Schedule 12 para 2(3) of the Regulations in respect of either Indictment.

TIME SPENT ON REMAND

73. The Crown submits that the time spent in custody on remand) should be deducted.

74. The Prisoner spent 638 days on remand. This time, plus any days in police custody should be deducted.

*SENTENCING DECISIONS IN THE CAYMAN ISLANDS UNDER THE LAW AND THE
REGULATIONS*

75. There have been five Defendants who have been returned to the Grand Court in this way and for whom a tariff has been set. In each instance, the sentencing Judge for these purposes under the Law has been Henderson J.

Defendant	Age (date of offence)	Date of original sentence	Sentencing decision under CRL, 2014	Minimum term (yrs)
Tareek Ricardo Ricketts	21	17.08.13	07.02.17	30
Chakane Jameile Scott	18	12.06.12	21.04.17	28
Trevino Tennyson Bodden	21	06.11.07	12.05.17	28
Chad Anglin	28	20.05.14	09.06.17	34
Bryan Roland Powell	20	26.01.01	30.10.17	26

76. In two cases the provisions of *The Conditional Release Law, 2014* have been applied to convictions and sentences arising after the implementation of the Law.

Defendant	Age (date of offence)	Sentencing date	Minimum Term (yrs.)	Sentencing Judge
Tamara Olita Butler	37	06.05.16	28	MalcolmJ (Actg)
Justin d'Angelo Ramoon	23	19.12.16	35	Quin J
Osbourne Wilfred Douglas	28	19.12.16	34	

CROWN'S CONCLUSION

77. Mr. Radcliffe Q.C. submits that these are two separate gang-related murders, committed with firearms and each involving a substantial degree of planning or pre-meditation by a man with relevant previous convictions are aggravating circumstances, exceptional in nature, within the meaning of s.14 of **the Law** and Schedule 12 of *the Regulations* such that the court may impose a longer period of incarceration than the starting point or norm of thirty (30) years.

78. The Crown submits that there are no extenuating circumstances within the meaning of the legislation.

DEFENCE SUBMISSIONS

79. The Prisoner maintains that he is not guilty of any of the offences for which he was been convicted.

80. The Prisoner has highlighted the fact that he has proceedings which are pending before the Privy Council and he has indicated, in a letter dated 25th January 2018, that he is opposed to the hearing of this case as he can see no benefit in it for him.

81. However, Mr. Miskin Q.C. made both oral and written submissions and this court is grateful for his contribution and his assistance.



1 82. Mr. Miskin Q.C. very candidly accepted that the court will undoubtedly find that there
2 are aggravating features which, either individually or collectively, are of an exceptional
3 nature.

4 83. Mr. Miskin asked the court to take into account the threatening culture in which the
5 Prisoner lived, his immaturity and his acute susceptibility to sexual jealousy — all of
6 which were put forward by the Crown as motives and explanations for his conduct.

7 84. Mr. Miskin submits that the Prisoner's attack on José Sanchez and his Logwoods gang
8 had sexual jealousy factors, and, his murder of Damion Ming also had sexual jealousy
9 factors.

10 85. In Jeffers #1, Mr. Miskin candidly accepts that the multiple injuries inflicted on the
11 other victims, other than the deceased, are an aggravating feature of that offence.
12 Further, the two murders, one after the other, form clearly another aggravating feature.
13 Mr. Miskin accepts whether they are exceptional or not is ultimately a matter for the
14 court.

15 86. In relation to planning and premeditation: Mr. Miskin asks rhetorical questions:

16 a. If you acquire an unlicensed firearm, is that exceptional? Mr. Miskin submits it
17 would not be.

18 b. If you find out where your intended victim is, and go around and shoot him dead,
19 is that evidence of significant planning? Mr. Miskin would suggest no.

20 c. Indeed, Mr. Miskin poses the question: If it is evidence of significant planning, is it
21 exceptional?



1 d. He asks again: Is it planning so far out of the ordinary, on an island like the
2 Cayman Islands, or Grand Cayman? Mr. Miskin suggests the answer is no.

3 87. By way of comparison, Mr. Miskin said an example of a matter where there is
4 significant planning is where somebody is murdered by poisoning them over a number
5 of weeks. This, Mr. Miskin contends, is significant planning. Mr. Miskin states, or,
6 alternatively, where the perpetrator digs the grave to hide the body – adding that that
7 again would be significant planning. Mr. Miskin also states, or, alternatively, a contract
8 killing would be significant planning.

9 88. Furthermore, Mr. Miskin submits that the fact that the murder or the murders are gang-
10 related is not exceptional. Mr. Miskin states that in Ming's case, it is a sexual jealousy
11 murder, and in the attempt to murder José Sanchez, it was also motivated by sexual
12 jealousy.

13 89. Mr. Miskin urges the court to consider the question of aggravating factors, accept [*that*
14 *there is a question of*] whether they are exceptional in nature or not, and to consider
15 that question with caution.

16 *USE OF ILLEGAL FIREARM*

17 90. I come now to the question of whether the use of an illegal firearm is an aggravating
18 circumstance or not.

19 91. Mr. Radcliffe Q.C. submits that the use of a firearm in both these murders is an
20 aggravating circumstance, exceptional in nature.



1 92. Mr. Radcliffe submits that Henderson J's dicta in *R v. Tareek Ricardo Ricketts*⁶ –
2 apart from considerable persuasive value – is not binding on this Court and does not
3 have to be followed. In particular, Mr. Radcliffe Q.C. refers to the paragraphs 38 – 44
4 of Henderson J's judgment as follows:

5 *"The Crown says that the use of an unlicensed firearm is an aggravating*
6 *circumstance that is exceptional in nature.*
7 *It could hardly be said that the use of an unlicensed firearm, in and of*
8 *itself, is unusual or uncommon. The use of firearms in the commission of*
9 *offences is rampant on Grand Cayman. Of the six murder cases in which I*
10 *must set a minimum term, no less than four were shootings. Moreover, if*
11 *the Legislative Assembly considered the use of a firearm to be an*
12 *exceptional circumstance it would have listed it in s. 2(2) of Schedule 12.*
13 *Its omission from that list is explained by the 30-year norm, which is the*
14 *same as the usual starting point in the UK for murders committed with a*
15 *firearm.*

16
17 *However, as I have sought to explain above, it is the circumstances as a*
18 *whole that must be considered.*

19
20 *In Ramoon & Douglas*⁷, *Quin, J* was satisfied that the use of an
21 *unlicensed firearm in a murder involving a significant degree of planning*
22 *and premeditation and resulting in a killing carried out in a public place*
23 *with clinical precision was an aggravating and exceptional circumstance.*
24 *He also referred to an unsuccessful attempt to kill a witness to the*
25 *shooting. Quin, J* did not say that any use of a firearm is an exceptional
26 *circumstance; he found that the combination of circumstances, including*
27 *the location and manner in which the firearm was used, were exceptional.*

28
29 *The circumstances in the case at bar are not comparable. We do not know*
30 *the degree to which Mr. Ricketts planned the killing of Mr. Rainford, only*
31 *that it was intentional. The crime was not committed in a sophisticated*
32 *manner: although Mr. Ricketts made a feeble effort to disguise his face, he*
33 *was recognized readily. The police experienced little difficulty in following*
34 *the route of his escape on CCTV footage.*

35 *There was a bit of evidence suggesting that Mr. Ricketts also fired a shot*
36 *at the victim's brother. I have reviewed that evidence and find it*
37 *inconclusive and unreliable. The witness was running away from the scene*
38 *when the shot was fired. He had his back to Mr. Ricketts and was in no*
39 *position to say with certainty that the Defendant was firing at him.*
40

⁶ Indictment 114/2012

⁷ *supra*



1 *In short, the proven circumstances concerning the use of a firearm are not out of*
2 *the ordinary in the Cayman Islands and cannot therefore be treated as*
3 *aggravating.”*

4
5 93. With reference to my judgment in *Ramoon & Douglas*: As Henderson J correctly
6 states in his judgment in *Ricketts*, I did not say that “any” use of a firearm was an
7 exceptional, aggravating circumstance. However, I did find that in the particular facts
8 of *Ramoon & Douglas* that the pre-possession of the unlicensed firearm by the
9 defendants was an aggravating circumstance of an exceptional nature.

10 94. Furthermore, as Henderson J rightly said, I also found the combination of
11 circumstances, including the location and manner in which the firearm was used were
12 exceptional aggravating circumstances.

13 95. I have the following preliminary points to make on whether the use of an unlicensed
14 illegal firearm is an aggravating circumstance exceptional in nature, before setting out
15 my analysis and conclusion in this case:

16 96. Not every murder in the Cayman Islands is committed with the use of an unlicensed
17 illegal firearm.

18 97. However, under the *Conditional Release Law*, every murder, regardless of how it is
19 committed, attracts a minimum of 30 years imprisonment – unless there are
20 aggravating and extenuating circumstances which are exceptional in nature, which
21 cause the Court to impose a shorter or longer period of incarceration.

22 98. It is deeply unattractive to compare one murder with another murder – because all
23 murder cases could generally be described as exceptional before one even considers
24 any aggravating and extenuating circumstances.



1 99. Murder is a most heinous crime. Although it is an unattractive comparison, Mr.
2 Radcliffe Q.C. suggests that, a drunken domestic argument which leads to a wife
3 picking up a random kitchen knife and stabbing her husband to death, or a husband
4 strangling his wife to death in the course of a drunken argument, are less serious and
5 grave when compared with a pre-planned violent shooting or public execution.

6 100. In the Cayman Islands, the kitchen knife stabbing or drunken strangulation and the
7 violent gangland shooting both attract the same minimum 30-years period of
8 incarceration. In the United Kingdom, under the *Criminal Justice Act*, the kitchen
9 knife stabbing or the drunken strangulation would attract a minimum of 15 years,
10 whereas the violent gangland shooting would attract a minimum of 30 years. The UK
11 legislation reflects the distinct difference in the seriousness of the two types of
12 murders.

13 101. The period of the perpetrator's intention to kill in both the kitchen knife stabbing and
14 the drunken strangulation examples would be very short, and there would be no
15 aggravating circumstances of an exceptional nature.

16 102. I would pose the question: Is a domestic murder of this type as serious or as grave an
17 offence as a cold calculating gangland murder with the use of an unlicensed illegal
18 firearm?

19 103. One, of course, has to examine the facts of each case very carefully. No two cases are
20 the same. The fact that the use of an unlicensed illegal firearm might be considered
21 commonplace or not out of the ordinary, does not prevent a court finding the use of an
22 unlicensed illegal firearm in the Cayman Islands an aggravating circumstance,
23 exceptional in nature.



1 104. It is important to remember that the *Firearms Law* has been in place in the Cayman
2 Islands since 1964. The intention of the Legislative Assembly had been made clear by
3 the imposition of minimum sentences of seven (7) years for a guilty plea and 10 years
4 after a trial for simple possession of an unlicensed illegal firearm. The aim of the
5 *Firearms Law* is to, if possible, eradicate the existence of unlicensed firearms in the
6 Cayman Islands. To put it another way: if they cannot be eradicated, the aim is to make
7 the existence of all unlicensed illegal firearms out of the ordinary and wholly
8 exceptional.^a

9 105. In my opinion the use of the unlicensed illegal firearm in a murder case is much more
10 serious and grave crime than the spontaneous domestic knife stabbing or drunken
11 strangulation. Generally, the use of an unlicensed illegal firearm involves planning,
12 premeditation and a longer period of intent to either kill.

13 106. Furthermore, we must not ignore the fact that the murderer who has acquired an
14 unlicensed and illegal firearm is already committing a very serious crime (criminal
15 offence) under the laws of the Cayman Islands.

16 107. Whether the use of an unlicensed illegal firearm is an aggravating circumstance,
17 exceptional in nature or whether it may be deemed commonplace in nature, cannot be
18 based on numerical prevalence. One must look at the gravity of the offence from a
19 qualitative standpoint and not a quantitative one.

20 ***PARTICULARS OF JEFFERS #1 AND JEFFERS #2***

21 108. I turn now to the particular facts of Jeffers #1 and Jeffers #1 and my conclusion.

22 109. In the case of Jeffers #1:



- 1 a. The Prisoner told Megan Martinez that he was going fishing – which Megan
2 Martinez said was a gang word for “hunting your enemy”.
- 3 b. The Prisoner went with Ozzy from West Bay to Scranton to go “fishing” for the
4 Logwoods gang.
- 5 c. The unlicensed firearms were kept in the bush at Scranton.
- 6 d. Prisoner went on a mission to hunt those who were hunting him – that is, Peto,
7 a.k.a. Jose Sanchez and other members of the Logwood gang.
- 8 e. The evidence disclosed that the Prisoner went to Scranton for the sole purpose of
9 collecting an unlicensed illegal firearm to kill Peto and other members of the
10 Logwoods gang. Once the Prisoner collected the firearm from Scranton he had
11 committed and was continuing to commit a very serious criminal offence.
- 12 f. The Prisoner identified where Peto and the Logwoods gang members were, and
13 went and shot Marcus Ebanks – believing it was Peto.

14 110. For the purposes of this analysis I am not considering all the aggravating factors under
15 the planning and pre-meditation heading, but only the use of the unlicensed illegal
16 firearm to carry out the murder in Jeffers #1.

17 111. I find that the deliberate acquisition of an unlicensed illegal firearm, with the intent to
18 kill a victim, and then the subsequent and consequential murder of that victim with the
19 unlicensed illegal firearm in this case is to be viewed as an aggravating circumstance
20 exceptional in nature.

21 112. In the case of Jeffers #2:



1 113. I turn now to Jeffers #2 – and, again, only in relation to the question of whether the use
2 of the unlicensed illegal firearm in this case is an aggravating circumstance exceptional
3 in nature.

4 a. The Prisoner made deliberate but covert arrangements with a serving prisoner at
5 HMPS Northward Prison to acquire a 9 mm handgun,

6 b. Having obtained the 9 mm handgun, which is an automatic handgun, he then
7 stored the gun at the home of Justin and Jordan Manderson at Captain Joe &
8 Osbert Road and waited until an opportunity to kill Damion Ming presented itself.

9 c. The Prisoner had frequently referred to Ming as the “enemy”. Ming was a
10 prominent member of the Logwoods gang which was in conflict with Jeffers’
11 gang, that is, the Birch Tree Hill gang.

12 d. When the opportunity arose and the Prisoner was told of Ming’s presence at 177
13 Birch Tree Hill Road, the Prisoner collected the illegal 9 mm automatic handgun
14 and went to where Ming was at 177 Birch Tree Hill Road and murdered him.

15 114. I find that the deliberate acquisition of the unlicensed illegal firearm with the intent to
16 kill Damion Ming, the storage of it near to the murder scene, and the use of it to kill
17 Damion Ming are aggravating circumstances exceptional in nature.

18 115. The deliberate and calculating nature of the acquisition of the illegal unlicensed
19 firearms in both cases, for the purposes of killing intended victims, and then the use of



1 the firearms to kill Marcus Ebanks and Damion Ming are far from “regular”, far from
2 “routine” and far from “normal” - to use Lord Bingham’s words in *R v. Kelly*⁸.

3 116. Accordingly, on the facts of the two subject cases I find the Prisoner’s acquisition and
4 subsequent use of the unlicensed firearm to be an aggravating circumstance,
5 exceptional in nature.

6 117. Furthermore although the acquisition of the illegal firearm overlaps with planning and
7 pre-meditation – pursuant to paragraph 2(2)(a) of Schedule 12 – I also find that it could
8 be considered separately under “*any other circumstances which may be considered*
9 *relevant*” – pursuant to paragraph 2(2)(j) in the list of Aggravating circumstances in
10 Schedule 12.

11
12

ANALYSIS AND CONCLUSION

13 118. Having read and listened to the well-reasoned helpful submissions of both leading
14 counsel, and having reminded myself of the evidence in Jeffers #1, and having read the
15 material in Jeffers #2, I come to the following conclusions.

16 *JEFFERS #1*

17 119. Pursuant to paragraph 2(2)(a): I find that there was significant planning and
18 pre=meditation which is an aggravating circumstance of an exceptional nature.

19 a. The Prisoner said he was going “fishing.”

20 b. The Prisoner went to Scranton to the stash of unlicensed illegal firearms to choose
21 his weapon to hunt and shoot Peto.

⁸ [1999] 2 Cr App R (S) 176

- c. The movements of the Prisoner – as seen from the cell site evidence.
- d. The use of associates to ascertain that Peto was in fact in the yard at 9 Bonaventure Road, West Bay on the evening of the 8th July 2009.
- e. The Prisoner was masked to avoid being identified and detected.

120. I find that there was significant and substantial pre-meditation and planning, demonstrated by the steps necessary to acquire the unlicensed illegal firearm and to pinpoint the location of the target. And I find that these are aggravating circumstances exceptional in nature.

121. Going to Paragraph 2(2)(j): “Any other circumstances which may be considered relevant”:

- a. I find that the deliberate acquisition of the unlicensed illegal firearm to kill the intended victim, José Sanchez (Peto) and then the use of the said firearm to shoot and kill Marcus Ebanks – who the Prisoner thought was Peto – was an aggravating circumstance of an exceptional nature.
- b. This was a gang-related attack;
- c. More than ten shots were fired at the victims;
- d. The deceased, Marcus Ebanks, was shot three times – one bullet was in the right side of his back perforating his lung and his right pulmonary artery, one in the left lower back and one in the right shoulder.
- e. Rod Ebanks was hit with three gunshots – one to the right index finger, one to his right hip and one to his right leg below the knee;



1 f. Adryan Ebanks received 11 gunshot wounds – to his face, his torso, his left flank,
2 his right shoulder, right elbow, the right of his back and two to his right knee.
3 Adrian Ebanks is now a paraplegic as a result of this shooting.

4 122. Marcus Ebanks' murder is a tragic death of a young man. With the hail of bullets
5 which were fired it could easily have been three or more deaths; it could so nearly have
6 been a massacre.

7 123. I find that the sheer number of shots fired from the Prisoner's illegal firearm by him
8 make this an additional aggravating circumstance of an exceptional nature.

9 124. These were three unarmed and defenceless young men who were victims and
10 casualties of the Prisoner's violent and terrifying shooting onslaught.

11 *JEFFERS #2 – THE MING MURDER – 60/2010*

12 125. Again, with reference to paragraph 2(2)(a):

- 13 a. I accept the Prosecution's contention that this was a gang-related execution of an
14 unarmed man;
- 15 b. The act involved substantial premeditation and careful planning
- 16 c. The act required the active cooperation and participation of others;
- 17 d. The act involved the deliberate acquisition of an unlicensed illegal firearm.
- 18 e. The act also required storing of the unlicensed illegal firearm very close to the
19 ultimate murder scene;

1 f. The Prisoner was tipped off by an associate who told him that Damion Ming was
2 fixing a boat at 177 Birch Tree Hill Road

3 g. The Prisoner engaged the assistance of another associate to drive him to collect the
4 firearm from Captain Joe & Osbert Road and then drive him to #177 Birch Tree
5 Hill Road where he shot the victim twice – once through the heart and then a
6 second shot in the victim's back whilst he was trying to crawl away.

7 h. There were 8 fired 9 mm shell casings – all fired from the same 9 mm automatic
8 gun – which were recovered from the scene.

9 126. I find that when I review all these facts there is substantial planning and pre-meditation
10 and for the above reasons this is an aggravating circumstance of an exceptional nature.

11 127. With reference to paragraph 2(2)(j) – “any other circumstances which may be
12 considered relevant” I list the following:

13 a. The deliberate acquisition of the unlicensed illegal 9 mm automatic handgun;

14 b. The storage of the handgun very near to the ultimate murder scene;

15 c. The use of the unlicensed illegal firearm to first shoot the victim in the heart and
16 then as he crawled away, one in the back, was a gangland public execution.

17 128. The foregoing, in my view, are all aggravating circumstances, exceptional in nature.

18 129. I can find no extenuating circumstances either of the two murders.



1 *PREVIOUS CONVICTIONS*

2 130. Schedule 12 paragraph 3 of the Regulations reads:

3 *“Previous convictions*

4 3. (1) *In considering the seriousness of an offence committed by an*
5 *offender who has one or more previous convictions, the court must*
6 *treat each previous conviction as an aggravating circumstance if*
7 *(in the case of that conviction) the court considers that it can*
8 *reasonably be so treated having regard, in particular, to -*

- 9 (a) *the nature of the offence to which the conviction*
10 *relates and its relevance to the current offence;*
11 *and*
12 (b) *the time that has elapsed since the conviction.”*
13



14 131. The Prisoner has 20 previous convictions which are not relevant for the purposes of
15 Schedule 12 paragraph 3. However, there are two as follows:

- 16 a. On the 6th May 2005 the Prisoner was convicted of Causing GBH and sentenced to
17 6 years' imprisonment.
- 18 b. On the 31st August 2005 the Prisoner was convicted of Assault ABH and sentenced
19 to a further 30 days' imprisonment.

20 132. These two convictions can be considered as aggravating circumstances.

21 133. The Prisoner was released from prison on the 6th March 2008 which is some 16
22 months before the date of the murder of Marcus Ebanks.

23 134. For the aggravating circumstances of an exceptional nature in Jeffers #1, I impose an
24 increase of 4 years' imprisonment. And for the same exceptional aggravating
25 circumstances in Jeffers #2, I impose a further 4 years' imprisonment – making it a
26 total of 38 years' imprisonment.

1 135. I have rejected the idea that this was an appropriate case for a whole life order and I
2 find that the total sentence of 38 years' imprisonment is appropriate to satisfy the
3 legislative requirements of retribution and deterrence and rehabilitation for these two
4 cases.

5 136. It is agreed that the time spent on remand, which I order to be deducted from this
6 sentence, is a total of 658 days – which includes the time spent in police custody⁹.

7
8
9
10 **Dated this the 12th day of February 2018**

11 



12 **Honourable Mr. Justice Charles Quin Q.C.**
13 **Judge of the Grand Court**

⁹ Reference paragraph 74 above.