

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)

CLAIM NO.: ANUHCR2023/0078

BETWEEN:

THE KING

AND

DYLAN SIMON

Appearances:

Mrs. Shannon Jones-Gittens for the Crown

Mr. Warren Cassell for the Defendant

27th February 2026

RULING ON SENTENCING

[1] **JOHN, J.:** On the 25th November, 2025 the Accused, Dylan Simon was found guilty after a judge alone trial on all six (6) counts on the indictment namely;

- i. Electronic Forgery, Contrary to Section 6 of the Electronic Crimes Act, 2013;*
- ii. Forgery, Contrary to Section 7 of the Forgery Act, Cap. 181;*
- iii. Uttering, Contrary to Section 9 (1) of the Forgery Act, Cap. 181;*
- iv. Larceny by a Clerk, Contrary to Section 20(1)(a) of the Larceny Act, Cap. 241 of the Revised Edition (1992) of the Laws of Antigua and Barbuda;*

- v. ***Obtaining by False Pretences, Contrary to Section 27(a) of the Larceny Act, Cap. 241 of the Revised Edition (1992) of the Laws of Antigua and Barbuda;***
- vi. ***Money Laundering, Contrary to Section 61 (3)(b) of Proceeds of Crime Act, 1993 of the Revised Edition (1992) of the Laws of Antigua and Barbuda;***

- [2] It is now the Court's function to impose sentences in respect of each of the offences. The Courts have repeatedly said, "***Sentencing is the most difficult part of the judge's function***", but as unpleasant as it is, it is a function that befalls the Courts to perform.
- [3] The Court does not propose to regurgitate the facts nor circumstances surrounding the commission of the offences. They have been set out in the Judgment delivered on the 25th November 2025 in CVANUHCR2023/0078 dated 18th December 2025. The Accused was employed by Hadeed Motors Limited for a period of twenty (20) years and to use a colloquial expression, '*he bit the hands that fed him*'.
- [4] The Court has had sight of an article in a local newspaper intituled "**Family stands firm behind Dylan Simon ahead of Sentencing**". The Court has read the article and it is commendable that his family is supportive of him. However, sometimes it is important for families to appreciate that when a family member is found guilty of serious offences, being supportive is not always in his/her best interest. Nevertheless, it is their right to continue to believe in the accused's innocence and upstanding character.
- [5] Be assured that in the sentencing process this Court has carefully considered all the evidence and will apply the law in accordance with the guidelines established in the Eastern Caribbean Supreme Court Sentencing Guidelines. Moreover, the Court has also taken into consideration all relevant factors.

The Law

[6] The *locus classicus* on the issue of sentencing in the Eastern Caribbean is the decision in **Desmond Baptiste v The Queen and others App No. 8 of 2003** in which Byron CJ (as he then was) gave guidance on the appropriate sentence for a range of criminal offences in order to avoid inconsistencies in sentences.

[7] In the course of delivering the judgement the learned Chief Justice said at paragraphs [20] to [25] under the heading ‘**Sentencing Objectives**’:

‘[20] Perhaps the most difficult and controversial area for the sentencer is fitting the punishment to the crime committed. The St. Vincent and the Grenadines legislature has not, in any of the legislation affecting the subject crimes, or indeed in any other legislation set out the purpose(s) of sentencing. A comparative study of the Saint Vincent legislation with that of other member states of the Eastern Caribbean States has revealed little in the way of gleaning the purpose of sentencing. On the contrary, in some other countries this is done. For example, a Sentencing Act in Australia espouses comprehensive and useful goals that sentencing is supposed to fulfill. Section 5(1) of that Act states:

“The only purposes for which may be imposed are-

- a) to punish the offender to an extent and in a manner which is just in all the circumstances; or*
- b) to deter the offender or other persons from committing offences of the same or a similar character; or*
- c) to establish conditions within which it is considered by the Court that rehabilitation of the offender may be facilitated; or*
- d) to manifest a denunciation by the Court of the type of conduct in which the offender is engaged; or*
- e) to protect the community from the offender; or*
- f) a combination of two or more of those purposes.”*

*[21] The legislative provision appears to be an amplification of the dictum of Lawton LJ in **R v Sargeant** where he identified the classical principles of sentencing as being retribution, deterrence, prevention and rehabilitation. It would be instructive to comment upon each of the heads referred to by Lawton LJ.*

Retribution

[22] Retribution at first glance tends to reflect the Old Testament biblical concept

of an eye for an eye, which is no longer tenable in the law. It is rather a reflection of society's intolerance for criminal conduct. Lawton LJ stated at page 77 that:

"...society through the courts, must show its abhorrence of particular types of crimes, and the only way the courts can show this is by the sentences they pass."

Deterrence

[23] Deterrence is general as well as specific in nature. The former is intended to be a restraint against potential criminal activity by others whereas the latter is a restraint against the particular criminal relapsing into recidivist behaviour. Of what value however are sentences that are grounded in deterrence? Specific deterrence may be an ineffective tool to combat criminal behaviour that is spontaneous or spawned by circumstances such as addictions or necessity. Drug and alcohol addiction as well as need may trigger high rates of recidivism. Experience shows that general deterrence too is of limited effect. These sentences tend to lose their potency with the passage of time.

Prevention

[24] The goal here is to protect society from those who persist in high rates of criminality. For some offenders, the sound of the shutting iron cell door may have a deterrent effect. Some however never learn lessons from their incarcerations and the only way of curbing their criminality is through protracted sentences whose objective is to keep them away from society. Such sentences are more suitable for repeat offenders.

Rehabilitation

[25] Here the objective is to engage the prisoner in activities that would

assist him with reintegration into society after prison. However the success of this aspect of sentencing is influenced by executive policy. Furthermore, rehabilitation has in the past borne mixed results. Of course sentencing ought not to be influenced by executive policy such as the availability of structured activities to facilitate reform.”

- [8] The Court has also taken into consideration the sentencing methodology suggested by the Court of Appeal of Trinidad and Tobago in **Lauren Aguilera and Ors v The State, Cr. App Nos 5-8 of 2015**.
- [9] In *Aguillera*, the Court suggested that it should firstly calculate the starting point which takes into consideration the aggravating and mitigating factors with respect to the offence. Secondly, the Court should then consider the aggravating and mitigating factors relative to the offender and then decide whether or not there should be an upward or downward adjustment of the starting point. The Court should also consider a discount for a guilty plea and finally, it should consider any time spent in pre-trial custody.
- [10] It is therefore incumbent on the Court in sentencing, to perform a balancing exercise in arriving at the appropriate penalties which are proportionate to the seriousness of the offences and the extent of culpability of the accused. The Court must weigh all the relevant factors in arriving at a reasonable sentence which meets the justice of the case.
- [11] Following the methodology articulated in *Aguillera* and the guidelines set out in the Eastern Caribbean and other recent cases, the Court will now look at the aggravating and mitigating factors in relation to the offences.
- [12] The Court has had the benefit of an in-depth Social Inquiry Report for which it is most appreciative and which has assisted in the difficult sentencing task. Particular weight and careful consideration has been given to the following factors:
- The accused has had no previous convictions;

- The accused has had the benefit of a sound education which involved studies in Accounting and Computer Science;
- During interview with the Probation Officer, the language skills of the accused were evinced and he demonstrated a strong knowledge of social issues;
- The accused has two children ages ten and eleven respectively;
- While nothing negative was expressed about the accused by the several persons interviewed, the Court cannot close its eyes to the seriousness of the offences particularly as the accused said during interview that there was no need for him to defraud his employer;
- From all appearances the accused appears to be respected in his community and is held in high regard by his former co-workers;
- However in reaching a final determination for these offences, the Court must ensure that the penalties imposed are both proportionate to the gravity of the offences and reflect the need for deterrence.

[13] **Count 1- Aggravating factors of the offence:**

- (i) The seriousness of the offence;
- (ii) It was well planned, pre-meditated and deliberate;
- (iii) It was the genesis of the other offences.

[14] **Count 1: Mitigating Factors of the offence**

There were no mitigating factors in relation to this offence.

[15] **Maximum Penalty:** The offence of Electronic Forgery is governed by section 6 of the Electronic Crimes Act, 2013 where the maximum penalty prescribed is a fine of ECD\$500,000.00 or 7 years imprisonment, or both.

- [16] **Starting Point:** Having considered the facts of this offence, the Court fixes the appropriate starting point as a fine of ECD\$300,000.00 or four (4) years imprisonment.
- [17] **Aggravating factors in relation to the accused:** The accused is a person of mature age and ought to have appreciated that what he was doing was inherently wrong by societal standards, having regard to his profession and good standing in the company
- [18] **Mitigating factors in relation to the accused:**
- i. He has no previous convictions;
 - ii. He is now forty-six (46) years of age;
 - iii. The matter has been hanging over his head for four and a half years;
 - iv. He has a good prospect of being reintegrated into society.
- [19] Having considered the aggravating and mitigating factors in relation to the accused, the Court will now address the Sentence.
- [20] **Sentence:** The Court has considered the mitigating factors of the Accused and will therefore impose a sentence of three (3) years imprisonment.
- [21] In respect of Count 2, 3, 4 and 5, the aggravating and mitigating factors are similar to those set out in relation to Count 1.
- [22] **Count 2 Starting Point:** The maximum penalty for this offence is two (2) years. The starting point will be one (1) year and a sentence of six (6) months is imposed.
- [23] **Count 3 Starting Point:** The maximum penalty for this offence is two (2) years. The starting point will be one (1) year. This offence is related to count 2 and

addresses the forged form presented to the security officer. A sentence of six (6) months is imposed.

[24] **Count 4 Starting Point:** The maximum penalty for this offence is seven (7) years. The starting point will be four (4) years. Taking all matters into consideration the sentence imposed is two (2) years.

[25] **Count 5 Starting Point:** The maximum penalty for this offence is five (5) years. The starting point will be three (3) years. A sentence of eighteen (18) months is imposed.

[26] **Count 6: Money Laundering:** The maximum penalty for this offence is a fine of ECD\$200,000.00 or a term of twenty (20) years imprisonment. The Court views the offence of money laundering with the utmost gravity. By intentionally disguising the origin of illegally obtained funds, the accused sought to enjoy the fruits of his criminal activity while bypassing the safeguards designed to protect the public. The Court recognises that without the ability to launder proceeds, the incentive for large scale fraud will be significantly diminished. To treat such an offence with leniency will be to ignore the true purpose and effect of the legislation. The sentence must therefore send a clear message to persons who might engage in similar acts.

[27] There are no aggravating nor mitigating factors in relation to this offence. The starting point in relation to this offence will therefore be a term of twelve (12) years imprisonment. Having regard to the fact that this offence was the culmination of a series of offences, the sentence imposed will be five (5) years imprisonment.

[28] These offences were not a mere lapse of judgment on the part of the accused and as indicated earlier it was a well-planned and orchestrated scheme. The Court has tempered the sentencing by taking into account all that has been advanced on behalf of the accused.

[29] The Court notes that the delivery of this judgment was delayed primarily due to the late receipt of the Social Inquiry Report. Notwithstanding the generous extension of time granted to counsel for the accused to provide supplemental submissions those timelines were not met. The Court eventually received the submissions from counsel on the eve of delivery of the judgment. While the Court has considered the contents, in the interest of justice such disregard for judicial time is deprecated as it hampers the efficient administration of justice.

Conclusion

[30] Accordingly, all the sentences imposed will run concurrently. The accused will therefore serve a sentence of five (5) years imprisonment less the time spent in custody awaiting sentencing. It is further ordered that that the Suzuki Vitara, Reg No. A58376, be returned to the registered owner within seven (7) days of the order.

[31] The Court expresses its appreciation to Counsel for the high level of professionalism demonstrated throughout the conduct of this trial.

Justice Stanley John
High Court Judge (Ag.)

By Order of the Court

Registrar