

**EASTERN CARIBBEAN SUPREME COURT
ANGUILLA**

**IN THE HIGH COURT OF JUSTICE
(CRIMINAL)**

**CLAIM NO: AXAHCR2024/1002
INDICTMENT NO: AXAHCR2024/0013**

BETWEEN:

REX

and

DONALD PRICE

Before: His Lordship, The Honourable Justice Ermin Moise

Appearances:

Mr. Thomas Astaphan K.C. with Ms. Erica Edwards for the crown.
Mr. Brian Barnes for the defendant.

2025: October 20-31;
November 3;
December 12; 18.

JUDGMENT ON SENTENCING

- [1] **MOISE, J.:** On 3rd November 2025, the defendant, Donald Price, was convicted by a jury of the offence of the murder of Kimberly Fleming. On 12th December 2025 the court heard submissions on sentencing. Having considered the circumstances of the case and the submissions of counsel, I have determined that Mr. Price should be sentenced to 40 years in prison. These are the reasons for my decision.

The Facts

- [2] Kimberly Fleming (Ms. Fleming) was 37 years old and a mother of 3 children when she was reported missing on 22nd February 2022. She was last seen by her family on the evening of 20th February 2022. During the course of the police investigation into the missing person report, it was revealed

that Mr. Donald Price (Mr. Price) was the last person Kimberly was in contact with on her cellphone on the night she went missing. Mr. Price was questioned at the police station on 25th February 2022.

- [3] On that same date, 25th February 2022, members of the Royal Anguilla Police Force (RAPF) applied for and obtained a warrant to search Mr. Price's premises. During the search, and in Mr. Price's presence, police officers observed a pile of dirt in an area outside of the home. The police also observed what appeared to be uprooted plant-like material resembling cannabis on the pile of dirt. There was a strong scent of decay in the general area and many flies. Whilst attempting to dig up the pile of dirt, the attention of the police officers was drawn to the nearby bushes in the area where they observed a brown rug on the outside of the home, on a path leading away from the apartment. There was a strong scent of decay coming from the rug.
- [4] Mr. Price, who was then in police custody, was taken to the area near the rug. He was cautioned and when enquiries were made in relation to this rug his response was *"open it. What you see is what you get."* Officers then unwrapped the rug and an inner lining bedsheet and observed the decomposed body of a female. At trial there was no dispute that this was Kimberly's body. She was naked. There were also visible signs of significant wounds to her body. Whilst the police were leaving the scene with Mr. Price in custody, his father appeared and enquired as to what was taking place on his property. Mr. Price's reply to his father was *"they just found a body."*
- [5] The police officers and crime scene examiners returned to the scene and Mr. Price's home on a number of occasions. During one of those visits, Mr. Price's father asked him why he did this at the premises. Mr. Price's response was *"just take care of my daughter. Dad, I did not mean for this to happen here. I did not mean for all this to happen. God, I swear it is the truth. I swear it is the truth. The girl suffocated while we were having sex."*
- [6] During police interviews, Mr. Price insisted that he and Kimberly were engaged in a sexual relationship and that on the evening in question she was at his house. In summary, his statement to the police was that she died by suffocation during sex. It was his evidence that at some point during the sexual encounter she started behaving strangely. She was hitting her chest, and he was of the view that she was motioning for him to choke her as part of the sexual experience. He obliged. During this encounter Kimberly stopped breathing.

- [7] A postmortem was conducted on Kimberly's body by pathologist Dr. Marisa Jacob-Leonce. She gave the cause of Ms. Fleming's death to be Complex Homicidal Violence. In her autopsy report, Dr. Jacob-Leonce states that upon examination of Ms. Fleming's body she observed features of asphyxia by airway obstruction. Internal airway obstruction by (tissue and plastic bag) foreign material in the oral cavity and oropharynx.
- [8] Dr. Jacob-Leonce also stated that she observed multiple sharp force injuries. There were complex sharp force injuries of the right posterolateral torso. She also observed complex sharp force injury of the right posterolateral right thigh. Dr. Jacob-Leonce corroborated an opinion given by Scenes of Crime Officer, Mrs. Esther Thomas-Hodge, where she states that the complex sharp force injuries were likely to have been inflicted on Kimberly's body after she had died. She indicated that the lack of any visible sign of excessive bleeding at the site of the cuts to her body was indicative of the fact that Kimberly was already dead when these wounds were inflicted.
- [9] In essence, although there were significant deep cuts to Kimberly's body, the cause of death was asphyxia. She died as a result of a paper towel and a plastic bag which was placed in the area of the oropharynx. What the evidence establishes is that at some point after she died, Mr. Price attempted to dismember Kimberly's body. The pathologist stated that it was not possible for the plastic bag and paper towel to be accidentally inhaled into the throat. Neither is it likely that someone would deliberately place such an item in that area on their own. The pathologist also indicated that the consequence of placing such items in that area is death.
- [10] Dr. Jacobs-Leonce was examined on the "kinky sex" theory and confirmed that people sometimes engage in external activity to increase arousal. This is referred to as auto-asphyxial arousal. She said that it is correct that people will do these things to get the feeling they want to achieve. She also noted that auto-asphyxial arousal is not necessarily manually done. However, a distinguishing feature is that there is typically a mechanism of release. Either a buzzword or, if in self-pleasure, there is typically a way to release whatever is causing the asphyxia. Therefore, this is not the case with a plastic bag or paper towel stuffed down their throat. As I have indicated, the pathologist was of the view that someone else placed this in Kimberly's throat and the natural consequence of doing so is death by suffocation.

- [11] Mr. Price offered no explanation as to how the paper towel and plastic bag got into Kimberly's throat, except to say that she may have inhaled it by accident during the sexual encounter. He insisted, however, that he did not place these items in Kimberly's throat. He stated that he did, at some point during the encounter, observe that Kimberly was not breathing. He attempted CPR and threw water on her. He eventually realized that she was dead.
- [12] The evidence also suggests that Kimberly died on 20th February 2022 and her body was discovered on 25th February 2022. Mr. Price acknowledged that he did not call the ambulance or the police, even when he thought she was unconscious. On that evening, and after she was at least unconscious, he ate food and apparently cut himself whilst opening a can. He went to bed at some point and woke up at 2pm the following day. He then took himself to the hospital to dress his wounds. He states that he initially took Kimberly's body to the outside of his home and placed her in the area of the pile of dirt. He subsequently attempted to dismember her body. In summary he stated that he wanted to keep the crime scene intact as he knew the police would eventually come to the residence. He therefore prevented his father and girlfriend from visiting and entering his apartment.

The Pre-Sentence Report

- [13] Donald Price was 26 years old on the date of Kimberly's death. At the time of sentencing he is 30 years old. His social history reveals that his parents divorced when he was 15 years old and, at the time of the incident, he lived in an apartment owned by his father. Next to the apartment is a gym operated by Mr. Price's father. Mr. Price assists with the operation of the gym. He has 3 brothers and a 4-year-old daughter. He does not drink alcohol but previously smoked at least one marijuana cigarette a day.
- [14] The Pre-Sentence Report (PSR) states that Ms. Jameel Parris, mother of Mr. Price's daughter, indicated that Mr. Price fulfilled his responsibilities as a father while he was out of prison. She stated that, like anyone, he had good days and bad days, but he was actively involved in their daughter's life.
- [15] Mr. Price's mother, Ms. Sancia Price, described him as a good child. She told the social worker that she raised her children properly, and that this is simply a situation that went wrong. Mr. Price's father,

Mr. Louis Price, stated that his son is a very intelligent young man with a high level of mechanical competency. He stated that prior to his incarceration, Mr. Price played an integral role at his gym, serving as his right-hand man for any mechanical issues. Mr. Price Sr. stated that his son grew up in the church until around the age of sixteen. He shares a close and positive relationship with his son and that it pains him to see Mr. Price unable to raise his daughter.

- [16] Mr. Price's stepmother described him as kind-hearted, loving, and generous. She stated that he was confident, and able to think outside the box. Although she met him as an adult, they have a good relationship, and he is very helpful to her.
- [17] The PSR notes that a community investigation was conducted among residents of South Hill on November 24th, 2025. Members of the community indicated that Mr. Price is known for assisting his family in the business and being helpful around the gym. He was also known for having a few interactions with the law in the past.
- [18] Mr. Price attended the Albena Lake-Hodge Comprehensive School (ALHCS). His grades were average and overtime his punctuality and attendance declined. It is clear from the report that, although Mr. Price had much potential, he did not maximise or fulfill this potential during his years at school. I note, however, that whilst in prison for another offence, Mr. Price took the opportunity and successfully accomplished a Grade Two pass in Caribbean Secondary Education Certificate (CSEC) English B in 2019.
- [19] The PSR states that *"Mr. Price expressed remorse for how he handled the situation that night. Stating that it was just a date that had gone bad. He felt sorry that he did not call the ambulance, for he was not thinking straight and there was a lot on his mind. Mr. Price acknowledged that he should have handled the situation differently and recognized that doing so may have prevented the current circumstances."*

Antecedent History

- [20] Mr. Price has a number of previous convictions dating back to 2016. There is no legislation in Anguilla regarding spent convictions. I will, however, consider the more recent and relevant convictions. In October 2025, Mr. Price was convicted and sentenced to 6 months in prison on two counts of assault

which took place whilst he was on remand. In 2021 he pleaded guilty and was fined \$6,000.00 for possession of firearm. In 2020 Mr. Price pleaded guilty and was fined EC\$500.00 for resisting arrest. In 2018 he was convicted and sentenced to 16 months in prison for burglary. Again in 2018 Mr. Price was convicted and imprisoned for 8 months concurrently for the offences of possession of firearm and possession of ammunition.

Victim Impact

[21] The Victim Impact Statement attached to the PSR states as follows:

The family member stated that the full impact of this loss will only be possible to express after the verdict on the 9th of December [this was the date initially set for the sentencing hearing after Mr. Price's conviction]. It was shared that a lesser sentence would feel unfair and would not reflect the seriousness of what has happened.

Since Kimberly's death, the family has faced financial hardship and major changes in daily life, taking on full responsibility for the children and their needs. Even with these challenges, the family continues to do everything possible to support the children and provide stability.

The effect of this loss is felt every day and has changed the family's life in a long-lasting way.

[22] The PSR concluded that, in all the circumstances, Mr. Price poses “a **Moderate Risk** of reoffending and a **Moderate Risk** of causing harm to others, primarily due to his history of criminal convictions. However, mitigating factors such as expressed remorse, supportive family relationships, employable skills, and partial engagement in rehabilitation reduce these risks slightly but do not outweigh the seriousness of his criminal history.”

The Sentencing Guidelines

[23] In accordance with section 189 of the **Criminal Code**¹, *any person who is convicted of murder is liable to imprisonment for life*. In determining an appropriate sentence in cases such as the present, the court is to determine whether the sentence should be a whole life sentence or a determinate sentence. The starting point, therefore, is to determine whether a whole life sentence is appropriate and in keeping with the sentencing guidelines for homicide offences. Section 4 of the guidelines state as follows:

4. The appropriate starting point is a whole life sentence if:

a. the court considers that the seriousness of the offence (or the combination of the offence and one or more offences associated with it) is exceptionally high; and

b. the offender was aged 18 or over when he committed the offence.

[24] Mr. Price was 26 years old on the date of the offence. The question is whether this offence fits within the criteria of what constitutes an exceptionally high level of seriousness. Section 5 of the Guidelines provides a non-exhaustive list of circumstances where the seriousness of the offence could be considered exceptionally high. Of that list the crown submits that this case is a circumstance where the murder of Kimberly Fleming involved sexual or sadistic conduct and that Mr. Price is an offender who has a record for multiple previous convictions for serious offences of violence. In support of that submission, counsel states that the previous offences for possession of firearm should be considered offences of a violent nature. I note that Mr. Price was subsequently found guilty of assault whilst in prison.

[25] The circumstances of the assault and firearm charges were not presented to the court. Despite the fact that the assaults were committed subsequent to Kimberly's death, they do stand as evidence of a propensity to violence. As it relates to the issues of sexual and sadistic behaviour, I appreciate that the link in this case to such issues was raised by the defendant himself. However, his defence was

¹ R.S.A. c. C140

rejected by the jury and the expert evidence does not point to any sexual violation on Kimberly's body. Whilst I appreciate that the body was decomposed to some level by the time of the autopsy, the evidence is not enough to show that this murder involved the level of sexual or sadistic behaviour outlined in section 5 of the Guidelines.

[26] As I noted earlier, the pathologist stated that whilst auto-asphyxial arousal is not necessarily manually done, a distinguishing feature is that there is typically a mechanism of release. Either a buzz-word or, if in self-pleasure, there is typically a way to release whatever is causing the asphyxia. She was of the view that this is not the case with a plastic bag or paper towel stuffed down someone's throat. Once this is done death is inevitable. On balance, it is difficult to say that Mr. Price had placed this tissue and plastic bag in Kimberly's throat as part of a sex act. He denies doing this and the jury rejected this denial.

[27] However, I do find that, in accordance with section 5(o) of the Sentencing Guidelines, this case is one in which the circumstances show that Mr. Price is assessed as likely to commit further offences of serious violence and is therefore a substantial danger to the community. The general nature of this offence, coupled with the convictions of assault and firearm possession places the case into that category. The PSR describes him as having a moderate risk of causing harm to others and I accept this as an apt conclusion. Despite this, however, and for reasons which I will explain later on, I do not find that the appropriate sentence to be imposed on Mr. Price is a whole life sentence.

[28] The defence, on the other hand, argues that this is not a case which falls to be considered under sections 4 and 5 and the Sentencing Guidelines. But rather a determinate sentence of a lesser range should be considered. Section 10 of the Guidelines states that “[i]f the offender was an adult when he committed the offence and the case does not fall within paragraph 4, 6 or 8, the appropriate starting point is a determinate sentence of 25 years, within a range of 15-35 years.” However, having considered counsel's submissions and the facts of the case in detail, I am not satisfied that this falls to be considered at this lower end of the sentencing scale. As I have stated earlier, I am of the view that the risk of re-offending in a similar fashion places this within paragraph 4 and 5 of the Guidelines. This excludes reliance on paragraphs 8 or 10 of the Guidelines.

[29] Paragraph 6 of the guidelines states that “[i]n cases not falling in paragraph 3 or 4; or where a case falls within paragraph 4, a. but the court considers that the offence (or the combination of the offence and one or more offences associated with it), does not warrant a whole life sentence, and b. the offender was an adult when he committed the offence; the appropriate starting point is a determinate sentence of 40 years, within a range of 30-50 years.”

[30] Whilst the criteria set out in paragraph 7 of the Guidelines do not encompass any of the circumstances of this case, I am satisfied that there is at least one of the circumstances outlined in paragraph 5. I am therefore of the view that this case should be considered within the range outlined in Paragraph 6 and that the appropriate starting point for this sentence is 40 years in prison within a range of between 30 to 50 years.

Aggravating and Mitigating Factors of the Offence

[31] I consider the aggravating factors of the offence to be as follows:

- (a) That the area in which this crime took place was isolated. During the course of the trial, a site visit was conducted, and it is apparent that Mr. Price’s home is in an isolated area, except for the gym, which, by his own account, was empty until 4am.
- (b) That Mr. Price attempted to conceal, dispose, desecrate, destroy and/or dismember Kimberly’s body. I am satisfied that Mr. Price attempted to conceal Kimberly’s body. The evidence of the patch of dirt as well as the fact that her body was wrapped in a rug substantiates this. When this did not work, he attempted to dismember her body. This was in an attempt to conceal but also resulted in the desecration of her body. She was wrapped naked in a rug and blanket. Her personal belongings were disposed of.
- (c) In addition to this, attached to this crime is Mr. Price’s own attitude towards it at the time of its commission and its immediate aftermath. He ate food, slept, and took himself to the hospital the following day. All of that time, Kimberly’s body remained lying either in his apartment or in a shallow grave at the crime scene.

(d) Added to this, is the fact that Kimberly was a mother of 3 young children at the time. Taking her life in this way would not only result in her own suffering but also in the continued emotional, mental and financial suffering of her children and family. The fact that the family and community were in search of her for a number of days adds to the aggravation of this offence.

[32] I do not consider there to be any mitigating circumstances in this offence.

[33] Insofar as it relates to the aggravating factors of Mr. Price as the offender, I have already taken into account some of his previous convictions in determining the leveling of seriousness of this offence, as such I will limit such consideration to the other offences. I consider that he has relevant convictions for other offences.

[34] Regarding the mitigating factors in relation to Mr. Price, I do not accept that there has been an expression of genuine remorse as stated in the PSR. To my mind Mr. Price indicates that he regrets what he did subsequent to Kimberly's death but has not acknowledged his actions in killing her. I consider his relationship with his family and the fact that he has, whilst in prison previously, completed a course of study. This makes him a good candidate for rehabilitation. However, I note that whilst in prison he committed another offence of assault. I would not hold that against him in my determination that he is a good candidate for rehabilitation, but it is clear that Mr. Price must reflect on his actions and be adequately punished for it.

The Sentence

[35] Having examined the guidelines, I note also that the traditional factors which a court must take into account in sentencing are all incorporated therein. The court has consistently considered the factors of retribution, prevention, deterrence and rehabilitation when determining an appropriate sentence after conviction. In the case of **Mervyn Moise v The Queen**² the following was stated in paragraphs 18 and 19 of that judgment:

It is a mandatory requirement in murder cases for a Judge to take into account the personal and individual circumstances of the convicted person. The Judge must also

² SLUHCRA2003/0008

take into account the nature and gravity of the offence; the character and record of the convicted person; the factors that might have influenced the conduct that caused the murder; the design and execution of the offence, and the possibility of reform and social re-adaptation of the convicted person. ...

In summary, the sentencing Judge is required to consider, fully, two fundamental factors. On the one hand, the Judge must consider the facts and circumstances that surround the commission of the offence. On the other hand, the Judge must consider the character and record of the convicted person. The Judge may accord greater importance to the circumstances, which relate to the commission of the offence. However, the relative importance of these two factors may vary according to the overall circumstances of each case.”

[36] As I have indicated earlier, I consider a starting point of 40 years in prison. For Mr. Price’s personal mitigating circumstances and prospects of rehabilitation I would have reduced the sentence to 35 years in prison. His family speaks highly of him and his helpful nature. He has a young daughter who he was responsible in raising prior to this incident. Mr. Price had previously committed himself to improving on his education whilst in prison for another offence.

[37] However, to my mind the aggravating factors far outweigh the mitigation circumstances in this case. The following passage from the case of **R v Radich**³ was cited with approval in the court of appeal decision of **Simon Marius v. The Queen**⁴:

“One of the main purposes of punishment is to protect the public from the commission of such crimes by making it clear to the offender and to other persons with similar impulses that, if they yield to them, they will meet with severe punishment. If a court is weakly merciful and does not impose a sentence commensurate with the seriousness of the crime, it fails in its duty to see that the

³ [1954] NZLR 86

⁴ SLUHCRA2008/0007

sentences are such as to operate as a powerful factor to prevent the commission of such offences...”

[38] Mr. Price was convicted of a seriously violating murder of a young lady, who has left 3 children behind. She was only 37 years old and a lot of years ahead of her. She had family and friends who will find it difficult to live life without her. The indignity with which Kimberly’s body was treated, and the level of postmortem violence only adds to the gruesomeness of this murder whilst not taking away from it. There is ample need for retribution here. There is also a significant need for deterrence, not only in Mr. Price but anyone who would contemplate such a crime against someone, particularly a young lady in Anguilla.

[39] I consider therefore that a sentence to a term of 40 years in prison is appropriate in the circumstances of this case and therefore impose this sentence on Mr. Price. The 1390 days he has spent on remand is to be credited to his sentence and considered in any calculation of remission to which he may be entitled.

Postscript

[40] On the date on which this sentence was handed down in open court an issue arose as to whether the court was to have set a minimum period of time which Mr. Price must serve in order to be eligible for parole. However, after consulting the legislation I am satisfied that, this being a determinate sentence, a minimum tariff is not applicable to this case. For completeness I, however, refer to section 11 of the **Parole of Prisoners Act**⁵ which states that:

(1) This section does not apply to prisoners sentenced to a term of imprisonment for life or to prisoners sentenced to detention during the Court’s pleasure.

(2) The Board may order the release on licence of a prisoner who is sentenced to a term of imprisonment of more than one year, after the prisoner has served not less than one half of his sentence.

⁵ R.S.A. c. P3

(3) For the purpose of determining under subsection (2) the length of that part of the sentence which a prisoner has served, a period spent in custody—

(a) before conviction; and

(b) between conviction and sentence; and

shall not be taken into account unless the relevant court directs otherwise on passing the sentence or determining an appeal.

[41] Therefore, unlike section 12 of the Act, which deals with whole life sentences, the section does not require that the court sets a minimum term which Mr. Price must serve before being eligible for parole. The court is also not afforded any discretion to do so. Mr. Price will therefore be entitled to be considered for parole when he has served at least half of his sentence. Based on the court's order, the time which he has spent on remand ought to be taken into consideration when the parole board makes its calculations.

Ermin Moise

High Court Judge



BY THE COURT

A handwritten signature in black ink, appearing to read 'Chanelle Petty-Sarret'.

REGISTRAR