

**THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA**

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

CASE NO. ANUHCR2025/0011

BETWEEN:

THE KING

V

SHAQUOR MILLER

Appearance:

Mrs. Shannon Jones- Gittens for the Crown
Ms. Siobhan A. Leandro for the Defendant

2025: May 28
July 18

SENTENCING RULING

- [1] **BAKRE, J.:** On 28th May, 2025, the defendant pleaded guilty to the single count contained in the indictment for the offence of murder.

Facts

- [2] In May 2023, Mr. Roudi Shmaly, a Syrian national was at Chicken Hub restaurant where he was the main chef for approximately one year. The restaurant is located at Desouza Road in St. John's and is housed in the same building as Pick N Mix Mini Mart as they are owned by the same person. The mini mart operated from 7am to 1am while the restaurant was from 11am to 1am. With the two businesses being in such close proximity, Mr. Shmaly developed a friendship with Ms. Geraldine Laing who worked as a cashier in the mini mart. Ms. Laing described him as a friendly, jovial and kind individual who was always smiling.

- [3] On 22nd May, 2023 at about 1pm, Ms. Laing was at work packing shelves when she heard Mr. Shmaly's voice and went to the door to greet him. She went into the restaurant with him, ordered food then returned to the mini mart and continued working. At about 1:06pm, she was serving a customer when she looked up and saw a masked individual entering the establishment, armed with a silver and black hand gun. The person went around the counter to where she was, pointing the gun at her and although he said nothing, she concluded that he wanted money so she opened the cash register to avoid being injured as she was fearful for her life. The perpetrator then put his hand in the cash register and took out the money totaling EC\$987.00
- [4] Mr. Deon Bryden, a security officer was present in the mini mart and saw that the robbery taking place, so he inconspicuously exited and proceeded to the restaurant and alerted Mr. Shmaly of the armed robber next door. Immediately Mr. Shmaly went to the aid of Ms. Laing and as he approached, the perpetrator was backing away from behind the counter. Ms. Laing then heard a gunshot and dropped to the floor to seek cover. She then heard a second shot but she could not see what was taking place. After waiting a while to ensure the attacker left, she came out from the counter and discovered Mr. Shmaly lying on his back on the floor with blood at the back of his head. She immediately called her boss, Dr. Hanna Hourani to report what had happened.
- [5] Dr. Hourani arrived at about 1:16pm and observed that Mr. Shmaly appeared to be dead. He called the ambulance and attempted to control the crowd which had then gathered to preserve the crime scene. The ambulance eventually arrived and took Mr. Shmaly to the hospital.
- [6] On arrival at the hospital, Mr. Shmaly- age 26 was found with gunshot injuries to his head and upper back and no signs of life. He was pronounced dead at 1:35pm. The postmortem subsequently performed by Dr. Lester Simon confirmed that he died as a result of gunshot injury to the brain. A bullet was also recovered from the back of his head.
- [7] The police arrived at the scene shortly after the incident and commenced their investigations. They processed the scene, took photographs and secured relevant exhibits which included one spent shell.
- [8] A number of persons were interviewed and statements obtained along with CCTV footage from several businesses and the homes in the vicinity. One witness placed Mr. Miller along with another young man together in Ottos (the community close to the mini mart) around 12pm. The two were first picked up on camera at 12:59pm with the other young man in possession of a black shoulder bag. This bag was eventually

seen in Mr. Miller's possession before they parted ways a short distance from the mini mart. The footage showed the defendant coming from a by-road next to the mini mart with a hoody and black mask and the bag. He was seen pointing the firearm at the cashier and removing the money from the cash register. The deceased could then be seen entering the mini mart and the defendant moving from behind the counter, pointing the gun at the deceased and firing two times. The deceased fell to the ground after the second shot and the defendant fled the establishment.

- [9] At about 1:10pm, a police officer was driving on All Saints Road and saw a lady who appeared to be frightened running. Subsequently he heard two gunshots. The defendant was seen by a police officer exiting the business with the bag around his neck and chrome gun in hand. The officer followed him and observed that he met up with his accomplice through a shortcut and fled. However, he was unable to intercept them.
- [10] At about 2 pm, Mr. Jahkeem Lake, the brother of the defendant, met him at his (the brother's) Browne's Avenue home. He noticed that there was a black ski mask on the ground leading to his bedroom which caused him to ask his brother what he had done for the day. Mr. Miller told him that he had been there the entire day waiting on him.
- [11] The defendant's father Mr. Steve Miller informed the police that his son had been released from prison on bail into his custody two days before the incident. He stated that on the 22nd May, he had told his son that he needed to seek employment and sent him to a contractor that he worked with. The defendant left home at 6:15 am and was picked up by the driver to go to the work site. However, when they got to Bendals, the contractor refused to have him as the father had not informed him that he would be sending his son to substitute. The defendant was given bus fare to make his way back to the city. The defendant later told his father that having returned to the city, he went by his brother.
- [12] At about 4:30pm, the police went to the home of the defendant where they met him in the backyard attempting to flee, however the police were able to take him into custody. At about 6:40pm he took them to a house at Craven Road, Ottos where he claimed that he and the other young man had left from to go to the mini mart. The police then obtained a search warrant which was executed at 7:40pm at Mr. Miller's home and they recovered pants matching the description of the one worn by the perpetrator at the mini mart.

- [13] That same night in the presence of his father, the defendant gave a caution statement where he stated that he was given the gun and was forced to commit the robbery by a guy he barely knew. He said it was when he was trying to make his escape that the deceased came in and attempted to throw something at him and when he tried to run out the door the gun went off twice.
- [14] The police conducted an interview with him the following day and he told them that he found the gun in an old car in Ottos and that he had it for a number of months. Also that on the day of the incident he was acting alone and that after he fled he dropped his bag containing the gun and the money in an alley. He also confirmed that the pants taken by the police was the pair he wore during the commission of the offence.
- [15] He gave another caution statement following the interview where he gave an account of meeting up with the other young man when he returned from Bendals. He said it was that friend's suggestion that they go down the road and while they were walking towards the mini mart, he was given the gun. He repeated his previous account of the robbery and shooting but this time he said that after the incident he returned the firearm to the friend.
- [16] Mr. Miller, then aged 16 was arrested and charged for the murder of Mr. Roudi Shmaly. He pleads guilty and now standing before the court for sentencing.

The Law

- [17] It is noted that by virtue of the law under Section 2 of the **Offences against the Person (amendment) Act 2013**, the penalty for conviction for murder is death, life imprisonment or a term of years. The general penalty provided at Section 2 has however been qualified by the amendment of section 3 which now reads:-

Amendment of Section 3 - Sentence for murder

Section 3 of the principal Act is repealed and substituted by the following:

“(1) Where upon a conviction for murder, the court exercises its power under section 2 and sentences the person to death, the court shall pronounce the sentence of death, which shall be carried into execution.

(2) All other proceedings in relation to and in respect of the sentence of death shall take place before the court and the court shall have and exercise the same powers in all respects after a

conviction for any other felony for which the person may be sentenced to death as a felon.

(3) Notwithstanding subsection (1) of section 3, the sentence of death shall not be pronounced or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed, the person convicted was under the age of eighteen years.

(4) Where a person under the age of eighteen years is convicted of murder, the court shall sentence him to be detained during the Court's pleasure, and under such conditions (including periodic reviews by a court of competent jurisdiction) as the court may direct to meet the requirements of retribution, deterrence and rehabilitation and upon such terms as to periodic review of his detention as the court deems appropriate.

(5) A person who is sentenced to be detained under subsection (4) shall be confined in a safe place within Her Majesty's Prison and while so detained he shall be deemed to be in legal custody.

[18] Being 16 years old at the point of committing the offence, the convict is covered by paragraphs 3, 4 and 5 of the amendment above. The effect is that a death penalty shall not be pronounced on a convict under 18 years of age, rather the court shall sentence him to be detained as the court may find appropriate taking to consideration the requirements of retribution, deterrence and rehabilitation.

[19] It is instructive to note that the Child Justice Act is also applicable to the convict who is under 18 years old. Section 4 of the Act states:-

1. *Subject to subsections (2) and (3), this Act shall apply to-*

(a) any person in Antigua and Barbuda, irrespective of nationality, country of origin or immigration status, who is alleged to have committed an offence and who, at the time of the alleged commission of the offence, was under the age of eighteen years; and

(b) a person referred to in paragraph (a) who attained the age of eighteen years before proceedings instituted against him or her pursuant to the provisions of this Act have been concluded.

[20] Section 69 of the Act states that a child that has been found guilty of an offence of murder may only be sentenced to a maximum of three years imprisonment. It states:-

1. Except as provided for under this Act, no court in Antigua and Barbuda shall give a sentence of imprisonment on a child unless—
 - a. the child was over the age of fourteen years of age at the time of commission of the offence;
 - b. the offence for which the child is convicted is an offence listed under Schedule III, or murder or treason; and
 - c. substantial and compelling reasons exist for imposing a sentence of imprisonment, which may include a previous failure to respond to alternative sentences, including sentences with a residential element and where the court imposing sentence considers that no other sentence is appropriate.
2. Where a sentence of imprisonment is imposed on a child pursuant to subsection (1) that sentence shall be of a duration not exceeding three years.

SOCIAL INQUIRY REPORT

- [21] The court received a social Inquiry Report in respect of this defendant. The report which was prepared by Mr. Alvin Jarvis was endorsed by the Director of Family and social services.
- [22] The probation officer did an in-depth report on the defendant with interviews with the defendant and his immediate family and also members of the community.
- [23] The report shows that the accused who had lost his mother at the age of 6 years old has really turned to be a menace to the community. The accused action is mainly blamed on his father who is said not to have taken proper care of this convict and his other twelve siblings. The community also blamed his grandmother who they said indulged him despite all the negative reports against him.
- [24] It is clear from all indications that though blames were traded between the father and his grandmother on who actually was at fault between them on the way the defendant has turned out, the defendant has totally become a menace to the entire society.
- [25] He was presented as totally unremorseful and indifferent to the situation he has found himself. He was described as badly behaved and untrustworthy by members of the community.
- [26] There was also a report of the victim impact. The deceased was described as the breadwinner of his family whose was supporting his family and especially his brother

who was a medical student. The deceased was about to settle down and marry his fiancé and his death left the fiancé with a mental break down that required her to seek treatment as a mental facility in Syria.

SENTENCING REVIEWS

- [27] Counsel to the prosecution referred this court to the appropriate sentencing in accordance with the Eastern Caribbean Sentencing Guidelines as re issued in January 2025. Counsel analyzed what would be the appropriate determination of sentence in respect of this convict. Learned counsel however concluded that in view of the provision of the Child Justice Act as stated above, the court can only sentence the offender herein who is a child as at the time of commission of the offence to three years imprisonment at the maximum.
- [28] I agree to the totality of the submission of the learned counsel to the prosecution in her sentencing brief. I have considered the provisions of the Eastern Caribbean sentencing guidelines. I considered the consequence of the offence and its impact on the family of the deceased victim. I consider the seriousness of the offence on the society at large. I have considered the grid as stated by the guidelines. I have also gone further to consider all aggravating and mitigating factors of the offence and the offender. It is my respectful view that the appropriate sentence for this offence is a term of imprisonment of thirty years without an option for a review.
- [29] The convict here however is a child according to the Child Justice Act and thus this court is bound by the provisions of the Child Justice Act and also the directions of the Sentencing guidelines.
- [30] The court has had regard to the considerations for sentencing set out at paragraph 2 of the Eastern Caribbean Sentencing Guidelines rules re-issued in January 2025 with respect to the aim of rehabilitation and welfare of the minor.
- [31] This court considers the submission of the counsel for the defendant wherein Ms. Leandro urged the court to apply a deduction of 2/3 of the term of sentence as directed in paragraph 4 of the Sentencing Guidelines.
- [32] Let me state categorically that the said direction will only apply if there was no special provision for the sentencing of a child offender and the child was being considered and sentenced under the guidelines that apply to an adult. The provision of that direction is clear. It states:-

“4. In cases involving a young person at the date of the offence, the court should reduce the sentence to at most two-thirds of the term appropriate for an adult offender to reflect their youth and immaturity.”

[33] This paragraph in my view will only relate to a position where there is no specific provision for the sentencing of a child offender and the court was about to sentence the child to the same term that is applicable to an adult offender. In this instance, there is a specific provision for sentencing a child offender in the Child Justice Act and thus that provision in that paragraph would not apply.

[34] It is in view of this that this court is left with no choice than to sentence the Defendant, Shaquor Miller to a term of three years imprisonment (the time already spent in custody will be taken into consideration). The Child Justice Act however does not prevent this court from making additional order along with the imprisonment of three years. I believe that in the circumstances of this case considering the gravity of this offence, this court shall make further orders that it is a condition for the release of the convict from prison that he must be registered at the police station nearest to his place of residency.

[35] The convict shall remain on curfew between the hours of 7pm to 7am every day for a period of one year after his release from prison and shall report to the police station where he has registered every Wednesday and Saturday any time between the hours of 7am and 7pm. The police shall also file with the court every three months, evidence of compliance with this order. In default to any of this order, the office of the DPP shall comply with the provisions of Section 69 (3) of the Child Justice Act by representing the convict to court for a reconsideration of this sentence.

“3) Where a child fails to comply with a condition of a sentence imposed on him or her, the child may, in the prescribed manner be brought before the Court for reconsideration of the original sentence which may, subject to subsections (1) and (2), include a sentence of imprisonment.

[36] Before I conclude with the sentence of this convict, it is important that I state that there is no better time than now to make this remark. I am not unaware of the potential danger being unleashed on the society of Antigua and Barbuda with this light sentence passed on this convict, Shaquor Miller.

[37] I am aware of the sudden surge in the wave of violent crime being perpetrated by these children. I must say that even though they have been defined as children by the law, their acts and deeds are not anywhere near that of a child. They have become a menace to the entire society and something urgently has to be done.

- [38] It is important in my view that there should be a collaborative effort by the three organs of government, the legislators, the executive and the judiciary to immediately nip this in the bud before it gets out of hand. The main essence of government is to protect the citizens and there must be more concerted effort at doing this to rid the society of this impending danger by supporting the youths to make their life more meaningful.
- [39] It is important that I mention that unless something drastic is done to keep this particular convict in check; he can best be described as a disaster waiting to happen. This young boy, Shaquor Miller does not strike me as a person that has learnt any lesson despite the fact that a life was lost. It is advised that the family members should make every effort to rehabilitate him before the whole issues becomes too late.

SENTENCE

- [40] In the circumstance of this case, Shaquor Miller, having been convicted for the murder of Mr. Roudi Shmaly, you are by sentenced to a term of three years imprisonment. The time you have spent in custody shall be taken into consideration. You shall remain on curfew between the hours of 7pm to 7am every day for a period of one year after your release from prison and shall report to the police station where you have registered every Wednesday and Saturday any time between the hours of 7am and 7pm

Addendum.

The convict has spent Five hundred and fifty days in custody. This number of days shall be deducted from the sentence passed.

Tunde A. Bakre
High Court Judge



By The Court

Registrar