

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA
IN THE HIGH COURT OF JUSTICE

NO. OF CASE: ANUHCR2024/1005

BETWEEN:

THE KING

V

SHIMMAL PERCIVAL

Appearances:

Mr. Curtis Cornelius for the Crown
The Defendant in person

2025: JUNE 10th

SENTENCING RULING ON ROBBERY

- [1] **BAKRE, J.:** The defendant robbed, the complainant, Ravi Francis of his Samsung phone worth EC \$700. 00 and EC \$50 in cash at Lower Tanner street on the 19th day of January 2024 at by 7pm while he was waiting for his friend who had gone to by some food. The virtual Complainant, who is a special need 27 year old was standing outside a restaurant listening to music on his phone when the defendant came up to him and said “do not move, I have a gun. This is a robbery”. The defendant pushed the complainant against the wall and searched his pockets where he made off with a Samsung galaxy cellphone worth ECC\$700.00 and EC\$50.00 in cash. The complainant at the time was fearful because the defendant said he had a gun.
- [2] After the hold –up, the defendant ran up Tanner Street and the complainant gave him a chase. Police Constable Rafphie Queely who is familiar with the defendant, was on foot patrol duty when he saw the defendant running and the complainant chasing after him. The officer joined the chase and shouted to the defendant to stop but he did not but eluded capture.
- [3] Upon being accosted, Police Constable Renika Isaac cautioned the defendant and put the allegation to him which he replied “**Look me nah do what r u want,**

me nar give non statement. Just lock me up or the robbery.” He was then arrested and charged with robbery.

- [4] On the 12th of February 2025, the defendant was charged on an indictment filed by the Director of Public Prosecutions on one count of Robbery contrary to section 33(2) of the Larceny Act Cap 241 of the laws of Antigua & Barbuda. Upon arraignment, he pled guilty and he is now before the court for sentencing.
- [5] The court is receipt of a Social Inquiry Report and Impact Assessment Report prepared by the office of Director, family and social services of the Probation Unit.
- [6] An interview was conducted with the defendant, his family member and neighbors.
- [7] The Convict who is a 48 year old man at this time and a father of 28 year Alicia Percival was living with his grandmother in Liberta. Even though he described himself as hardworking, he was never perceived as hardworking by his family and neighbors who described him as very unstable and always having issues with the law.
- [8] It is on record that the convict had been to prison in Antigua for several offences and also been to prison in the United States where he stayed for a while. It is clear that the convict whose claim to being educated could not be verified has been convicted for similar offences of larceny and house breaking at a minimum time of about seven times and also with various other offences including malicious damage and possession of offensive weapon.
- [9] There was a feeble report that the convict was baptized recently and he now wants to take a lease of life this however does not seem to tally with all the report that was received by the probation officer.
- [10] In the course of the sentencing trial, the court inquired from the convict why he continued to live a life of crime, all he said was that he is now ready to turn a new leaf.
- [11] The probation officer also interviewed the victim and his family. The victim is a special need young man of 23 years old who has been traumatically affected by the incident. He is said to have become totally withdrawing and still battling with the psychological impact of the attack from the convict.

THE LAW

- [12] The offence of Robbery is governed by Section 33(2) of the Larceny Act Cap. 241. It provides a maximum sentence of seven years' imprisonment.

SENTENCING GUIDELINES

- [13] In sentencing the convict, the court is guided by the Eastern Caribbean Supreme Court Sentencing Guidelines as republished in January 2025 to establish a starting point in a case of robbery, it requires an assessment of the seriousness of the offence and its consequences by reference to the harm caused. In assessing seriousness, this should include reference to the culpability of the offender.
- [14] It is clear that the matter falls squarely in Category 2- (medium). The complainant was scared and shocked by the incident. He has been psychologically affected by the incident. He also indicated that as an electrician, most of his clients contact information was in the phone that was stolen on the memory card which he could not retrieve and as a result it has impacted his work for a bit. This thus led to some level of inconvenience and detrimental effect on his business.
- [15] On the second stage which is the seriousness of the offence, the court considers the threat of use of a weapon (notwithstanding that this was not produced). The victim was certainly scared with the threat. This court thereby places the seriousness at level –b (medium).
- [16] In the consideration of the above, this court thus puts the starting point at 40% of 7 years imprisonment which comes to two years and nine months with a range of 25%-55% which will be one year and nine months to three years and ten months.
- [17] The court will now determine the aggravating and mitigating factors of the offence and the offender.
- [18] The prevalence of this nature of offences in this jurisdiction is an aggravation factor to be considered here, this has become a cause to worry and the court has a duty to protect the society. This sentence is thus increased to three years imprisonment as I see no mitigating factor with respect to the offence.
- [19] In considering the offender and the aggravating and mitigating factors, the court sees that the offender has been convicted multiple offences for robbery and other similar offences and he appears not to have learnt anything but he has got bolder. The court considers that upon being accosted, he told the officer to go ahead and lock him up. He has become a danger to the society. In view of this, the sentence

is increased to three years and six months imprisonment. I see nothing to mitigate this sentence on the part of the offender.

- [20] Having pled guilty at the earliest opportunity however, the convict would be entitled to one third credit from the sentence thus a reduction to the term to two years and four months.
- [21] The 322 days that has been spent in custody would be considered as a part of this sentence and shall be deducted from this term.

SENTENCE

- [22] In the circumstance Shimmal Percival, having been convicted for the offence for one count of Robbery contrary to section 33(2) of the Larceny Act Cap 241 of the laws of Antigua & Barbuda, you are hereby sentenced to two years and four months imprisonment. The 322 days you have spent in custody shall be deducted from this term.

Tunde A. Bakre
High Court Judge



By the Court

Registrar