

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FEDERATION OF SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT
A.D. 2022

CASE: SKBHCR2024/0024

REX
V
DWIGHT JAMES

APPEARANCES

Mr Leslie Roberts for the Crown.

Mr Vaughan Henderson for the Defendant.

2025: FEBRUARY 03

SENTENCE

For manslaughter by reason of diminished responsibility by stabbing brother

- 1 **Morley J:** Dwight James aged 35 (dob 17.09.89) falls to be sentenced for manslaughter on 08.08.22 when 32 of his brother Luis Kendial James, then 26, (dob 08.09.95), when he stabbed him at his mother's home in the head and upper back, complaining he had taken his cigarettes and a bottle of water.
- 2 The brothers have long not got along. Dwight¹ has mental health issues and is said by his family to be troublesome while Luis is kind and helpful. About 2 years before, there had been a fight where Luis cut Dwight's head, causing a scar to his forehead.
 - a. At around 22.00 on 08.08.22, their sister Melvancia James observed Dwight arguing out loud

¹ The defendant will here be referred to by his first name, to avoid confusion with other family members sharing his surname.

to no one, repeating over and over he '*wants his bottle water and his cigarette and must stop trouble his fucking things them*'.

- b. Other family present who saw the incident were uncle Winston Warner, and Alenton Grant, partner of sister Charmaine James.
 - c. Dwight then went to Luis who was watering a plant, up into his face, saying '*why you troubling my things*', so Luis backed away, with Dwight pursuing him, picking up a nearby white-handled knife, about a foot long, and with Luis trying to fend Dwight off, he stabbed him to the ear and back of his neck, while Luis tried to get others in his family to intervene saying '*you aint see the man stabbing me*', and '*you kill me*', then running away, found by family down the road collapsed in the vicinity of the Tango building, being pronounced dead at 23.57 at the hospital.
 - d. There were 7 stab wounds, being 3 defensive wounds to the hands, 2 to the back of the head, one behind the left ear, and a fatal wound downwards to the upper left back causing a collapsed left lung, exsanguination, and hypovolemic shock.
 - e. On arrest up a road, then coming back to the house, Dwight pointed out the knife as being used to stab his brother, explaining:

'they don say they gon kill me, one say they gon pay someone to kill me, one say they gon pay someone to kidnap me and hide me....today me buy a bottle water and a pack of cigarette and de man take the bottle water and throw it on a flower pot and water the flowers them and he take out the cigarette and he tell me nar gimme them he gon throw it way and that when ah see the knife on the banister landing, ah took it up and me and me brother started to struggle for the knife...officer, we struggle a lot, but this time he aint get it way, this time a me win, and a just throw a stab and a didn't look to see where it hit him...me nah kay, what he take up me thing for, me nah kay.
 - f. Later in audio police interview on 10.08.22, during 14.17-14.39, with Melvincia present, he denied knowing the reason for altercation with Luis, blamed Luis for starting the fight, showed disregard for Luis' death, saying '*what dun happen, happen*', became irritated being questioned, complained Luis had scarred his forehead, became evasive whether he stabbed him, and suggested if he did it was because Luis started it.
- 3 Dwight has two previous convictions, with minor non-custodial sentences, being in 2003 indecent assault and in 2010 having undue control over an underage girl, neither being here relevant, though meaning he is not of good character.

- 4 In his social inquiry report dated 23.01.25 by probation officer Launston Percival, he left school without qualification in 2004, the only family member speaking for him was Melvincia, his school principal Venetta Henry said though quiet he had challenges and while she had tried interventions, resources were not available; and of the offence, Dwight said on the day he was in his mother's yard at Farms Site, Sandy Point, drinking some alcohol,

...and after the alcohol finished I went to buy some more, and I left my cigarettes and water on the table. I returned from buying the alcohol and saw my brother throw away my water that I left in another bottle and put some flowers in the same bottle of water. I asked him why he threw away my water. I then went to look for the cigarettes that I had left on the table where I left them but they weren't there so I asked him for them and he said he hadn't got any cigarettes, but then I saw them in his pocket. Because I knew that he always wants to fight me, I went up to him and took up a knife to scare him and make him give me my cigarettes, he then attacked me and I fell. I got my hands around him and got up and that is when I started stabbing him, he was still fighting me and then I stopped stabbing him, he dropped my cigarettes and I took them up and walked away and went over in the neighbour yard.

- 5 Dwight was charged with the murder of Luis, but after gathering psychiatric evidence, on 28.11.24 he pleaded guilty to manslaughter by reason of diminished responsibility, which owing to Dwight found suffering schizophrenia was at this point accepted by the Crown and court.

- 6 Concerning his diagnosis:

- a. On 04.08.23, psychiatrist Dr Victoria Gomez Sanchez at the JNF hospital reported:
- i. Dwight has suffered mental disorder from adolescence, noting his father Samuel Carty suffers from schizophrenia.
 - ii. His language was poor and monosyllabic, he seemed not to care about being interviewed, and he reported hearing voices if smoking marijuana.
 - iii. His mother reported at home he would be alone and talk to himself.
 - iv. On examination, his responses were flattened and he smiled constantly going from laughter to anger without any motivation, and is poor and concrete in his expression, with an attitude of an hallucinated person.

- v. He was formally diagnosed by Dr Sanchez as suffering schizophrenia and marijuana use disorder.
- b. On 28.10.24, the doctor reported further:
- i. There have been 15 consultations.
 - ii. It is striking he maintains a flat to indifferent affect at times, with unmotivated smile evident, and poor thinking with concrete and little verbal expression, now denying hearing voices, delusions, or other psychotic symptoms.
 - iii. The use of marijuana and alcoholic substances admitted by the patient as habitual behaviors increases the maladjustment and poor control of behavior, and in a situation where the person feels frightened, there is an increase in the disinhibition of behaviors, whether to attack or flee, while added is poor socialization without work ties or an efficient support network.
 - iv. Schizophrenia is a chronic mental disorder which is predominantly biological in cause, related to genetic information and other brain biochemical elements, without forgetting to take into account social stressors such as poor schooling, not having a family, lack of job, while the disease can manifest as delusional hallucinations, exaltation of emotions and behavior, with hardly any motivations beyond responding to biological needs. If marijuana and alcohol are added, it affects the brain mechanism, so that there is more aggression, with more erratic and unpredictable behaviors and emotions, leading to immediate and impulsive response.
 - v. Dr Sanchez does not believe he was unable to control his behavior at the time of the stabbing.
 - vi. The prognosis is reserved as there is no efficient family support network, while there is no motivation or interest to do anything, though he eats better and there is a slight increase in his personal care and image.

- c. On 05.12.24, the doctor reported further:

When we talk about schizophrenia, we refer to a mental condition with a chronic course, characterized by episodes of psychotic exacerbation and remission. In this patient, there is currently predominance of deterioration in the psychological sphere in general, with social and personal impoverishment for the demands of daily life.

When evaluating the patient over almost two years, there is a predominance of negative symptoms. These symptoms include affect that tends to be flattened or incongruent with poor and concrete verbal expression and language. Additionally, the patient shows disinterest in interpersonal relationships and in performing socially useful activities. We have encouraged the patient to engage in studies or religious activities, but he shows no interest. He also does not participate in work activities within the prison. He is not motivated to work with the counsellor....he does not practice self-care and lacks insight into his mental illness....The situation is compounded by the use of marijuana, which affects and contributes to the lack of interest in integrating into an adequate social and personal life.....It is important to continue working on reducing marijuana consumption, showing the possibility of new interests, until he completely abandons it or reduces it to a minimum. Significant emphasis should be placed on physical exercise, self-care activities, and counselling sessions, trying to involve the family in rehabilitation, along with medication treatment. Therefore if the recommendations are followed during his stay in prison the prognosis should be favourable.

- 7 When sentence was listed on 23.01.25, (adjourned to today 03.02.25 to be in writing), the only family member in court was Melvancia, who in her victim impact statement dated 09.01.25, said:

I witnessed the incident and I had trouble sleeping for a couple weeks. I used to go therapy for a while but I stopped. It used to bother me that I lost one of my brothers and one is in jail. I was so so with both my brothers, meaning we weren't that close but we weren't that distant either. I'm asking for leniency for my brother, I know what Dwight did was wrong but I'm still asking for leniency for him. I know my brother likes to act crazy, from my point of view he know what he used to do. He not crazy, but nevertheless I'm asking for leniency. I used to visit him in prison but I stopped because it brought back a lot of unpleasant memories. Friday time's I'd go and buy him whatever. I'd be willing to assist in supervising and taking care of Dwight outside of prison and making sure he follows doctor's instructions including medication, I'm not willing to have him live with me though.

Constructing the sentence

- 8 On St Kitts, manslaughter carries potentially life imprisonment, per **s5 Offences against the Persons Act**, cap 4.21, which is the same maximum in the UK.
- 9 The first step in sentencing practice is to assess the seriousness of the offence.

- 10 There are as yet no ECSC guidelines for manslaughter by reason of diminished responsibility, though there are in UK, where the first step is to '*consider the degree of responsibility retained*', noting:
- a. A conviction for manslaughter by reason of diminished responsibility necessarily means that the offender's ability to understand the nature of the conduct, form a rational judgment and/or exercise self-control was substantially impaired.
 - b. The court should determine what level of responsibility the offender retained – High, Medium, or Lower.
 - c. The court should consider the extent to which the offender's responsibility was diminished by the mental disorder at the time of the offence.
 - d. The degree to which the offender's actions or omissions contributed to the seriousness of the mental disorder at the time of the offence may be a relevant consideration. For example: where an offender exacerbates the mental disorder by voluntarily abusing drugs or alcohol or by voluntarily failing to seek or follow medical advice this may increase responsibility. In considering the extent to which the offender's behaviour was voluntary, the extent to which a mental disorder has an impact on the offender's ability to exercise self-control or to engage with medical services will be relevant.
 - e. The degree to which the mental disorder was undiagnosed and/or untreated may be a relevant consideration.
- 11 Weighing these factors, I assess the degree of responsibility retained to be high, because Dwight, in voluntary self-induced intoxication, was regularly smoking marijuana, and at the time had been drinking alcohol, which will exacerbate his schizophrenia, while Dr Sanchez in her report of 28.10.24 opines he was not unable to control himself during the stabbing, and Melvincia says he knows what he is doing. Moreover, while his schizophrenia does mean he is more impulsive, reducing self-restraint, nevertheless there is a quality of vicious behaviour here, with pursuing Luis who was backing away defensively, evidenced by the defensive wounds to his hands, with then stabbing to the head.
- 12 High responsibility in the UK means a starting point of 24 years, within a range up to 40 years, where here there was the aggravating feature of a weapon used, being a knife opportunistically at the scene, and there being a history of violence between the brothers, while it is also aggravating, after winding himself up talking to himself, Dwight just picked a fight with Luis, agitated over such minor possessions, being a water bottle and cigarettes.

- 13 Helped by the UK guidelines, assessing the seriousness of the offence, I consider the starting point to be 30 years.
- 14 Considering step 2, assessing the offender, Dwight is not of good character, and I do not detect remorse in his responses to what he has done, while his schizophrenia is already taken into account in that he has not been pursued for murder. However, I do consider it is mitigating he has not been earlier diagnosed and treated for his condition, as there is a lack of mental health resources on St Kitts, and so if he had had such, given if treated and observing his doctors' requirements Dr Sanchez considers there is good prognosis, meaning if better looked after he may not have done as he did, this merits some reduction, which I assess at 3 years, reducing the sentence to 27 years.
- 15 *Obiter*, I observe better attention is required on-island to mental health issues, as I see many cases of it in court, where illness runs through generations, and folk have no help, nor is there a dedicated psychiatric hospital, working with fulsome mental health legislation like the UK **Mental Health Act 1983**: the government must do much, much more in this area.
- 16 Considering step 3, credit for plea, full credit of one-third is here allowed as the plea was at the first practicable opportunity after receiving the second report of Dr Sanchez, meaning the guilty plea reduces the sentence to 18 years.
- 17 Considering step 4, dangerousness, I assess I cannot be sure of likelihood of further serious offending and injury, given at 35 he has no relevant violence convictions, while, if observing his medical regimen, Dr Sanchez is optimistic as to prognosis, and so I will not adjust the sentence upwards.
- 18 Considering step 5, time on remand of 2y5m22d, this will count toward the sentence, to be factored by the prison as to his earliest date of release.
- 19 Considering step 6, ancillary orders, I order the knife destroyed.

20 *Dwight James, please stand up.* For the reasons I have explained, for killing your brother Luis on 08.08.22, by stabbing him for the trivial reason you thought he had interfered with your water bottle and cigarettes, as an act of manslaughter by reason of diminished responsibility occasioned by suffering schizophrenia, which appears to run in your family, exacerbated by voluntary consumption of alcohol and marijuana, having pleaded guilty, the sentence will be 18 years. Time on remand will count. You will be eligible for remission of one-third of your sentence if of good behaviour. You may go with the gaoler.

The Hon. Mr. Justice Iain Morley KC

High Court Judge

3 February 2025