

SAINT LUCIA

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

CASE NO. SLUHCR2009/0007

THE KING

vs.

EUGENE ST. ROMAIN

Defendant

Before:

The Hon. Mde. V. Georgis Taylor-Alexander

High Court Judge

Appearances:

Mr. Alberton Richelieu for the Defendant

Mr. Linton Robinson for the Crown

The mother and sister of the Defendant present

The Defendant present via zoom from the Bordelais Correctional Facility

2024: December 2,6

JUDGMENT ON SENTENCING

- [1] **TAYLOR-ALEXANDER J:** This matter came on for the Sentencing after trial of the Defendant for Murder of his thirteen-year-old daughter Verlinda Joseph by strangulation. Despite the findings of the Jury, the Defendant continues to vigorously assert his innocence.

Brief Facts

- [2] Verlinda Joseph's lifeless body was discovered on the 2nd of December 2002 at Calise, Laborie over twenty (20) years ago. The Defendant was indicted on the 29th of December 2009, and he entered a plea of not guilty on the 15th of March 2010. After numerous applications and protracted delay, the case went to trial before a jury on the 5th day of October 2023, and on the 1st day of December 2023, a jury unanimously found the Defendant guilty of the offence of Murder. The Defendant is now to be sentenced. A pre-sentence report was ordered to be prepared by Probation and Parole Services.
- [3] **Pre-Sentence Report:** The Defendant is the second (2nd) of fourteen (14) children born of a marital union. He enjoyed his childhood growing up in nature. From ages six (6) to fourteen (14) years he lived in St. Kitts with his uncle, during which time the Defendant excelled at cricket and had an uneventful childhood. On returning to St. Lucia and due to financial constraints, he did not pursue secondary school education, but instead started farming with his father and helping his mother to sell bread. The Defendant had three (3) offspring with Verlina Joseph, the deceased was one (1) of the three (3) offspring and his only female child. He is currently in a cohabitating relationship with a new partner and is hoping to marry.
- [4] The Defendant's mother, Cocelia St. Romain stands in support of her son, whom she describes as very quiet and one who never gave her trouble. She says that this incident is painful for the family and this ordeal has taken her happiness from her. She remains convinced of her son's innocence. The Defendant's sister, Gilda Xavier says her brother is generous, caring and loving. She says that when visiting his farm, persons would leave with more than they can carry. She describes the Defendant as an organised and clean person. She believes that her brother is being persecuted for standing up for his daughter, and that pursuing this case has been a distraction from the true crime. She laments that there is no easy solution, as the victim, Verlinda Joseph was her niece and the convict is her brother. Lawrence Stephen, the brother of the Defendant blames no one for the outcome of this case, but laments that Verlinda's parents ought to have been more vigilant of her, given that they lived in such an isolated place. His sister, Marcellina Saltibus remains emotionally drained from this lingering matter.
- [5] Andy Joseph is the Defendant's eldest son. He describes his father as a hard-working person who never did anything mischievous. The Probation Officer observed that he appeared disturbed and uncomfortable speaking about the case. He also noted an unhappy continence

overshadowing both Andy Joseph and his mother Verlina Joseph when they spoke of the incident.

- [6] Residents of the community of Saltibus say that the Defendant has exceptional farming skills and that he has a gift for farming. He willingly assists anyone who asks, once it was farming related. He is described as very much into himself. The community shared mixed views of the Defendant and of the incident. The Defendant is of previously good character. Given that this case could likely attract a whole life sentence, I ordered both a psychiatric and psychological assessment of the Defendant.

Psychiatric Report

- [7] When seen on the 14th of October 2024, the Defendant was cognitively intact, with no thought abnormality. He did not voice any delusional thoughts. He denied having any suicidal or homicidal thoughts. No psychiatric disorder was found on clinical interview. He did have some restricted affect which the doctor thought may have been due to the number of times the Defendant may have had to recount the events of the days of the incident.

Psychological Assessment

- [8] The Defendant was assessed by Ms. Alina Auguste. Her reports states that the Defendant has no history of mental health treatment or family history of mental illness. His medical history includes high blood pressure, which he struggles to manage in prison, along with other minor health issues like constipation and tooth pain. He has been respectful and non-violent during his current incarceration. The Defendant's verbal comprehension is described as "Well Below Average", which suggests possible difficulties in understanding and using language, which impacts his verbal reasoning and comprehension. His perceptual reasoning was also "Well Below Average". This indicates possible visual-spatial reasoning and problem-solving challenges that do not rely on language. His Working Memory was classified as "Average". This implies that he can effectively hold and manipulate information in short-term memory. His processing speed was also "Average", indicating the ability to perform simple or routine tasks quickly and efficiently. The overall Full-Scale IQ was "Well Below Average", which reflects strengths in working memory and processing speed compared to verbal comprehension and perceptual reasoning. The Defendant scored high for Depression and Hysteria, and moderately in the categories of Hypochondriasis; Psychopathic Deviate; Paranoia; Psychasthenia; Schizophrenia and Hypomania. He received a rating of "moderate risk", for future serious physical harm, and "low" for imminent violence. The Defendant denied engaging in violent behaviour, and it was

recommended that he should be monitored for any changes in mood or increased levels of aggressiveness. The Defendant did not meet the cutoff score to be diagnosed with psychopathy.

[9] The psychologist submitted the following recommendations: -

1. That the Defendant participate in the Life Minus Violence programme. This recommendation takes into consideration his moderate risk for future violence, particularly in intimate partner relationships, which should be managed with violence prevention programs. Components of this program include anger management and conflict resolution training.
2. Medical Follow-Up: The Defendant has expressed concerns about his high blood pressure and other health issues, such as constipation and dental pain. Medical checkups should be provided to monitor his health conditions, particularly his hypertension, to prevent further complications. Access to a dentist should be provided to address his tooth pain.
3. The Bordelais Correctional Facility is to allow the Defendant to continue participating in sports, such as cricket and domino competitions, that may positively impact his mental health and reduce the risk of future violent behaviour. These activities offer a structured outlet for stress and provide social interaction within a safe environment.
4. The Defendant should be encouraged to participate in adult education classes or vocational training programs offered at the Bordelais Correctional Facility, which may also assist in his reintegration into society.
5. Psychological and Emotional Support: Given the elevated scores on the MMPI-2, the Defendant would benefit from psychological counselling to address his emotional distress, feelings of dissatisfaction, and low energy. Regular counselling sessions should focus on improving emotional regulation and coping mechanisms.
6. Risk Management and Monitoring: Continued monitoring by prison staff for any changes in behaviour is recommended.”

SENTENCE

[10] In arriving at an appropriate sentence, I had regard to the written submissions of the Crown filed on the 17th of September 2024 and the written submissions of the Defence filed on the 16th

of September 2024, 19th of September 2024 and the 17th of October 2024; and on the CCJ authority of **Shawn Andrew Weeks v The State**¹ on the issue of delay provided by the Defence. I also heard further oral submissions advanced on the day of Sentencing.

[11] **Sentencing Options for Murder:**

According to the Eastern Caribbean Supreme Court (ECSC) guidelines reissued on the 26th of November 2021, individuals convicted of murder may face one of three potential sentences: -

- **Death:** This is typically reserved for particularly severe cases, the worst of the worst into which category this case does not fall.
- **Whole Life Sentence:** This is a life sentence without the possibility of parole. While the victim was a child and more specifically, the child of the Defendant and the murder involved sexual violation, I am cognisant of the fact that the Defendant has been living with the anticipation and anxiety of trial for eighteen (18) years. This prolonged period of waiting for trial must be taken into account when determining a fair starting sentence. Fairness would not dictate starting with a whole life sentence after such a long period of time, given the potential psychological and emotional toll this delay has taken on the Defendant.
- **Determinate Sentence:** A fixed-term prison sentence, which could vary based on the specific circumstances of the case seems to be the most likely starting sentence. The Defence submits instead for a determinate sentence of forty (40) years with a range of thirty (30) years to fifty (50) years. I am inclined to agree.

[12] **Aggravating Factors of the Offence**

- The offence was unprovoked.
- The offence was committed to conceal another offence; that is of the sexual abuse of the victim.
- The victim was thirteen (13) years old at the time of the offence and was therefore vulnerable.
- There was an abuse of a position of trust. The Defendant was the victim's father.

[13] **Mitigating Factors of the Offence**

- There are none.

¹ [2024] CCJ 18 (AJ) BB

[14] For each of the aggravating features, I have added a year resulting in an upward adjustment of five (5) years taking the sentence from forty (40) years to forty-four (44) years.

[15] **Aggravating Factors of the Offender**

- There are none.

[16] **Mitigating Factors of the Offender**

- The Defendant has no previous convictions for personal violence, for which he benefits from a downward adjustment of one (1) year.
- The Defendant offered assistance to the authorities in identifying the location of the body for which he benefits from a downward adjustment of one (1) year.
- Good prospect for rehabilitation. During the Defendant's time on bail, he did not engage in any unlawful conduct and continued developing his farming. During his time at the Bordelais Correctional Facility, he captained the cricket team. The psychological report of Ms. Auguste suggests that prospects for rehabilitation are good for which he benefits from a downward adjustment of one (1) year.

After cancelling out, the Defendant's sentence stands at forty-one (41) years.

Early Guilty Plea:

[17] The Defendant was found guilty after trial.

Delay and Breach of the Defendant's Constitutional Right

[18] "The Crown referred this Honourable Court, to the authority of **Violet Hodge v The Queen** BVIMCRAP2015/0005 where the Learned Justice of Appeal Baptiste outlined the guiding principles regarding delay in the prosecution of a criminal trial. At **paragraph 66**, he said:

"The principles regarding delay can be summarized as follows. In determining sentence, there is a need to have regard to any failure to proceed with a case with due expedition. Excessive delay can affect the question of the justice of the sentence. Delay in bringing an accused to justice is recognized as a mitigating factor that can be taken into account in sentencing and its effects can be recognized by a reduction in sentence. One has to examine the extent to which a defendant or appellant has been prejudiced by the delay

*per Lord Hope at paragraphs 53 and 54 of **Mills v Her Majesty's Advocate**.² "A judge retains the discretion to do justice on the particular facts of a case, for example in the case of excessive delay, and may therefore reduce an otherwise appropriate sentence accordingly" per Lady Hallett in **R v Kerrigan**³ at paragraph 56. This is very much a residual general discretion to correct any perceived injustice. Delay is undoubtedly of relevance to the broad question of what a just sentence is when eventually and belatedly conviction occurs, per Vice President Hughes LJ in **Attorney General's Reference No. 79 of 2009**.⁴*

- [19] During the past few years, the Defendant has formed and maintained a relationship with a person whom he was hoping to marry. He has continued his life as a farmer and has been living a criminal and incident-free life. He now has to confront prison as a much older man. His family members during that period have also tried to move on with their lives. The trial of this matter has reopened old wounds.
- [20] In **Joseph Stewart Celine v The State**⁵, the Appellant was charged in 1997 and was convicted and sentenced in 2006 to three (3) years penal servitude. The Privy Council reduced his sentence to eighteen (18) months. In **Gillespie v HM Advocate**⁶, a life sentence was reduced by six (6) months where there had been excessive delay by the court in concluding the appeal.
- [21] The reduction in sentence is not a result of a strict mathematical formula, but rather a discretionary decision by the judge, grounded in principles of fairness and justice and by an acknowledgement of the anxiety, uncertainty, and emotional toll experienced by the Defendant while awaiting trial or a resolution that is exacerbated by delay and should be considered when final sentencing is determined. In this case, I have concluded that a reduction of five (5) years is appropriate. This takes the Defendant's sentence to thirty-six (36) years.

The Breach of the Reasonable Time Guarantee

- [22] It was not disputed that the delay in the trial of the Defendant had been inordinate, and at an earlier hearing, the Crown had conceded that the delay had been an infringement of the Defendant's right to a fair hearing within a reasonable time. The Defendant submits that this court having found that there was a breach of the reasonable time guarantee, should exercise its

² [2004] 1 AC 379 441

³ [2014] EWCA Crim 2348

⁴ [2010] EWCA Crim 338

⁵ [2012] UKPC 32

⁶ 2003 SLT 210

discretion to give a further reduction in its final sentence as a remedy for the breach of the Defendant's rights to a fair trial in a reasonable time.

- [23] The Defendant urges the court to separately assess both the delay in proceedings and the breach of the reasonable time guarantee. The Defendant argues that these are two (2) distinct, yet related, issues and submits that by separating these two (2) issues, the court can ensure a more comprehensive and just sentence, addressing both the procedural injustice (delay) and the substantive rights violation (breach of reasonable time guarantee).
- [24] The Crown argues that the breach of the reasonable time guarantee has already been addressed by the court in its earlier judgment. In that judgment, the court directed a speedy trial as a remedy and subsequently proceeded with the trial. The Crown asserts that granting a further reduction in the sentence would amount to "double dipping," as it would be an additional acknowledgment of the delay already accounted for by the reduction for the delay.
- [25] In **Benedict Alexander v R GDA**,⁷ a case cited by the Defendant, the Eastern Caribbean Supreme Court (ECSC) Court of Appeal acknowledged that various remedies exist for violations of the rights to a fair hearing within a reasonable time. These remedies can range from declaratory relief to sentence reduction, and even compensation.
- [26] The remedy available to a court for the breach of the reasonable time guarantee need not be singular and would depend on the circumstances of each case. Having dealt with the breach at an earlier hearing, I find no basis in this instance to award a further reduction in sentence for the breach of the reasonable time guarantee, and I agree with the Crown that this would in effect be double dipping on the issue of a reduction for delay.

Disposition

- [27] The Defendant is sentenced to thirty-six (36) years imprisonment.
- [28] **Time on remand:** There are two (2) remand periods. From April 4, 2004 to August 15, 2015, being nine (9) years, four (4) months and twelve (12) days and remand after trial is one (1) year. The Defendant has therefore spent a total of ten (10) years, four (4) months and twelve (12) days remanded. The Defendant is to benefit from his time on remand, which is to be applied in remission of his sentence.

⁷ HCRAP2019/0011

ANCILLARY ORDERS

- [29] The Defendant is to undertake the Life Minus Violence program which includes Anger Replacement Therapy during the next six (6) months in so far as the same is available at the Bordelais Correctional Facility. If the Defendant does not take advantage of the therapy if offered, he is to serve an additional twelve (12) months.
- [30] The Defendant is to be assigned to an appropriate work program at the Bordelais Correctional Facility in so far as he meets the criteria for this assignment. If the Defendant does not take advantage of the work program if offered, he is to serve an additional twelve (12) months.
- [31] The Defendant is to be facilitated with regular visits to the medical practitioner who attends the Bordelais Correctional Facility, to ensure the proper management of his health issues.
- [32] The Defendant is to benefit from psychological counselling to address his emotional distress, feelings of dissatisfaction, and low energy. During the next year, Ms. Alina Auguste is to facilitate counselling sessions with the Defendant focusing on improving his emotional regulation and coping mechanisms. The cost of these sessions is to be borne by the State.
- [33] The Defendant is to be considered for adult education classes or vocational training programs offered at the Bordelais Correctional Facility, which may also assist in his reintegration into society. In so far as the same is available and offered to the Defendant and the Defendant does not take advantage of it, he is to serve an additional twelve (12) months.

Justice V. Georgis Taylor-Alexander
High Court Judge

BY THE COURT

REGISTRAR