

**EASTERN CARIBBEAN SUPREME COURT
ANGUILLA**

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

CLAIM NO: AXAHCR2024/0004

BETWEEN:

REX

v

**JAVETH VANTERPOOL
SHEKUIM LAKE
DEONNE DANIEL SMITH**

Before: His Lordship the Honourable Justice Ermin Moise

Appearances:

Mr. Thomas Astaphan KC and with him Ms. Erica Edwards and Mr. Theon Tross
for the crown

Mrs. Josephine Gumbs-Connor and with her Mr. Carlyle Rogers for Mr. Javeth
Vanterpool

Mr. Chesley Hamilton for Mr. Shekuim Lake and Mr. Deonne Smith

2024: October 16.

DECISION ON SENTENCING

[1] **MOISE, J.:** On 4th January, 2020, Mr. Leroy Vanterpool was shot dead. Mr. Salih Raheem was also shot but survived his injuries. On 6th February, 2024, Javeth Vanterpool was indicted in connection with the events of that day. He was however only indicted on one count of attempted robbery and a second count of conspiracy to rob. Mr. Shekuim Lake and Mr. Deonne Smith were also indicted on the same counts. However, they were further indicted on additional counts of murder and attempted murder. On 12th October, 2024, the defendants all pleaded guilty to the counts of attempted robbery and conspiracy to rob. Shekuim Lake and Deonne

Smith pleaded not guilty to murder but guilty to manslaughter. The crown accepted those pleas, and the matter was therefore set down for sentencing.

The Agreed Facts

- [2] The crown filed a document outlining the agreed facts of the case. It states that Mr. Leroy Vanterpool (Mr. Vanterpool) was the operator of a grocery store called Snails Carousel in Welches, Anguilla. On the night of 4th January, 2020, Mr. Vanterpool was speaking with his friend, Mr. Salih Raheem, after the store was closed. Mr. Raheem was seated in his van. When that conversation was complete, Mr. Vanterpool walked towards his store. It was at that point, 3 persons approached him. Mr. Vanterpool shouted out and shots were fired at him. It is unclear, even at this stage as to who fired the shots. I also note here that the papers did not initially indicate that there was a third individual involved in this incident at the scene. The crown has however indicated that this information was obtained subsequently and would wish for the facts to reflect it. The crown also stated that this individual is now deceased and that he was the main person behind the actual shooting of Mr. Vanterpool and Mr. Raheem.
- [3] At the point of the shooting of Mr. Vanterpool, Mr. Raheem was still seated in his vehicle. He was approached by the gunman and shot. He received injuries to his chest and his right forearm but survived them. Mr. Raheem tried to drive away from the scene after being shot but was not successful as he lost consciousness and ran into a wall. He was assisted by paramedics who arrived on the scene thereafter and was taken to the Princess Alexandra Hospital.
- [4] It is agreed that all 3 defendants were part of a conspiracy to rob Mr. Vanterpool's grocery store. Javeth Vanterpool gave a statement to the police in which he indicated that his role in the matter was to drive by earlier to see whether the shop was still open. He was not involved in any plot to kill Mr. Vanterpool. He performed his role in the matter and informed the others of his findings. He played no further part in the incident and was not on the scene when the shooting took place. Shekuim

Lake and Deonne Smith were however part of the actual robbery attempt. The grocery store was, in any event, not robbed. After shots were fired at Mr. Vanterpool, the assailants left the scene. However, in the process of doing so shots were fired at M. Raheem whilst he was seated in his van.

- [5] On the following day, Javeth Vanterpool was contacted by Deonne Smith requesting a ride on his motorcycle to the Blowing Point ferry terminal. Mr. Smith left the jurisdiction and went over to Saint Martin after his involvement in the incident.

The Procedural History

- [6] I pause here to make a few observations about the procedural history of this case, as it is an important feature in the sentencing process. I do so also because this court has, on many occasions, highlighted various gaps in the procedures adopted for indictable or hybrid matters. It is beyond time for these issues to be addressed and it is hoped that ongoing initiatives to reform the criminal justice system will assist in addressing those issues.
- [7] By 14th January, 2020 a post mortem examination on Mr. Vanterpool had been complete. A ballistics report had also been presented to the police by 27th February, 2020. Forensic analyst reports were all completed in this case by 18th March, 2020. By 17th January, 2020, Mr. Javeth Vanterpool had given what can be described as a confession of his involvement in this incident. Mr. Javeth Vanterpool was arrested and charged for offences in relation to this case on 20th January, 2020. The other two defendants were similarly arrested and charged on 27th and 29th January, 2020.
- [8] Much of the relevant evidence in this case was collected by March, 2020. Yet, it took in excess of 2 years for a preliminary inquiry to be completed in this case. Even if one takes into account the effects of the Covid-19 pandemic, concern is still raised regarding the manner in which such cases navigate the courts. A preliminary inquiry began taking evidence on 4th February, 2021. It did not conclude until 24th March, 2022. On that date the defendants were committed to stand trial in the high court. It

appears that the defendants were unrepresented at the preliminary inquiry for what was then a murder charge for all 3 of them. There is nothing on the record to show that they were ever informed of their rights to at least apply for legal aid at an early stage in the process.

[9] Despite the committal on 24th March, 2022, an indictment was not laid against the defendants until 8th February, 2024. That is almost 2 years after the committal and four years after the initial charges were laid. This is too long a time for matters of this nature to be brought before the high court for trial. At that point, neither defendant was represented, and very little case management had been done. It was then that issues of legal representation and legal aid were being discussed.

[10] These procedural delays do have an impact on the sentencing process, and I will highlight this later on in this decision. However, it is important now to note that closer attention must be paid to the management of criminal cases in the justice system.

The Pre-Sentence Report

[11] On 12th October, 2024 the court ordered pre-sentence reports (PSR) in relation to all 3 defendants. I take the time now to publicly thank the team from the Department of Probation for the presentation of very thorough and helpful reports within a matter of days.

[12] Insofar as it relates to Javeth Vanterpool, the reports indicate that Mr. Vanterpool has had no previous encounters with the law and is not known in his community or anywhere else as a violent person. He is now 23 years old but was 18 years old at the time of the offence. Generally, the information obtained from his parents, other relatives and members of the community were very positive. There is nothing in his family history which causes any alarm, and he was known to be active in sports. His time at school was also unremarkable insofar as it relates to any deviant or delinquent behaviour.

- [13] Reports from the Prison also indicate that Javeth has not been disruptive or disrespectful during his time there. He is described as being cooperative and works well with both staff and inmates.
- [14] Javeth Vanterpool has expressed remorse for what transpired on 4th January, 2020. He stated that he was particularly remorseful because Mr. Vanterpool was his relative. He stated that on that date he was high on cannabis and that if there was anything in his past he would wish to change, it would be to avoid such circumstances. He has reflected on his life whilst in prison and made efforts to improve his attitude.
- [15] Mr. Vanterpool was assessed as presenting a moderate risk of re-offending on account of the nature of this incident. He, however, presents a low risk of causing harm to others and himself.
- [16] Shekuim Lake is now 25 years old and was 20 years old at the time of the offence. Mr. Lake has no previous convictions and was not in trouble with the law in any way prior to this offence. His home and family life are rather unremarkable and raises no issues as it relates to any deviant or delinquent behaviour. Reports from persons in the community indicates that he is a highly respectable and well-mannered young man. Community members expressed shock in knowing that he was involved in the events of 4th January, 2020. He was known to play basketball and was dedicated to that sport.
- [17] Mr. Lake's attendance at school was also unremarkable except for two instances. Sometime in 2012 Mr. Lake was found to be involved with drugs and alcohol and was suspended for a brief period of time. In one other incident he was involved in throwing stones. I note here that Mr. Lake has admitted to smoking marijuana and being high on that drug on 4th January, 2020 when the incident tookplace.
- [18] Mr. Lake was described by prison officials as being easy-going and calm during his time of incarceration. He is considered an overall good prisoner. He is employed in the prison as a wing-cleaner and a part time barber. He has expressed remorse for

his actions and states that the whole situation is very sad, and it makes him feel terrible. He stated that at the time he was young and arrogant, and that Mr. Vanterpool was a good person whom he called uncle.

[19] Mr. Lake is described as posing a medium level of risk of reoffending and harm to others due to the seriousness of the charges. However, this risk could be lowered with targeted interventions such as substance abuse counselling and vocational training.

[20] Mr. Deonne Smith has no previous convictions and is not known to the law. He described his upbringing as rough. He was raised by his mother and did not know who his father was. He claims to have had a good relationship with his mother and 5 other siblings. He states that he was initially active in church in his youth, but gradually withdrew his attendance. Mr. Smith's mother described her relationship with him in positive terms. He, however, went to live with his grandmother from the age of 13. He continued to live with his grandmother up until his arrest in relation to this offence. Mr. Smith's grandmother now suffers with dementia.

[21] Mr. Smith was described as being hot headed and having a temper by two of his football coaches. Whilst he was good at the sport and was described as a team player, he was known to use unpleasant language and could be rude and disrespectful at times.

[22] Members of the community noted that Mr. Smith was quiet, and they generally had no problems with him. It was known that his home environment was not particularly stable.

[23] During his years at secondary school, Mr. Smith was suspended on occasion for fighting. He was described by school authorities as being an average student but was known to be rude and disrespectful towards his peers and with the authorities. The PSR stated that Mr. Smith could be aggressive and easily angered during his time at school. His behaviour was disruptive during class, and he physically assaulted other students. This type of behaviour deteriorated over time.

- [24] At the time of his arrest, Mr. Smith was employed as a fisherman.
- [25] As it relates to his time in prison, Mr. Smith was described as being quiet and spends a lot of time in his room. However, he can be boisterous at times. He was initially employed in the prison but lost this job as a result of an altercation which is now currently under investigation. He was also involved in 2 other investigations during his time in custody. He was scheduled to attend mandatory counselling sessions but refused to do so.

Victim Impact

- [26] The Pre-Sentence Report contained information regarding the impact of Mr. Leroy Vanterpool's death on his family. His sister Mrs. Susan Smith and brother Mr. Joseph Vanterpool stated that Mr. Vanterpool was extremely close to his siblings. For his family the first few weeks after his death were extremely difficult. Mr. Vanterpool's death has had a significant impact on his mother with whom he had a close relationship. To this day she still looks for him to come and spend the night with her as he did prior to his death.
- [27] Mr. Deon Vanterpool is Mr. Vanterpool's son. He expressed emotions of anger at his father's death. It was even hurtful knowing that Javeth Vanterpool, one of the defendants in this matter, is in fact related to Mr. Vanterpool. In the year of his death, Mr. Vanterpool became a grandfather of two girls. They will never have the opportunity of knowing him and he missed the opportunity to be a grandfather. Deon Vanterpool states that he continues to miss his father. He expressed emotions of intense sadness, emptiness, extreme anger, loss of concentration and stress as a result of his father's death.
- [28] Mr. Salih Raheem was contacted by the social worker but indicated that, for the sake of his mental health, he prefers to just let things end. He simply wants things

to be over because of the overwhelming and traumatising nature of what transpired. He tries to avoid the risk of crime in society and is grateful to be alive.

[29] Before assessing the appropriate range of sentences under the ECSC Guidelines, I make just a few observations regarding the facts outlined in the agreed document presented to the court:

- (a) The crown is indicating that there is information, which is not now contained in the file disclosed, which reduces the level of culpability of the 2nd and 3rd defendants. This fact was not contained in the papers. Both the crown and defence have asked the court to consider that there has been some measure of cooperation from the defendants in providing additional information regarding the events of 4th January, 2024.
- (b) The court also notes that the defendants are all pleading guilty to this offence some 4 years after they were arrested and charged. However, the court has carefully considered the available procedural history and notes that the defendants were all without legal representation for the preliminary inquiry. Upon obtaining representation through the legal aid process and obtaining advice from counsel, the defendants have all pleaded guilty.

Sentencing

Attempted Robbery and Conspiracy to Rob

[30] Section 24 of the **Criminal Code of Anguilla**¹ states as follows:

24. (1) A person who attempts to commit an offence commits an offence and is, unless any other punishment is provided in this Code or any other law, liable on conviction—

¹ Chapter C140

(a) if the completed offence is punishable by imprisonment for life, or for 10 years or more, to imprisonment for 7 years; and

(b) in any other case, to the same penalty as may be imposed for the completed offence.

[31] Based on the provisions of this section, the maximum penalty which may be imposed for an attempted robbery charge is that of 7 years in prison. Without consulting the sentencing guidelines, it would also be the case that if the court were to take into account a guilty plea along with time served, regardless of the further mitigating or aggravating factor, the defendants, having already remained in custody on remand for 4 years and 9 months, have served the time, or perhaps even more than would be imposed on them even if the matter were to proceed to a full trial.

[32] On the second charge of conspiracy to rob, section 33 of the **Criminal Code** states as follows:

Any person who is convicted of conspiracy to commit an offence is, unless any other punishment is provided in this Code or any other law, liable to imprisonment for 3 years.

[33] Insofar as this charge against the defendants is concerned, a similar situation arises. If the maximum penalty for this offence is 3 years and the defendants have been in custody for 4 years and 9 months on remand, even without consulting the guidelines, the defendants would have already spent more time in prison than would have been imposed on them if convicted.

[34] The defendants would therefore be sentenced to time served on the charges of attempted robbery and conspiracy to rob. Insofar as Javeth Vanterpool is concerned, these are the only charges brought against him. In these circumstances he is to be released from custody.

Shekuim Lake and Deonne Smith

Manslaughter

[35] The court had ordered the filing of submissions on sentencing. The crown as well as counsel for the defence filed submissions. It was submitted that this offence falls within category C of the sentencing Guidelines. Within that category the starting point for an appropriate sentence would be 12 years in prison, with a range of 6 to 16 years. Despite the fact that the defendants have pleaded guilty to the offence of manslaughter and the crown has accepted that plea, along with information which is stated to have assisted in identifying a third person who was involved in this shooting, I do not agree with the submission that the starting point in this sentencing exercise is to be that low. Mr. Vanterpool was killed in the course of a robbery and a second person was shot whilst the assailants fled the scene. This is not a category C offence.

[36] I consider this to be a category A offence in terms of its consequence and its level of seriousness. I have concluded this for the following reasons:

- (a) The defendants were all part and parcel of this offence in circumstances where they were attempting to rob Mr. Vanterpool with the use of a weapon.
- (b) They were aware that a firearm was used in the offence. It is my view that the defendants would have been aware of the high risk of death or really serious harm which was or ought to have been obvious to them as offenders in an attempt to rob.

[37] In light of this and under the sentencing guidelines, the starting point for incarceration in this offence would be 24 years with a range of 14 to 30 years in prison.

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

- (a) The offence involved use of a weapon;
- (b) Other persons were put at risk of harm by the offending to the extent that one other person was in fact shot during the offence;
- (c) The death occurred in the context of an attempted robbery which was planned and premeditated;
- (d) One of the defendants, Mr. Deonne Smith left the jurisdiction after the offence had been committed.

[39] As it relates to the aggravating factors outlined in (a) and (c), I have already taken these into account in determining the appropriate category in which to place the offence. I would therefore not consider them again as aggravating factors at this stage. However, in light of the other aggravating factors, I consider an increase in the sentence from 24 to 26 years as being appropriate. I do not find there to be mitigating factors of the offence.

[40] As it relates to aggravating factors of the offenders, I do not find there to be any as contained in the guidelines in relation to Mr. Lake. I do however take into account the history of Mr. Deonne Smith's behaviour in the past. He also has at least one infraction during his time in custody which should be taken into account. In relation to the mitigating factors, I consider them to be as follows:

- (a) Both defendants have no previous convictions;
- (b) The Pre-Sentence Reports indicate that Mr. Lake has no history of delinquent behaviour in his youth. During this time in custody, he has worked in the prison and has been of good behaviour;
- (c) Both defendants have expressed remorse for their role in Mr. Vanterpool's death.

[41] Based on the mitigating factors, I would reduce the sentence to 21 years in relation to Mr. Lake and 22 years in prison in relation to Mr. Smith.

[42] As I indicated earlier, I would credit the defendants for an early guilty plea on account of the procedural history of this case. I would consider the full reduction due to the delay in bringing this indictment and the fact that they had not been represented by counsel from the start. As it relates to Mr. Lake that reduction would arrive at a sentence of 14 years and in relation to Mr. Smith that would amount to a sentence of 14 years and 7 months.

[43] Both the crown and counsel for the defendants has asked the court to consider the fact that the defendants may have been influenced by an older person who was more experienced and involved in criminal activity and who may have been the one to pull the trigger. That information was, although late in the day, provided by the defendants. I do express some concern with this but would none-the-less accede to the request of counsel from both sides on that issue. It is for this reason I have arrived at a sentence which is below the lower limit of the guidelines.

[44] In the circumstances I would sentence Mr. Lake to 12 years in prison and Mr. Smith to 13 years in prison for the offence of manslaughter.

Attempted Murder

[45] As it relates to the attempted murder charges the appropriate guideline is that of INFLICTING UNLAWFUL VIOLENCE WITH INTENT TO CAUSE REALLY SERIOUS HARM.

[46] I would consider this to have a high level of seriousness, as a weapon was used in the offence, and it was committed whilst leaving the scene of another serious crime. Given that the maximum sentence for attempted murder in the **Criminal Code** is life imprisonment, I note that the guidelines have outlined that a term of 30 years would be appropriate for consideration as the maximum. In light of this, a starting point of 18 years with a range of 13 years and 6 months to 22 years and 6 months imprisonment is appropriate.

[47] Even after consulting this specific guideline, I consider the aggravating and mitigating factors of the offence and the offenders respectively, to be the same as for the offence of manslaughter and would not now repeat them.

[48] In light of this I would increase the sentence from 18 years to 22.5 years. In taking into account the mitigating factors of the offenders I would then reduce that sentence to a term imprisonment of 20 years.

[49] Having considered the appropriate sentence, I would credit the defendants for an early guilty plea therefore further reducing the sentence to 12 years on account of the mitigating and other factors I have referred to above.

The Sentences

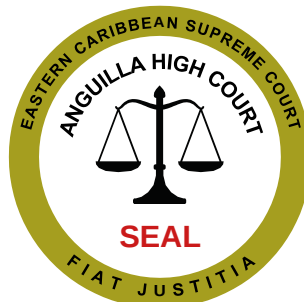
[50] On the charges of attempted robbery and conspiracy to rob, each defendant is sentenced to time served.

[51] On the charges of manslaughter, Shekuim Lake is sentenced to 12 years in prison and Deonne Smith is sentenced to 13 years in prison.

[52] On the charges of attempted murder, Shekuim Lake and Deonne Smith are both sentenced to 12 years in prison.

[53] The sentences are to run concurrently, and time spent on remand is to be credited towards the sentences for each defendant.

Ermin Moise
High Court Judge



BY THE COURT
Chanelle Peltier Barrett

REGISTRAR