

**EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA**

IN THE HIGH COURT OF JUSTICE

CASE NO. ANUHCR2023/0055

BETWEEN:

THE KING

-and-

JULIEN DALRYMPLE

Appearances:

Mr. Daniel Lattery for the Crown
Mr. Lawrence Daniels for the Defendant

2024: April 15th,
22nd

SENTENCING RULING

[1] **BAKRE, J.:** By Indictment filed on 22nd May 2023 the Defendant, Julien Dalrymple was charged with two counts. The charges are as follows:

FIRST COUNT

STATEMENT OF OFFENCE

WOUNDING WITH INTENT, Contrary to Section 20 of the Offences against the Person Act, Cap. 300 of the Revised Edition (1992) of the Laws of Antigua and Barbuda.

PARTICULARS OF OFFENCE

JULIAN DALRYMPLE on the 2nd day of January, 2022, at All Saint in the Parish of Saint Paul in Antigua and Barbuda, unlawfully and maliciously wounded SOLOMON ANTHONY with intent to do him grievous bodily harm.

SECOND COUNT

STATEMENT OF OFFENCE

UNLAWFUL WOUNDING, Contrary to Section 22 of the Offences against the Person Act, Cap 300. Of the Revised Edition (1992) of the Laws of Antigua and Barbuda.

PARTICULARS OF OFFENCE

JULIAN DALRYMPLE on the 2nd day of January, 2022, at All Saints in the Parish of Saint Paul in Antigua and Barbuda, unlawfully and maliciously wounded **SOLOMON ANTHONY**.

[2] The Defendant pled guilty to count two of the indictment and is now before the court for sentencing.

[3] The court has had the benefit of the prosecution's written sentencing brief and the defendant's plea in mitigation which was presented orally by his counsel.

Background

[4] The Defendant and the Virtual Complainant ("VC") are brothers who share the same mother.

[5] On 2nd day of January 2022, the VC was woken up by loud music coming from the Defendant's dwelling house which is located on the same property in which the VC lives. The VC lives with his mother in a house a few feet in front of the Defendant's home.

[6] The VC opened the back door, threw five stones on the roof of the Defendant's house and shouted to tell the Defendant to turn down the music.

[7] The Defendant then came out of his house with a cutlass in his hands rushed onto the veranda of the VCs home and kicked the front door open. He then attacked the VC with the cutlass.

[8] The VC ran into his mother's bedroom and hid behind the door in an attempt to escape the Defendant. The Defendant went into the bedroom, still swinging the cutlass at the VC. The VC put up his hand to block the blow and received several cuts on his body to include his right pinkie finger, left forearm, right and left knees.

[9] The VC managed to push the Defendant outside the bedroom. He then used the weight of his body to keep the bedroom door closed but had to lift his feet off the floor by bracing against a bed as the Defendant was also pushing the cutlass under the door to cut him.

[10] The VC managed to call the police and after they arrived on the scene, he went to the Sir Lester Bird Medical Centre to receive treatment for his injuries. He received three stitches to a wound on his left knee, one stitch to a wound on his right knee, two stitches to a wound on his left hand and eight stitches to reattach the pinkie finger on his right hand.

The Impact of the Offence on the Virtual Complainant

[11] The Virtual Complainant Mr. Solomon Anthony gave evidence of how the Defendant's actions have impacted him. He says he was injured during the attack and that the injuries have affected his ability to work. He is a welder by trade and now has difficulty holding his tools. He also explained that he has trouble completing daily chores.

- [12] He said that he had to take three months off work after the incident and that during that time he had to rely on his mother and a neighbor for financial assistance and assistance to complete his household chores.
- [13] He also said that he had difficulty sleeping and that he could not walk properly. He expressed being fearful of the Defendant attacking him again as he would have been unable to defend himself due to his injuries.
- [14] Mr. Anthony stated that he was open to accepting compensation from the Defendant. He said that he lost income for three months due to his injuries and indicated that he is paid \$800.00 per week. He also said he had to purchase medication to manage the pain from the injuries.

The Plea in Mitigation

- [15] Mr. Daniels spoke on behalf of the Defendant. He informed the court that the Defendant is currently 56 years of age and works in the construction industry. The Defendant has five children, the youngest is 13 years of age and the eldest is 25. The Defendant's three youngest children attend school and are heavily reliant on him for support. Additionally, the Defendant is not known to the court as this is his first offence.
- [16] Counsel indicated that the Defendant displayed a catastrophic lack of judgment on the day of the attack by introducing a weapon into the dispute with his brother. He also indicated that in February 2024 the Defendant's mother passed away and that he was unable to attend the funeral due to the bail conditions which were in effect at the time.
- [17] Counsel asked the court in passing sentence to consider the fact that the Defendant is remorseful and has admitted to the offence. Counsel says that the Defendant's actions have caused him much shame and embarrassment, he has had to relocate following the incident and has lost touch with friends and family. Counsel also indicated that the Defendant and Virtual Complainant no longer speak to each other.
- [18] Mr. Daniels asked the court to consider the imposition of a fine and an order for compensation so that the Defendant can understand the severity of his actions and also with the hope that in the future the relationship between the brothers can be repaired.

Constructing the Sentence

- [19] In constructing the sentence, the court will be guided by the Eastern Caribbean Supreme Court Sentencing Guidelines for Violence Offences Re-Issue 8th November 2021.

Harm

- [20] The first stage is to consider consequence by assessing the harm caused by the offence. Given the evidence of psychological and physical harm done to the virtual complainant the court considers the harm caused to be Category 2 (High).

Seriousness

- [21] The second stage is to consider seriousness by assessing the culpability of the offender. The court has assessed the level of seriousness to be Level A (High) as the Defendant used a cutlass to attack the victim.

Starting Point

- [22] Having assessed both the level of harm and the level of seriousness as High the court must now determine the appropriate starting point. Section 22 of the Offences Against the Person Act, Cap 300 states that "Whosoever unlawfully and maliciously wounds, or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, is guilty of a misdemeanour, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding five years, with or without hard labour..."
- [23] The interplay of harm and seriousness as previously determined places the starting point at 60% of the maximum sentence with a range of 45%-75%. The starting point therefore translates to 3 years imprisonment.

Aggravating and Mitigating Factors of the Offence

- [24] The court at this stage will consider the aggravating and mitigating factors of the offence and adjust the sentence accordingly.
- [25] The aggravating factors of the offence are as follows:
- a. The Defendant and the Virtual Complainant are brothers and the incident occurred in the VC's home. The court thus considers this offence to be one of domestic violence.
 - b. The court also notes that the Defendant escalated the situation to a violent episode.
- [26] As for mitigating factors the court notes that the Defendant was provoked by the Virtual Complainant who had been throwing stones on the Defendant's rooftop, the court also notes that the incident was an isolated one.
- [27] In the circumstances I will adjust the sentence upwards to 3 years and 5 months imprisonment.

Aggravating and Mitigating Factors of the Offender

- [28] The aggravating and mitigating factors of the offender must now be considered. There are no aggravating factors relevant to this Defendant. As for mitigating factors the court notes that the Defendant has no prior convictions and is reported to be remorseful over the incident. The sentence will therefore be adjusting downwards to three years imprisonment.

Guilty Plea

- [29] The Defendant has pled guilty and will therefore be given a one third reduction in his sentence bringing it down to 2 years imprisonment.

Departure from the Sentencing Guidelines

- [30] Despite the foregoing, this court has the power to depart from the Guidelines in coming to an appropriate sentence. The Guidelines also indicate that the court may make an order for compensation. Additionally, section 67 of the Offences against the Person Act, Cap 300 gives this court the power to impose a fine in lieu of imprisonment where a person is convicted of a misdemeanor offence such as wounding. The fine imposed may be proportioned to the means of the offender.
- [31] Practice Direction 8A, No: 1 of 2019 of the ECSC which addresses General Sentencing Principles states that "Any departure from the guidelines must be explained as part of the reasoning."
- [32] The question this court must now determine is whether there are compelling reasons for not following the Sentencing Guidelines.
- [33] Of the four principles of sentencing outlined in **Desmond Baptiste v. The Queen (Saint Vincent and the Grenadines High Court Criminal Appeal No.8 of 2003)**, the consideration that is most applicable to this case is retribution. In **The King v Marlon Joseph ANUHCR2019/0068**, the court stated that "retribution does not necessarily require the imposition of a term of imprisonment."
- [34] The Virtual Complainant has expressed that he is willing to accept compensation for his injuries. In the circumstances the court will order the Defendant to pay compensation in the amount of EC\$10,000.00. The breakdown is as follows- EC\$9,600.00 to compensate the victim for his loss of income for three months (\$800.00 per week for 12 weeks), \$400.00 for the medication and to compensate the VC for the pain and suffering he endured.
- [35] The court also impose a fine of EC\$1,000.00 in addition.

SENTENCE

- [36] **JULIEN DALRYMPLE** you are hereby ordered to pay compensation in the amount of \$10,000.00 to Solomon Anthony and a fine of \$1,000.00. The fine is to be paid forthwith and the sum ordered as compensation is to be paid within 90 days of this order out of which a 1/3 must be paid within 30days from today. In default you are to be imprisoned for 2 years.

Tunde A. Bakre
High Court Judge



By the Court

Registrar