

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

COMMONWEALTH OF DOMINICA
CASE NO: DOMHCR: 2024/0009

BETWEEN:

THE STATE
V
CASY KENNEDY JOSEPH

APPEARANCES:

Ms Sherma Dalrymple, DPP, Ms Daina Matthew, and Ms Marie Louise Pierre-Louis State Counsel,
for the State

Mr Bernard Pacquette of Sage Chambers for the Defendant

2024: April 19th, 23rd,
May 10th, 15th.

SENTENCING

1. **COLIN WILLIAMS J:** Mr Casy Kennedy Joseph pleaded guilty at his arraignment on Friday the 19th of April 2024, to two counts of causing grievous bodily harm with intent, contrary to the provisions of section 20 of the **Offences Against the Person Act, Chapter 10:31** of the Revised Laws of Dominica 1990.
2. Mr Joseph's indictment arose from an incident a little more than four years previously, on the 12th of April 2020, at Grand Fond, in the Parish of Saint David in the Commonwealth of Dominica.

3. The victims in Count One and Count Two respectively were Ms Jolisa Dublin, 21 years old, and her sister, Ms Tricia Valentine, 25 years old.
4. Mr Joseph, on the 23rd of April 2024, agreed to the facts presented by the State. His sentencing was adjourned to Friday the 10th of May 2024 to await a social inquiry report from the Probation Unit of the Department of Social Services.

The Facts

5. Mr Joseph and Ms Valentine were in a relationship. He is the father of her young son.
6. On Sunday the 12th of April 2020, Mr Joseph was at a male friend's home. His friend received a telephone call. What Mr Joseph heard of the conversation excited his curiosity. He then left to go to visit the home of Ms Valentine, who was his girlfriend and child's mother.
7. When Mr Joseph got to the house, he met Ms Valentine, her sister, Ms Dublin, and his son on a bed in the bedroom.
8. Mr Joseph immediately confronted his girlfriend, Ms Valentine, about the telephone conversation that he had just overheard while he was at his friend's home. Ms Valentine denied that it was her who was on the phone with Mr Joseph's friend.
9. Ms Valentine's denial was supported by her younger sister, Ms Dublin. Ms Dublin stated that she was the one who made the call using Ms Valentine's phone.
10. Mr Joseph then took out a blue and white handle knife from his waist and began stabbing both women.
11. Ms Valentine fell to the floor and Ms Dublin ran out of the house with Mr Joseph in pursuit. Ms Dublin fell on a dirt road and Mr Joseph continued to stab her. He then returned to the house and inflicted further stabs on Ms Valentine. Mr Joseph afterwards fled the scene.
12. Both ladies were transported to the Dominica-China Friendship Hospital where they underwent emergency surgery.
13. Mr Joseph was located two days later (on the 14th of April 2020) in the bushes in Rosalie, in the Parish of Saint David.

The injuries

14. The medical report from Dr Korak Frederick, Consultant General Surgeon, shows that Ms Dublin received seven stab wounds:
 - Two to her back (posterior thorax); and one each
 - To her left thigh;
 - To her left arm;

- To her right arm;
 - To the right side of her neck; and
 - To her left breast.
15. Each wound was about 1 cm wide. The multiple stab wounds were sutured. On arrival at the hospital it was noted that Ms Dublin experienced decreased bilateral air entry (shortness of breath). She remained hospitalized for five days.
 16. Dr Frederick also produced a report in relation to Ms Valentine. The Consultant Surgeon noted that Ms Valentine received eight stab wounds:
 - Three to the posterior thorax (back).
 - One to the lumbar region.
 - Three to the upper region.
 - One to the epigastric region
 17. The stab wounds were 1 cm wide. The stab wounds were sutured. Exploratory laparotomy was done and the doctor indicated that there was a laceration to the left lobe of the liver and that there was active bleeding.
 18. Ms Valentine, like her sister, on arrival at the hospital had shortness of breath. She was taken to the operating theatre. A bilateral chest tube was placed and connected to a water seal bottle.
 19. Ms Valentine remained hospitalized for twelve days.
 20. The doctor expressed the view that the wounds sustained by both Ms Dublin and Ms Valentine were life threatening.
 21. There was no indication in the medical reports that either Ms Dublin or Ms Valentine suffered any permanent disability or required any additional treatment or therapy after being discharged from the hospital.

Social Inquiry Report

22. A comprehensive Social Inquiry Report was prepared by the acting Principal Probation Officer, Ms Anestin Baron.
23. According to the report. Mr Joseph is now aged 33 years. He was born in Saint Lucia and migrated to the Commonwealth of Dominica as an adult, in June 2018 “for a change of environment.”
24. Mr Joseph soon after his arrival in the Commonwealth of Dominica gained employment as a skilled worker on a hotel project. Later that year, (2018), he commenced an intimate

relationship with Ms Valentine. He and Ms Valentine relocated from Portsmouth to Grand Fond where he resided at the time of the incident in 2020.

25. Ms Baron's report indicated that from her interviews with members of the community of Grand Fond, "Mr Joseph was described as a decent and hardworking individual who interacted well with community members and was not known to engage in conflict situations in the community." She noted that: "No negative comments were expressed about Mr Joseph."
26. Besides interviewing residents of Grand Fond, Ms Baron also did telephone interviews with individuals in Saint Lucia.
27. Mr Joseph is one of five children born from the common law union of his parents. He had the benefit of extended family care, living with his grandparents during the week and with his parents on weekends. He attended the Sir Ira Simmons Secondary School in Saint Lucia and later pursued skills training programmes in small business management and plumbing. Besides the now five-year old child he has with Ms Valentine, Mr Joseph has another child in Saint Lucia.
28. Ms Baron noted that "Mr Joseph was a victim of childhood abuse (physical and emotional) from his father and that he was exposed to a level of domestic violence and community disorganization." Mr Joseph explained to the social worker that "he was raised in a community that could be described as a rural ghetto where significant problems relating to rates of crime, drugs, poverty, violence and individuals with low intelligence were prevalent." He started consuming alcohol before he was ten years old and started smoking marijuana from the age of fifteen years old.
29. According to the Social Inquiry Report, Mr Joseph "expressed remorse for his actions."
30. Mr Joseph was quoted as stating: "I am sorry for what I did to the mother and the aunt of my son. I have to live with that for the rest of my life." He said that he was unable to apologize to either one of the victims as they do not communicate with him.
31. Mr Joseph acknowledged that he has anger management issues and spoke to the Social Worker of initiatives to address his anger. He also spoke of undergoing Aggression Replacement Training while he was in Saint Lucia.
32. In concluding her report, Ms Baron stated:

"The general views obtained from the interviews are that Mr Joseph is a hardworking and family-oriented individual. Irrespective of this, his unlawful action cannot be trivialized or overlooked. The views of the victims were not obtained to determine the direct impact of the incident on them.

“Taking into consideration all the views expressed, the fact remains that Casy Kennedy Joseph has accepted responsibility for his actions.”

33. Mr Joseph indicated to Ms Baron that he “uses physical exercise to reduce his aggression,” and he “admitted to needing assistance in that regard.” This was an important acknowledgement by Mr Joseph. He must, however, take positive steps to access the required assistance.

Victim Impact

34. Ms Baron was unable to contact the complainants, Ms Valentine and Ms Dublin.
35. Ms Baron reported going to multiple communities and enlisting the support of officers at District Police Stations in a futile attempt to locate Ms Valentine.
36. Ms Baron indicated that when she contacted Ms Dublin in Grand Fond, “Ms Dublin immediately informed [me] that she was not discussing the matter and walked away.” Efforts to speak with Ms Dublin from outside the closed door were met with silence. A visit to Ms Dublin the following week was equally fruitless.
37. At the Sentencing Hearing on the 10th of May 2024, Ms Valentine however appeared. Having stated that her address was Grand Fond. Ms Valentine explained why the Probation Officer’s efforts to locate her were unsuccessful; she indicated that her address is where she is from, not where she lives.
38. Ms Valentine indicated that for employment purposes she left Grand Fond three years ago and lived elsewhere. She changed jobs often, sometimes after a few months, but she has been in her present job working at a restaurant in Roseau for more than a year. She claimed that she suffered an injury during the attack by Mr Joseph on 12th April 2020. It was drawn to her attention that the issue she identified was not noted in the medical report from the doctor at the hospital; she stated that what she was experiencing with her legs was a consequence of an injury to her back, with the stab injury being close to her spine.
39. Ms Valentine indicated that the reason her sister, Ms Dublin, reacted in the particular manner to the Probation Officer was because her sister thought that the Officer was “coming to take the child” away from them.

Sentencing Guidelines

40. There was nothing to suggest that there was any need to depart from the **Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules, 2019**.
41. Determining the sentence involves a number of sequential steps before giving the final sentencing order. The steps are:

- 1) Determine the starting point by assessing the seriousness and consequences of the offence.
 - 2) Adjust the figure by evaluating the aggravating and mitigating features in relation to (a) the offence, and (b) the offender.
 - 3) Discount the figure for an early guilty plea
 - 4) Adjust the figure for multiple offending.
 - 5) Account for the time spent on remand
 - 6) Ancillary Orders
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42. Based on the medical reports, the injuries to the victim in Count Two, Ms Valentine, appear to have been more serious than those in the case of Ms Dublin. Ms Valentine was hospitalized for twice as long as Ms Dublin. The determination of the appropriate sentence to be imposed on Mr Joseph will proceed by first considering the factors applicable to Ms Valentine, then making the required adjustment to account for the two counts on the indictment.
 43. The maximum sentence imposable for causing grievous bodily harm is ten years imprisonment.
 44. The starting point in computing the sentence is arrived at by considering the intersection on the sentencing grid of the seriousness level and the consequence of the offence.
 45. The consequence is Category 2 – High. There was serious physical harm inflicted, requiring surgery. The seriousness level is Level A – High, as there was the use of a weapon – a knife.
 46. The intersection on the sentencing grid of High Consequence and High Seriousness places the offence in the range of 45% to 75% of the maximum sentence, with a possible starting point of 60%. Having indicated earlier the maximum sentence is 10 years, the sentencing starting range is four-and-a-half years to seven-and-a-half years with a possible starting point of six years.
 47. The recommend starting point of 6 years in the Guidelines is appropriate in this case. This was not wounding at the lower end of the scale; neither was it at the higher end.
 48. The next step is to adjust the starting figure based on an evaluation of the aggravating and mitigating factors in relation to the offence and also in relation to the offender.
 49. There are several aggravating factors regarding the commission of the offence.

- It was committed in the virtual complainants' home.
- It was excessive, with the victim suffering multiple stabs.
- There was a second round of stabbing after the initial attack.
- The stabbing was committed in the presence of Mr Joseph's and Ms Valentine's infant child.

50. On the other hand, there was no premeditation. It is accepted that there was the apparent loss of self-control, somewhat like a jealous rage, sparked by Mr Joseph's instincts and suspicion rather than resulting from any direct provocative act by the victim and grounded in his predisposition to react with aggression. As noted by the Probation Officer: "Mr Joseph accepts responsibility for his actions... he explained that he felt betrayed by Ms Valentine and he allowed his emotion to take control of him."
51. In relation to the factors impacting on the offender, it is noted that Mr Joseph, who is a national of Saint Lucia, has no previous offences in the Commonwealth of Dominica and no documentation was provided which indicated that he has convictions in Saint Lucia.
52. There are no aggravating factors with regard to Mr Joseph personally. There are however mitigating factors in his favour. He has shown genuine remorse. He has to be treated as a first time offender, with no previous convictions.
53. While the aggravating factors in relation to the offence would increase the sentence, the mitigating factors in relation to the offender would correspondingly decrease it. The aggravating and mitigating factors balance each other. The figure therefore remains at 6 years at this stage.
54. Mr Joseph is entitled to the full one-third discount, having pleaded guilty at the first opportunity. That would reduce the sentence by two years. That takes the figure down to four years.
55. The next step is to consider the totality of the offending. There were two individuals who were physically harmed in the attack. Accordingly, one year is to be added to sentence (to account for the other count on the indictment). This takes the sentence to five years.
56. Mr Joseph has been on remand at the State Prison since he was detained in April 2020. He did not obtain bail at any time. The time he spent on remand has to be accounted for. Mr Joseph is to receive the benefit of the time spent on remand.
57. The final step is to consider any ancillary orders.
58. Ordinarily, ancillary orders address issues such as compensation, restraint orders and the like. No such order is required in this case and none is made. However, it must be said that during the sentencing hearing, Ms Valentine expressed certain views with regard to

preventing Mr Joseph from having any contact with their infant child. Given Ms Valentines's expressed views, there may be the need for the intervention of the Department of Social Services to facilitate Mr Joseph's reasonable access to the child.

59. Counsel, Ms Marie Louise Pierre-Louis in her detailed sentencing submissions, advanced for the Court's consideration the provisions of section 73 of the **Criminal Law and Procedure Act, Chapter 12.01** of the Laws of the Commonwealth of Dominica, which provides that:

"Any person who is convicted of an indictable offence may be adjudged by the court to make compensation to any person injured by his offence; and any sum adjudged may be recovered by such process, including imprisonment in default of payment, for twelve months as the court may direct."

60. Counsel provided a number of cases where compensation was ordered.

61. The circumstances and realities of this case ought to be recognised:

- This matter dates back to April 2020 and is only now coming before the High Court several years after the incident.
- Mr Casy Kennedy Joseph has been in custody at the State Prison since April 2020.
- There is no reliable medical evidence regarding the present condition of the complainants or their post-trauma circumstances, whether there was any partial or permanent disability.
- The non-cooperation or inaccessibility of both Ms Valentine and Ms Dublin with the Probation Officer as she sought to prepare the Social Inquiry Report ordered by the Court.
- The Social Inquiry Report would ordinarily include victim impact statements and provide the Court with relevant and valuable information regarding the victim's circumstances and expectations.

62. To impose on Mr Joseph at this time, several years after he has been in custody, an order for compensation to the complainants with the alternative of a prison sentence would be manifestly unjust. It would be punishing him twice for the same offences.

Sentence

63. Mr Casy Kenney Joseph, having pleaded guilty to causing grievous bodily harm, with intent, to Ms Jolisa Dublin and Ms Tricia Valentine, is sentenced to a term of five years imprisonment with effect from the 14th of April 2020, the date he was first detained by the State authorities.

Colin Williams
Judge, High Court

Registrar

High Court