

**IN THE SUPREME COURT OF GRENADA
AND IN THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CRIMINAL)**

GRENADA

CASE NO. GDAHCR2022/0024

BETWEEN:

THE KING

And

KEITH PIERRE

Appearances:

Mr. Jordan Marshall, Crown Counsel for the Crown
Mr. Jerry Edwin of Counsel for the Defendant

2024: February 16; 29.

JUDGMENT ON SENTENCING

- [1] **INNOCENT, J.:** The defendant in the present proceedings stands charged with the offence of causing maim contrary to **Section 208** of the **Criminal Code** by virtue of an indictment filed on 12th October 2022 in relation to events that occurred on 2nd February 2019. Initially on 3rd February 2019, the defendant was charged with the offence of grievous harm in relation to the same incident and victim.
- [2] Before delving into the undisputed facts of this case the court thinks it necessary to chronicle the unusual procedural history of the present case which bears some relevance to the sentencing exercise which the court now embarks upon.
- [3] Upon his arraignment on 14th October 2022, the defendant pleaded guilty to the subject offence. It appears from the record that the prosecution would have withdrawn the initial indictment filed on 7th October 2022 and substituted the present

indictment in its place. The matter was therefore adjourned to 14th October 2022. There appears to be no record of what transpired on 14th October 2022.

- [4] On 18th November 2022, the sentencing hearing was adjourned to 25th November 2022 due to the defendant's alleged disruptive behavior in the course of the proceedings. Again there appears to be no record of what transpired in the proceedings on 25th November 2022.
- [5] The matter was subsequently adjourned and when the matter again came on for hearing on 9th December 2022, the defendant elected to represent himself; he was arraigned on the present indictment and changed his plea to not guilty. The matter was adjourned to 17th February 2023 for trial. The trial did not proceed. The matter came on for status hearing before this court as presently constituted on 1st February 2024 and was adjourned to 2nd February 2024 so that the defendant could again be arraigned. On 2nd February 2024, the defendant was arraigned and pleaded guilty to the subject offence. A sentencing hearing was scheduled for 16th February 2024.
- [6] In the early hours of 2nd February 2019, the victim was seated somewhere in the vicinity of River Road in St. George in the presence of three other persons including the defendant. Both the victim and the defendant resided in close proximity and knew each other for a period of approximately 10 years prior to the incident. The victim was speaking to an individual when the defendant unexpectedly and without warning dealt the victim a blow to his right hand with a machete. The victim ran away and the defendant pursued him while still in possession of the machete. The victim however managed to escape his assailant.
- [7] The victim's right hand was hanging from the wrist and he was bleeding. The police were summoned and the victim was conveyed to a medical facility. The victim was seen by a medical practitioner and presented with a large and deep lineal laceration that resulted in the partial amputation of his right wrist. This injury was associated with excessive active bleeding. The victim was conscious upon presentation at the medical facility. Surgical intervention was performed. At the time of the commission

of the offence the victim was 48 years old. The victim presently has limited use of his right hand which is now manifestly deformed.

- [8] When apprehended and interrogated by the police, the defendant admitted to having chopped the victim with the machete. The defendant's explanation for committing the offence was, in short, that he had suspected the victim of stealing his belongings and when he saw the victim at the described location, without saying anything to the victim he chopped him on his right hand.
- [9] The defendant is a recidivist and no stranger to the criminal justice system. At the time of the offence he was 45 years old. He is now 49 years old. The defendant's antecedent history reveals that he has 40 previous convictions dating back to the year 1992 to the year 2021. Several of the convictions are for offences of dishonesty. However, he has had numerous convictions for offences against the person dating back to 9th February 1995. On 9th February 1995 he was sentenced by the Magistrates' Court to 1 year imprisonment for the offence of harm. He was again convicted by the Magistrates' Court for the offence of harm on 18th May 2001. He was sentenced to 3 months imprisonment by the Magistrates' Court on 21st October 2013 for the offence of wounding. The defendant was also sentenced to 3 years' imprisonment by the Magistrates' Court on 5th December 2016 for the offence of wounding. Ultimately, the defendant was sentenced to 44 years' imprisonment by the High Court for the offence of noncapital murder on 18th March 2021. The defendant is presently serving out this sentence.
- [10] Although much of the defendant's offending forms part of a remote and distant past, and may not necessarily be relevant to the present sentencing exercise, it tells a revealing tale of a career criminal and a menace to society.
- [11] In sentencing the defendant, the court has applied the Compendium Sentencing Guideline for Violent Offences – Re-Issue 8th November 2021 (hereafter referred to as "the Guidelines") as provided for by the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules, 2019.

- [12] The court adopted a starting point sentence by reference to the grid contained in the Guidelines. The starting point sentence was established based on the seriousness of the offence, including the defendant's culpability in the commission of the offence and the consequences of the offence as referenced by the harm caused in the commission of the offence. According to the Guidelines, the starting point sentence arrived at was adjusted within the range to take account of the aggravating and mitigating factors in the case. This figure was also adjusted to take account of the defendant's personal mitigation and aggravating factors specific to the defendant.
- [13] Having arrived at a sentence that is within the appropriate range for the commission of the offence, the court considered whether there were any factors warranting a discount from the sentence arrived at; for example, whether and what if any discount was required to take into account the defendant's plea of guilty, time spent on remand and delay.
- [14] The court assessed the consequences by reference to the harm done at Category 1 – highest. The court assessed the seriousness of the offence at level A – higher.
- [15] In assessing seriousness by reference to the consequences and harm done the court took into account the physical harm done to the victim which can be evidenced by the resulting disability which the victim suffered. It appears that the victim now has a permanently deformed right hand which has obviously diminished his ability to utilize same in conducting the affairs of his daily life. It must be fair to say that this disability must be a source of embarrassment to the victim. The court also took into account the pain and fear which the victim must have experienced having witnessed the partial amputation of his right hand unexpectedly and in the circumstances in which it was done. Additionally, recovery from such an injury must have involved the victim experiencing pain and disability after surgical intervention and during the period of recuperation.

- [16] In assessing seriousness in terms the defendant's degree of criminal culpability, the court has placed the offence at Level A. The attack on the victim was unprovoked and amounted to a wanton and vicious attack on the victim based purely, if we accept the defendant's explanation, upon suspicion. There obviously was a degree of premeditation involved.
- [17] Therefore, the court determined that the appropriate starting point sentence would fall at 75% of the maximum statutory penalty and within a range of 60% to 90%. Therefore, the starting point sentence adopted by the court is 15 years imprisonment.
- [18] The court having determined the starting point sentence considered the aggravating and mitigating factors present in the case. The court was able to discern the following aggravating factors in the present case. The defendant was clearly motivated by revenge based upon his suspicion that the victim had stolen from him. The vicious and brazen attack upon the victim was perpetrated in a public place and in the presence of others. Additionally, the implement used was a machete. Our experience in this jurisdiction has taught us that a machete is a brutal and dangerous weapon when wielded in the wrong hands.
- [19] The court did not find the existence of any mitigating factors in the commission of the offence.
- [20] The court was unable to make any assessment in relation to matters of personal mitigation in relation to the defendant, the court not having had the benefit of a Pre-Sentence Report.
- [21] The defendant in this case has a startling number of previous convictions as the court has already highlighted in its opening remarks. It appears that the defendant has had a long and illustrious criminal career dating far back to his formative years. However, notwithstanding that most of these convictions form part of the defendant's remote and distant past, and may properly be considered as spent, it highlights a pattern of behavior which is akin to a solemn intent to flout the law

showing little disregard for person or property. Although, the court did not treat all of these previous convictions as relevant to the present sentencing exercise for the purpose of assessing the aggravating factors personal to the defendant, it is patently obvious that there is the urgent need to protect the public from serious harm from this offender. The pattern of the defendant's offending also paints him as a classic portrait requiring rehabilitation. These two factors, in the court's view, warrants uplift from the starting point sentence of 15 years' imprisonment.

- [22] In the circumstances, the court finds that in the present case the aggravating factors are far outweighed by the mitigating factors. Therefore, the court will adjust the starting point sentence of 15 years imprisonment upward by 2 years to take account of the aggravating factors. This figure of 2 years imprisonment reflects the adjustment made to the starting point sentence of 15 years imprisonment to take account of the aggravating and mitigating factors present in the case and matters related to the mitigating and aggravating factors personal to the defendant.

Credit for Guilty Plea

- [23] Mr. Pierre is entitled to credit for his guilty pleas. Typically, Mr. Pierre would be entitled to a discount equivalent to 1/3 of the notional sentence that the court was minded to impose to take account of an early guilty plea.
- [24] However, given the timing of the defendant's guilty plea which the court has already chronicled in its sentencing remarks, the defendant will not be given full credit for his guilty plea. In the court's view, the defendant is entitled to receive credit by way of reduction in the amount of 1/4 from the notional sentence. The discount of 1/4 from the notional sentence equates a period of 4 years' and 3 months' imprisonment. Therefore, the sentence after the discount for the guilty plea would be 11 years' and 9 months' imprisonment.

Credit for time spent on remand

- [25] The defendant has spent a period of 166 days on remand. Therefore, the defendant will be credited for all this time spent on remand. This period of 166 days spent on remand shall be deducted from the sentence of 11 years' and 9 months' imprisonment.
- [26] The defendant has previously been sentenced to a term of 44 years' imprisonment in relation to the offence of non-capital murder. This sentence was coupled with other ancillary orders which were tailored with the hopeful expectation that he may benefit from certain interventions to facilitate his rehabilitation. In the circumstances, the court in this instance has determined that the period of imprisonment imposed by the court for this offence shall run concurrently with the term of imprisonment that the defendant is presently serving.

Sentence

- [27] Therefore, the court's sentence is as follows:
1. The defendant, Mr. Keith Pierre is sentenced to a term of 11 years' and 9 months' imprisonment.
 2. The period of 166 days spent on remand shall be deducted from the sentence of 11 years' and 9 months' imprisonment.
 3. The term of 11 years' and 9 months' imprisonment shall run concurrently with the term of 44 years which the defendant is presently serving.

Shawn Innocent
High Court Judge

By the Court

Registrar