

**THE EASTERN CARIBBEAN SUPREME COURT
ST. VINCENT AND THE GRENADINES**

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

CASE NO: SVGHCR 2023/0016

BETWEEN:

REX

and

TENO PETERS

Appearances:

Ms. Allana Cumberbatch, Counsel for the Crown

Ms. Kay Bacchus-Baptiste, Counsel for the Defendant

**2024: February 9th
March 21st, 26th**

JUDGMENT ON SENTENCE

- [1] **FLOYD J. [Ag]:** The defendant, Teno Peters, was originally charged with murder. On 9th February 2024, a plea of not guilty to murder but guilty to manslaughter was entered. Counsel for the Crown was content with that plea. A Social Inquiry Report was ordered, and the case was adjourned to 21st March 2024 for sentence. The case was adjourned to 26th March 2024, awaiting written submissions. The facts as agreed, were found in the submissions of the parties, and in the case file. The Social Inquiry Report was filed on 21st March 2024. A Victim Impact Statement was filed on 22nd March 2024. Written submissions were filed on 22nd March 2024 by counsel for the Crown. Oral submissions were received on 26th March 2024. The matter now proceeds to sentencing.

The Facts

- [2] A New Years Eve celebration and gathering occurred at the Jar Plum Bar in Richland Park on 31st December 2021. Several people attended, and alcohol was consumed. As the night progressed, and midnight passed, there was general unrest in the bar. The owner closed down the establishment, and patrons went out into the yard. An argument ensued between the defendant, Teno Peters, and Joseph Michael McKie. The argument became physical, and the defendant produced a silver and black flip blade knife, which he used to stab Mr. McKie several times with. The men were facing each other when Mr. McKie was stabbed. The defendant was heard to say, "Boy, me go stab you up." The deceased fell to the ground, and was assisted by friends. Police were called to attend.
- [3] Mr. McKie was badly injured, and was transported to the Levi Latham Health Centre in Mesopotamia, where he was pronounced dead on 1st January 2022. The defendant was also transported to the Health Centre, where police observed a fresh wound above the right ear, a cut to the left ear, bruising to the upper left shoulder, and the left side of the neck. A knife was recovered from the hospital room where the defendant was treated. On 1st January 2022, the defendant was arrested at the Health Centre. Later that day, he was interviewed by police under caution and after rights to counsel had been administered.
- [4] The defendant told police that his injuries were from being struck with a bottle while liming earlier that night. When he was shown the knife, the defendant told police that it belonged to him, and that he used it to stab the deceased, also known as "Tallest." He said the knife must have fallen from his pocket when he was being treated at the Health Centre. He told police he consumed strong rum and beer that night. He also smoked "empire." He was not drunk, but he was high. The defendant said that he got into an argument with a man called Tevin. "Tallest" became involved, and pushed the defendant. He then rushed at "Tallest," grabbed his throat, and pulled his knife from his pant pocket. He "pelt stabbed" at "Tallest" as they faced each other. "Tallest" held the defendant, and scratched the defendant's

neck. They separated, “Tallest” picked up a piece of steel, and came towards the defendant. The defendant rushed at “Tallest” and stabbed him in the belly. “Tallest” fell to the ground. The defendant attributed the injuries to his ears, to the deceased.

- [5] The defendant was treated at the Health Centre. He received 7 stitches to close a wound to the right retro auricular, and 3 stitches to a superficial wound to the left ear. Bruising was noted to the left shoulder, and left side of the neck.
- [6] A post mortem examination of the deceased was conducted by Dr. Ronald Child, consultant pathologist, on 3rd January 2022. A stab wound was noted to the anterior chest wall, below the sternal notch, and left of the anterior midline. This penetrated to incise the right ventricle. A second stab wound occurred to the lateral aspect of the right hemithorax below the sternal notch, along the posterior axillary line. A third wound was a superficial incision to the mid ventral aspect of the left forearm. A fourth wound was a superficial incision to the mid dorsal aspect of the left arm. A fifth wound was an incised wound to the chin. The cause of death was listed as multiple stab wounds.
- [7] The Social Inquiry Report was prepared by Social Worker, Janiel George. The defendant is age 31, with a date of birth of 16th December 1992. Both his parents are deceased. He has nine siblings and one child of his own, who resides in Canada. He has a good relationship with his family, and describes himself as humble and hardworking.
- [8] The defendant has a criminal record consisting of one entry in 2018. Police officers familiar with the defendant described him as quiet and hardworking, but very loud and aggressive when he consumes alcohol. Prison officials described him as respectful, and compliant, with a good attitude.
- [9] The defendant left school in Form 3. The defendant stated that he had very little family support, and he and his siblings were forced to support themselves. His mother suffered with ill health when he was young. As an adult, he has worked in the construction field.

- [10] The defendant is in general good health, drinks socially, and uses marijuana frequently.
- [11] When asked about the offence, the defendant stated he wanted to take responsibility for his actions, and plead guilty. He is remorseful, and acknowledges the seriousness of his conduct. The victim was a friend. He cannot recall what triggered the confrontation, but everyone was intoxicated that night, and it was the victim who was the aggressor. He acted in self defence.
- [12] Family members spoke highly of the defendant. He contributed to the family, and was a hard worker, with a good attitude.
- [13] Not surprisingly, members of the victim's family indicated ongoing grief, pain, and feelings of loss at the sudden death of the victim. They were surprised that the defendant was responsible for the death of the victim.
- [14] Community members stated that the defendant grew up in a broken home with a single mother. The defendant took care of his ill mother. Although the defendant smokes and drinks, he is not a troublemaker, and people were surprised to learn of the defendant's role in this incident.
- [15] The Victim Impact Statement of Maria Thomas, mother of the victim, describes the enormous grief and pain that only a mother can feel at the loss of a child. The deceased is loved and missed. Since this incident occurred at New Years, Ms. Thomas can no longer take part in those celebrations. The memories are too painful. Her health has been affected, and she cries often. Her house remains unfinished because she has lost the assistance of her son.

The Position of the Parties

- [16] Learned counsel for the Crown submits that the court should consider the classic principles of sentencing, including retribution, deterrence, rehabilitation, and

protection. The court is directed to the Sentencing Guidelines of the Eastern Caribbean Supreme Court for Manslaughter by Reason of Unlawful Act.

- [17] Crown counsel submits that Seriousness is to be found at Level B – High, in this case. The starting point is therefore 18 years, with a range of 10 – 24 years.
- [18] Aggravating factors of the offence include the use of a weapon, and the offence being committed in a public place. The court is referred to the Victim Impact Statement.
- [19] Mitigating factors include the absence of premeditation.
- [20] Crown counsel submits that there are no aggravating factors for the offender. Mitigating factors include genuine remorse, and no record for violence.
- [21] Crown counsel submits that the defendant should receive the full one third discount for his guilty plea, as well as a reduction in sentence for time spent on remand of 2 years, 2 months, and 23 days.
- [22] Learned defence counsel submits that the court should consider the classic principles of sentencing, including retribution, deterrence, prevention, and rehabilitation.
- [23] Defence counsel submits that, not only were the defendant and the deceased friends, they were related family members. The tragic aspects of the incident are therefore accentuated. Further, the genuine remorse displayed by the defendant to the author of the report, was also present in the defendant's statement given to police shortly after the incident occurred.
- [24] Defence counsel submits that the Social Inquiry Report was extremely favourable to the defendant, and the court notes that it indeed was.
- [25] Defence counsel submits that it was the deceased who commenced the fight, and the defendant responded. That response, however, it is accepted, went too far. But

rather than pursue a self defence case, the defendant has accepted responsibility for his actions, and entered a guilty plea.

- [26] In applying the Sentencing Guidelines, defence counsel submits the appropriate Seriousness consideration is Level C – Medium, with a starting point of 12 years, and a range of 6 - 16 years.
- [27] Defence counsel submits that an aggravating factor of the offence is the use of a weapon. However, it is submitted that the court should consider the type of weapon used. It was a pen knife or a jack knife, which is something often carried by persons and used as a tool.
- [28] By way of mitigating factors, defence counsel points out a lack of premeditation, and submits there is a degree of provocation present, since it was the deceased who first attacked the defendant.
- [29] Defence counsel submits there are no aggravating factors of the offender. By way of mitigation, the genuine remorse demonstrated by the defendant should be considered.
- [30] Defence counsel asks the court to give the defendant a one third discount for his guilty plea, and credit for time spent on remand.
- [31] With regard to the Victim Impact Statement, defence counsel is critical of the fact that such documents are created through the Office of the Director of Public Prosecutions, with the assistance of police. It would be preferable if an independent body was established to prepare such material.
- [32] In this case, defence counsel notes the Victim Impact Statement is unsigned, and therefore asks the court to disregard it.
- [33] The court notes that in many jurisdictions, there are indeed independent Victim - Witness Assistance Offices. They work with prosecution offices, but are separate and apart from them. Such independence is often seen as being helpful in avoiding

the appearance of too close a connection between witnesses, victims, and the prosecution service.

- [34] That having been said, the court will take the Victim Impact Statement into account in this case, despite it being unsigned. It is important that victims of crime be given an opportunity to take part in the sentencing process, and not be excluded.
- [35] In reply to the oral submissions of learned defence counsel. Counsel for the Crown revised its position, and submitted that the appropriate position of Seriousness was Level C – Medium, with a starting point of 12 years, and a range of 6 – 16 years. This was primarily in consideration of the fact that it was the deceased who instigated the physical dispute by landing the first blows.

The Law

- [36] Under **s. 163** of the **Criminal Code**¹, upon conviction for manslaughter, the penalty is life imprisonment.
- [37] Sentencing in criminal cases involves many considerations in order to achieve a fair and equitable penalty, and this court always begins by confirming the general principles of sentencing. The sentencing goals of retribution, deterrence (both general and specific), prevention and rehabilitation, are confirmed in the well-known cases of **R. v Sargent**² and **Desmond Baptiste et al v The Queen**³. The case of **Renaldo Anderson Alleyne v The Queen**⁴ from the Caribbean Court of Justice, refers to the principles of punishment, deterrence, and rehabilitation. The goal of sentencing is to promote respect for the law and an orderly society. A sentencing court must consider the facts of the case, as well as the nature and gravity of the offence. It must balance that with the circumstances of the offender, including his age and background, whether he has a criminal record, the role he played in the

¹ CAP 171

² 60 Cr. Ap. R. 74

³ Cr. Ap. No. 8 of 2003

⁴ [2019] CCJ 06 AJ, 93 WIR 155

offence, the design and execution of the offence, and his reform and reintegration into society.

[38] Although the **Renaldo Anderson Alleyne** case involved a murder conviction, the sentencing considerations are equally applicable to a case of manslaughter. The court held that the sentencing judge must consider the personal and individual circumstances of the convicted person, the nature and gravity of the offence, the character and record of the convicted person, the factors influencing the conduct leading to the death, the design and execution of the offence and the possibility of reform and reintegration of the convicted person.

[39] All of this has been considered by this court in formulating an appropriate sentence in this case.

Analysis

[40] Having received and carefully reviewed the written and oral submissions of counsel for both parties, as well as the Social Inquiry Report, and the Victim Impact Statement, what follows is the sentencing decision. This was a very serious crime. A man was stabbed to death, as a result of an argument at a New Years gathering. What was meant to be a celebration of the hopes and expectations of a new beginning, became a terrible end of a young man's life. Although the range of sentence for manslaughter convictions are many and varied, because the factual circumstances and the degrees of culpability are wide, the crime still involves the unlawful taking of a human life. The gravity of the objective circumstances must, therefore, be closely examined.

[41] In crafting this sentence, the Court has relied upon the general provisions of the **Eastern Caribbean Supreme Court Sentencing Guidelines for Homicide Offences, Re-Issue 26th November 2021**. Sentencing for a case of manslaughter by reason of unlawful act, requires an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused. To establish the starting point for the offence within the relevant range,

there are four stages. The first stage is to determine the offence category based on consequence. The consequence of manslaughter is always the death of the victim.

- [42] The second stage involves the consideration of seriousness by assessing the culpability of the offender. In this case, the court notes that, as the submissions were made, the position of Crown counsel changed, and it became essentially a joint submission from both counsel of Seriousness Level C – Medium. Having received those submissions and carefully considered them, the court accepts that position, in all of the circumstances. Given the evidence provided, the court is satisfied that Seriousness is confirmed in this case, as death was caused in the course of an unlawful act, which involved an intention by the offender to cause harm, reckless though he may have been. The defendant stabbed the deceased multiple times, in the course of the fight he had with the deceased. This falls between the higher and lower seriousness levels, and the appropriate category must therefore be Level C - Medium.
- [43] Having determined the level of responsibility, the starting point is found by consulting the sentencing guidelines grid. This calculation leads to a starting point of 12 years, with a range of 6 – 16 years. In this case, the court has determined the appropriate starting point to be 13 years.
- [44] Having established a starting point of 13 years, the court must consider the aggravating and mitigating factors of the offence, and adjust the figure upwards or downwards, as appropriate. In this case, the offence involved the use of a weapon, a knife. The sentence is therefore increased for this aggravating factor by 1.5 years, to 14.5 years. In considering mitigating factors, the court notes that there was no premeditation evidenced in committing the unlawful act. An argument at a bar at New Years escalated, but there was no planning involved. This reduces the sentence by .5 year to 14 years.
- [45] The court must go on to consider aggravating and mitigating factors pertaining to the offender, and adjust the figure upwards or downwards, accordingly. In this case, the

court can find no aggravating factors. By way of mitigation, the court takes into account the defendant's genuine remorse as demonstrated in the Social Inquiry Report. The defendant also assisted the authorities by cooperating with the police, and providing an inculpatory statement. This serves to reduce the sentence by 1 year to 13 years or 156 months.

[46] Credit must be given to the defendant for his guilty plea. This will result in a one third reduction in sentence, and reduces the sentence by 52 months to 104 months or 8 years and 8 months. The defendant must also receive credit for time spent on remand. Following his arrest, the defendant spent 2 years, 2 months, and 23 days on remand in custody, until today's date. The sentence is therefore reduced to 6 years, 5 months, and 7 days.

[47] For all of these reasons, the defendant, Teno Peters, is hereby sentenced to a period of 8 years, and 8 months imprisonment for manslaughter, in the death of Joseph Michael McKie. Taking into account the time he has served on remand, and giving him full credit for that, the sentence imposed is reduced to 6 years, 5 months, and 7 days.

Richard G. Floyd
High Court Judge [Ag]

By the Court

Registrar