

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

IN THE FEDERATION OF ST CHRISTOPHER & NEVIS

ST CHRISTOPHER CIRCUIT

CASE SKBHCR 2023/0014

REX

V

IRA MAYNARD

APPEARANCES

Mr Teshaun Vasquez for the Crown.

Mr Cheley Hamilton and Mr Bervis Burke for the defendant.

2023: December 13

SENTENCE

For manslaughter by elderly man of cousin during family argument with single stab to the heart

- 1 **Morley J:** Ira Maynard aged 70 (dob 10.06.53) falls to be sentenced on a plea of guilty to manslaughter by reason of provocation, where on 02.07.19 when aged 66 he stabbed his cousin Devis Manners aged 58, with whom he was living, in the heart during a family dispute.
- 2 Ira Maynard was from Nevis, and for many years had been a chef in the US, returning in 2013 when aged 60, his parents having passed, asking to live in Pitcairn St Newtown with his aunt Laura Manners, who agreed, then aged 94, living with her son Devis Manners, then aged 52. After some time, for some years tensions arose between the two men sharing space, where Devis cared for his mother, and complained Ira did not contribute to the household. Devis had two brothers, Ceephas Manners and Jospeh Jones, who tried to

mediate the dispute, asking Ira to leave their mother's home, which he agreed, but did not do. Matters culminated in Ceephas and Joseph intervening on 02.07.19 when Jospheh warned one might kill the other; Devis was out, and in the living room they reiterated Ira should leave, who again agreed, Laura now 100 being in her bedroom; Jospheh called Devis on the phone, who then came home; Ira said he was contributing to the household and showed a rice meal he had been cooking in the kitchen, Devis said he was lying and he wanted him to leave, and at this point, having come from the kitchen into the living room, Ceephas saw Ira produced a 12-inch kitchen knife hidden in his waist and stabbed Devis once to the heart, perforating his left ventricle, who collapsed, and Ira ran off; then Ira later was arrested near Basseterre police station, accepted he had stabbed Devis, and said he had disposed of the knife as it was 'exhibit A'¹.

- 3 Though charged with murder, the Crown accepted a plea of guilty to manslaughter on 29.06.23 on the basis the pressure of the long running dispute, facing hostility from the three brothers, and principally from Devis, though only verbal, led to Ira snapping and losing his self-control.
- 4 Ceephas and Joseph declined to make victim impact statements and it is noted Laura passed at 100 within about a month of Devis.
- 5 A social enquiry report dated 15.09.23 by probation officer Lauston Percival described Ira as quiet, calm, respectful, and well-mannered. There is evident remorse, as expressed through his cooperation with police and his plea. Officer Percival suggested a probation order of two years.
- 6 Ira Maynard has no previous convictions on St Kitts. However, there is a relevant conviction from Miami in the US of an assault on 19.12.11 where he had a knife hidden in his waist, and became violent with a woman who owed him money, leading to probation, which he breached, and so he was deported back to St Kitts. The incident report states:

VICTIM MARSHALL STATED DEFENDANT MAYNARD LIFTED UP HIS SHIRT EXPOSING A POCKET-KNIFE (6 INCH BLADE) STATING TO VICTIM MARSHALL "I'LL KILL YOU BITCH". CONTACT WAS MADE WITH DEFENDANT MAYNARD CONCERNING HIS INVESTIGATION. DEFENDANT MAYNARD SPONTANEOUSLY STATED THAT VICTIM MARSHALL OWES HIM FORTY DOLLARS, SO HE

¹ The parties will be referred to by their first names for ease of reading in the context of a family dispute and no disrespect is intended by not writing out full names and titles and whether a witness or defendant.

APPROACHED THE VICTIM (MARSHALL) WHILE SHE WAS WALKING WITH WITNESS MS. PERRYMAN AT 3RD AV & NW 11TH ST AND DEMANDED HIS MONEY BACK. AN ARGUMENT STARTED AND DEFENDANT MAYNARD STATED THE VICTIM (MARSHALL) AND WITNESS (MS. PERRYMAN) STARTED FIGHTING WITH HIM. MR. POLITE (INDEPENDANT WITNESS) STATED THAT HE OBSERVED THE DEFENDANT APOPROACH VICTIM MARSHALL, AT WHICH TIME HE THEN BEGAN PUNCHING HER IN THE FACE AND LIP AREA.

- 7 Delay in sentencing arose owing to Ira's state of health, requiring medical reports, from hospital physician Dr Bichara Sehaly dated 28.10.23 and prison medical officer Dr Richardson dated 04.12.23. Now aged 70, Ira suffers type 2 diabetes with hypertension, and from 10.04.22, he spent four days in hospital having suffered an acute ischaemic thrombotic stroke, leading to some weakening in his hand and leg on his left side, though manageable on medication, his being reviewed by Dr Richardson on 29.11.23 as being in a good stable condition.

Constructing the sentence

- 8 Attention has been paid to the UK case of **R v Clarke and R v Cooper 2017 EWCA 393** which considers how to approach sentencing an elderly person, there aged 101 and 96, to prison for historic sexual offences, where the headnote reports, adopted here, from a strong court of five led by Hallet VP:

By the time very old offenders fall to be sentenced, the question of rehabilitation is unlikely to be significant. Nor is the question of dangerousness. The court's focus will be on finding the appropriate sentence for the offending, where harm done and culpability of the offender are the primary considerations subject to balance for mitigation including guilty plea.

It is clear that old age is a material mitigating consideration. Frequently it will be combined with considerations of ill health. The focus of the court will be on the extent to which a custodial sentence will be more onerous, compared to a younger, fitter offender. Old age and extreme old age are both relevant aspects of that consideration even in the absence of specific health considerations. It will be important for a court, if such considerations are to be raised, to have reports which enable the court to engage with and consider such issues.

Sentencing must be done on a case-by-case basis and the court will require evidence and information specific to the particular offender. The court should not approach the matter on a more general basis by looking at statistical material and making general assumptions as to life prospects by reference, for example, to where an offender lived, and to the sort of life he or she had led. Moreover, there was no warrant for treating the

aged as akin to terminally ill individuals. That again would be to approach the matter by reference to the general rather than to the specific. Nor should old age be treated as a special category akin to offenders under 18 or those with mental disorders. Those categories are treated differently because their culpability is reduced.

Whilst an offender's diminished life expectancy, his age, health and the prospect of dying in prison are factors legitimately to be taken into account in passing sentence, they have to be balanced against the gravity of the offending (including the harm done to victims) and the public interest in setting appropriate punishment for very serious crimes. Whilst courts should make allowance for the factors of extreme old age and health, and whilst courts should give the most anxious scrutiny to those factors, the approach of taking them into account in a limited way is the correct one. Whilst such a conclusion leaves open the possibility that an offender may die in prison, the court draws attention to s 248 of the Criminal Justice Act 2003, which grants the Secretary of State power at any time to release a prisoner on compassionate grounds where exceptional circumstances justify release.

- 9 The effect of this case is to make plain being elderly is not a bar to jail, though the length may need adjustment. A life having been taken here, this case is clearly most serious, attracting imprisonment, and the suggestion of probation, though well meant, is not realistic.
- 10 More, while the UK **Criminal Justice Act 2003** does not apply locally, it is helpful to note at the **s66-68 Constitution of St Kitts & Nevis** there is the 'mercy committee', which might exceptionally order early release if appropriate, convenient on application to the Governor General to act under s 66:

Prerogative of mercy.

(1) The Governor-General may:

- (a) grant a pardon, either free or subject to lawful conditions, to any person convicted of any criminal offence under a law;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any such offence;
- (c) substitute a less severe form of punishment for any punishment imposed on any person for any such offence; or
- (d) remit the whole or any part of any punishment imposed on any person for any such offence or of any penalty or forfeiture otherwise due to the Crown on account of any such offence.

(2) The powers of the Governor-General under this section shall be exercised by him or her in accordance with the advice of such Minister as may from time to time be designated by the Governor-General, acting in accordance with the advice of the Prime Minister.

- 11 There are ECSC sentencing guidelines for provocation manslaughter published in November 2021. Provocation manslaughter contains all the ingredients for murder, mitigated only by loss of self-control.
- 12 Turning to step 1 of sentencing procedure, being consideration of the seriousness of the offence, I assess the level of seriousness to be split between levels A and B: level A because the provocation was low, being verbal, with a knife brought to the scene from the kitchen into the living room; and moving toward level B because there had been tension over a period of time, but not of such moment to raise the tension emphatically to 'low provocation cumulative over a long period' as distinct from long-running strong family unease. As such I assess the starting point to be split between the levels at 25 years. There is aggravation the knife was hidden, suggesting a degree of premeditation he would attack, and when he did, the blow, though single, was strikingly deliberate, meriting uplift to 27 years. There is then mitigation:
- a. Ira cooperated, (though realistically had little choice as seen to do the act by Devis' brothers), so reducing the sentence 1 year to 26 years; and
 - b. I cannot be sure there was an intention to kill, though the stab was directly to the chest, rather than to cause really serious harm, so on balance reducing it 1 year further to 25 years.
- 13 Turning to step 2, consideration of the offender:
- a. As aggravation, Ira is not of good character, having a relevant US conviction, where he was violent with a knife hidden in his waist, similar to here, meriting an uplift of 2 years to 27 years;
 - b. However, as mitigation, there is plainly remorse, and he is becoming elderly, at 70, in declining health, having suffered a stroke, with a weak left side, but not greatly debilitated, which combination will make serving more arduous than for younger others, meriting a further reduction of 4.5 years to 22.5 years.
- 14 Turning to step 3, giving credit for early plea, he attracts a full one-third discount, reducing the sentence to 15 years. With remission for good behavior, he will be eligible for remission of one-third of his sentence, meaning he can expect to serve 10 years.

- 15 Turning to step 4, totality, notwithstanding his US conviction concerning threatening behaviour with a knife, given his age I do not consider him dangerous meriting a sentence extended to protect the public.
- 16 Time on remand will count, noting he has been in custody since 02.07.19, being already more than 4 years and 5 months, so that assuming remission he can expect to serve about a further about 5.5 years, to be calculated definitively by the prison.
- 17 The effect of this sentence ought to mean Ira will not die in jail, given he retains a measure of health, while if his health declines dangerously, suggesting he may die imminently, then this court would expect he could properly apply to the mercy committee for earlier release.
- 18 *Ira Maynard, please stand up.* For the reasons I have explained, for killing your cousin Devis Manners on 02.07.19 as an act of manslaughter by reason of provocation, stabbing him once to the heart, to which you pleaded guilty early, the sentence is 15 years imprisonment. Time on remand will count, and you will be eligible for remission of one-third if of good behaviour. You may go with the gaoler.

The Hon. Mr. Justice Iain Morley KC

High Court Judge

13 December 2023