

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

SUIT NO. GDAHCR2020/0042

BETWEEN:

REGINA

V

ANTHONY CHASE

Appearances:

Ms. Crisan Greenidge for the State

Mr. Arley Gill for the Defendant

.....
2021: July 22; 30;
September 24.
.....

JUDGMENT ON SENTENCE

[1] **CHARLES-CLARKE, J:** On 17th December 2020 the defendant was indicted for non-capital murder for intentionally and unlawfully causing the death of Norman Power. Upon his arraignment on March 19, 2021 he pleaded guilty and the court ordered a social enquiry report which was received on June 17, 2021. The court also ordered a psychiatric report which was received on July 1, 2021. Written submissions were filed by both counsel and a sentencing hearing was conducted on July 22, 2021. The defendant now stands to be sentenced.

THE FACTS

[2] The agreed facts reveal that at the time of the incident the deceased Norman Power, alias 'Jam Down', 'Shine Head' and 'Yardie', a Jamaican national operated a business selling drinks and food namely jerk chicken and festival, from a container in Queen's Park

area. About 2:00 pm the defendant and some of his friends came from fishing and went to the deceased business place where a heated exchange ensued between them and the deceased. The exchange which took place under a tarpaulin included talk about 'gunman'. One of the defendants' friends 'Biggy' who was present said if the Jamaican wanted to see gunman he can come to his place. The deceased was heard telling one 'Tiger' that he owed him money and he still wanted to disrespect him. The deceased asked the men to move away from around his business place. The deceased went inside his business place and begun to prepare some jerk chicken. The defendant and his friends namely Biggy, Tiger and Baza started throwing beers and chairs at the deceased.

[3] The deceased ran out from the back door of the container into the street in the direction of the stadium. The defendant and his friends pursued him. The defendant had a knife in his hand, while Baza had a gaffe which is used to hook fish and pull them abroad. The deceased ran back to the tarpaulin and they continued to pursue him. The deceased tripped over a rope and at that point the defendant stabbed him with a knife under his arm. The blade of the knife remained in the wound while the handle stayed in the defendant's hand which was bleeding. The deceased continued running towards La Qua building until he fell and the blade fell out of the wound. The defendant and his friends ran in the opposite direction.

[4] The deceased was rushed to the General Hospital where he succumbed to his injuries. An autopsy was conducted by Dr. Mabel Leon Alvarez. She found a wound on the left axillary area towards the back measuring 22 cm. At the level of the thoracic cavity, the wound passed through the 4th and 5th intercostal muscles in the left of the back. At the level of the lungs there was abundant petechiae in the pleural of both lungs. The left lung had collapsed with a puncture to the upper left measuring 4 x 3cm. There were

haemorrhagic areas between the upper and lower lobes measuring approximately 3 cm. There was haematoma to the left back side of the rib cage measuring 8 x 14 cm covering an area roughly between 5th and 9th ribs. She concluded that the cause of death was hypovolemic shock, penetrating left thoracic trauma with puncture of the left lung slightly upwards. She opined that a sharp pointed cutting object used with moderate force could have caused that injury. A silver blade of a knife without a handle measuring approximately seven inches which the defendant admitted was his, was retrieved from the Green Bridge area.

- [5] The defendant gave a statement under caution to the police in which he said the Jamaican and 'Bigge' were in an argument when bottles started pelting. He saw the Jamaican ran out through the back door and was running up the bridge. The deceased started running to escape him on the seaside, with a black handle knife in his right hand and a stag bottle in his left hand. On reaching close to him the deceased fired a stab at him. He moved his body back and got a gash on his forefinger. At that time he had a knife belonging to Tiger which they used when diving. When the deceased made the stab at him he got away and made a juke at him which connected somewhere on his left arm and the handle broke. The Jamaican continued running towards his business place. The defendant said when he and his friends were walking along Green Bridge he threw the knife away.
- [6] The Social Inquiry Report (the Report) dated 15th June 2021 which was prepared by probation officer Ms. Judy Milo highlights the childhood upbringing, economic status, familial and community relations and the behavior and character of the defendant.
- [7] The relevant findings from the Report are as follows:

- i) The Defendant was raised by his father and grandfather after his parents broke up when he was one year-old and his mother moved to Carriacou. From then he had little contact with his mother until age eighteen or nineteen. The defendant was deeply affected throughout his childhood into adulthood by his mother's absence. He told the probation officer "I grew up without my mum and that is all I study when growing up".
- ii) The defendant had a difficult childhood characterized by economic deprivation and hunger. He also suffered physical abuse from his father. However he developed a very close bond with his grandfather by whom he felt loved and supported. At age fifteen the defendant's father got married and relocated with his wife leaving the defendant in the care of his grandfather. When his grandfather became ill the defendant had to leave school prematurely to take care of him. He lamented the pressures he experienced to make sure their bills were paid. He revealed that he sometimes went hungry to ensure there was food for his grandfather. The death of his grandfather when he was nineteen years old left a void in his life.
- iii) The defendant attended the Grand Roy Primary School and thereafter the St. John's Christian Secondary School. His academic performance at secondary school was described as 'very low'. The authorities there noted that he "exhibited a terrible temperamental problem". On one occasion he was discovered with a knife in his possession with a clove of garlic at the end. This led to his suspension on condition that he return two weeks with his guardian which unfortunately he never did. They noted that although he was not generally disrespectful to authority, he associated with a group of guys in the community who negatively influenced him.
- iv) The defendant has been employed as a fisherman all his life, a skill he learnt from his father. He was briefly engaged as a

construction worker and he also runs a small shop in the community.

- v) The defendant's father described him as a respectful, hardworking person who loves to share and is non-violent. He spoke of his love for fishing, farming and rearing animals. The defendant's mother spoke of their estranged relationship and indicated that she did not see her son until 'he was already a big man' but they communicated infrequently via telephone. She described him as a hardworking and independent person but a violent, ignorant and merciless person'. His siblings mentioned his positive qualities of being hardworking, caring, understanding and funny but also described him in negative terms as being ignorant sometimes. Members of his family believe he was negatively influenced by the company he kept and this may have been the reason why he committed this offence.
- vi) The defendant was involved in a four-year relationship with a young lady with whom he has a child. She described him as a quiet, loving, hardworking and helpful; and a good and supportive father. However she also described him as ignorant and 'underneath' and indicated that when he is in company of his friends he appears to be a different person. She blames the commission of this crime by the defendant on the bad influence of his friends.
- vii) Mixed sentiments were expressed by members of the community some of whom described the defendant as a skillful fisherman, who was very helpful, respectful and hardworking, a loving and good father. The view was reiterated amongst the community that the defendant became aggressive and violent because of the bad company he keeps.

[8] A psychiatric evaluation of the defendant was carried out by Dr. Arleys Francia Vasconcelos on June 21, 2021. Dr. Vasconcelos did

not find the defendant had any history of mental illness and found he was fit to plead and stand trial.

DEFENDANT'S ATTITUDE TO THE CRIME

- [9] The defendant accepted responsibility for his actions and told the probation officer "I will love to tell the court how sorry I am to commit that offence and also the victim's family. It is something that I have done in my life that I regret. I want to explain that it is not something that we went to do, but to work as we always do. I guess that was a bad day". He also told the probation officer that it was not his intention to commit such an offense, and he feared for his life and reacted as the deceased had a knife on that day and he was afraid he would chop him. He stated that he was stabbed on his right finger.
- [10] The probation officer is of the view that the defendant has not accepted complete responsibility for the offense he committed.

SUBMISSIONS BY COUNSEL

- [11] In their written submissions counsel for the defendant and the crown both referred the court to the Compendium Sentencing Guidelines of the Eastern Caribbean Supreme Court for offences of Homicide. Both counsel highlighted the aggravating and mitigating factors relevant to the offence and the offender. They both agreed that a whole life sentence was not applicable in this case and that a determinate sentence was appropriate.
- [12] In his plea in mitigation Mr. Arley Gill highlighted parts of the social inquiry report and asked the court to consider the defendant's difficult upbringing marked by abandonment by his mother from an early age and later his father who left him to care for his grandfather while in his teens. He also asked the court to consider the circumstances of this case. He pointed out that the murder was not premeditated, and

the knife used by the defendant was a tool of his fishing trade. He submitted the defendant did not go to the scene armed with a knife with the intention of using it to commit an offence. He also asked the court to consider the fact that the deceased had a knife and the defendant sustained an injury to his left finger. Mr Gill asked the court to disregard the negative comments made by the defendant's mother who had very little input in his upbringing and therefore hardly knew him, as well as his sister's negative comments.

Further he asked the court to consider the relative youthfulness of the defendant as a mitigating factor and this made him a very good prospect for rehabilitation. Mr. Gill asked the court to award the appropriate discount for the guilty plea and the time spent on remand.

- [13] In her oral submissions Ms. Crisan Greenidge emphasized the fact that the defendant is someone of bad character who has committed offences of violence in the past. She urged the court to consider the impact of the death of the deceased upon his wife. Finally, she asked the court to allow the appropriate deduction for the early guilty plea and the time spent on remand which was two (2) years and ten (10) months at the time of sentence.

DISCUSSION AND ANALYSIS

- [14] The offence of non-capital murder is one of the most serious offences under the laws of Grenada, second only to capital murder and treason. It carries a maximum penalty of life imprisonment. In passing sentence I am enjoined by the classical principles of sentencing laid down in the case of **R V Sargeant**¹ and applied by Byron C.J in **Desmond Baptiste et al**², namely retribution and the harm done, deterrence, prevention and rehabilitation.

¹ (1974) 60 Crim App. R. 74

² SVG Crim App No.8 of 2008

[15] In determining what sentence to impose in murder cases the sentencing judge is influenced by various factors. In **Mervyn Moise v The Queen**³ the Eastern Caribbean Supreme Court stated:

“It is a mandatory requirement in murder cases for a judge to take into account the personal and individual circumstances of the convicted person. The judge must also take into account the nature and gravity of the offence; the character and record of the convicted person; the factors that might have influenced the conduct that caused the murder; the design and execution of the offence and the possibility of reform and social re-adaptation of the convicted person. The judge may accord greater importance to the circumstances which relate to the commission of the offence. However, the relative importance of these factors may vary according to the overall circumstances of the case.”:

[16] The need to consider the personal circumstances of the defendant was also highlighted by Saunders JCCJ of the Caribbean Court of Justice in the case of **Renaldo Anderson Alleyne v The Queen**⁴ where the Learned Judge stated:

“Life sentences fall into a unique category of sentences. If after considering all the aggravating and mitigating circumstances of the offence (as distinct from those of the offender) a judge is initially disposed to impose a life sentence, that disposition can be softened in appropriate cases upon a consideration of the mitigating circumstances that relate to the offender. That would be because matters such as the offender’s early guilty plea; or his age; or level of remorse or social or economic circumstances cause a judge

³ SLU Crim App No. 8 of 2003

⁴ 2019 CCJ 06

to moderate his or her original disposition in favour of a lesser sentence measured in terms of years or months”.

- [17] A strong determining factor is whether there is a possibility of reform and rehabilitation of the offender. The possibility of rehabilitation will often militate against the imposition of a full life term.
- [18] The Eastern Caribbean Supreme Court has issued sentencing guidelines (The ECSC Guidelines) for the offence of murder. Practice Direction E No.1 of 2021 [Re-issue] which came into force on 12th April 2021 [The Guidelines] provide different starting points and range of sentences for different types of murder.
- [19] The ECSC Guidelines distinguishes between the most severe or worst case of murder to the less severe case and provide the penalty according to the type of case. Paragraph 2 provides:
1. A conviction for the offence of murder may result in one of the following sentences:
 - a. Sentence of death;
 - b. A whole life sentence;
 - c. A determinate sentence;
 - d. Detention by the court where an offender has been found to be insane or suffering relevant mental illness; or
 - e. Detention at the court's pleasure.
- [20] Having considered the relevant factors for the different types of murder I find this case could either fall under (b) or (c). To determine a starting point, I will first consider whether this case warrants a whole life sentence.
- [21] Under the ECSC Guidelines a whole life sentence is the appropriate starting point if:
- a. *the court considers that the seriousness of the offence Is exceptionally high; and*

b. the offender was an adult when he committed the offence.

[22] The factors for the seriousness of the offence to be considered exceptionally high are listed under para 5 (a) to (o). In this case only two of these factors arise for consideration. These are:

c. Where there is a substantial degree of premeditation or planning;

d. Where the offender is assessed as likely to commit further offences of serious violence and is therefore a substantial danger to the community;

Therefore this court will consider issues of premeditation and dangerousness in this case.

[23] From the facts I do not find there was premeditation by the defendant as he was part of a group of young men who became involved in a brawl with the deceased. According to the defendant they had just come from fishing and he was carrying a knife which he claims he used during diving. The act of stabbing the deceased appears to have been spontaneous albeit the deceased was stabbed from behind.

[24] Under the ECSC 8A NO.1 OF 2019 General Sentencing Principles para 13 (a) states:

Dangerousness is established by a finding that the defendant presents a significant ongoing risk of serious harm to any member of the public by the commission of future similar offences. "Serious harm" means death or serious personal injury, whether physical or psychological.

The finding can only be made on the extreme facts of the current offence alone or on the combination of the current offence with previous serious offending.

[25] I note from the record of antecedents the defendant has five previous convictions for wounding and causing harm in 2018. Three of these

convictions are on the same date 25/6/2018. It is unclear whether they arose from the same incident. From his antecedents there seems to be a propensity by the defendant to commit crimes of violence. On the issue of dangerousness, I am informed by the social inquiry report which highlights the defendant's character and behaviour. There were mixed views from the community about the defendant. While some described him as hardworking, helpful and respectful, others noted his aggressive and violent side. However it seemed to be the general consensus in the community that the defendant's conduct was primarily influenced by the bad company he kept and that he should be given a second chance. It was not the general view of members of the community that the defendant posed a danger to them in the community. Accordingly based on his previous conduct and his conduct in relation to this offence I do not consider the defendant to be a danger to society such that his presence would evoke fear in the public

[26] I do not believe that a whole life sentence applies in this case and a determinate sentence is appropriate. I will now consider the factors that will guide the court in arriving at the appropriate sentence.

[27] In light of the above, and the fact that the defendant pleaded guilty I will apply para 8 of the ECSC Guidelines which provides '*where the case does not attract the death penalty or a whole life sentence and falls under para 9*'. Paragraph 9 provides that '*where the offender takes a bladed weapon or instrument to the scene intending to commit any offence **or have it available to use as a weapon and used that weapon committing the murder***' (my emphasis). While I do not find the defendant went to the deceased place armed with a weapon with the intention to commit an offence. Nevertheless given the evidence that he walks around with a knife and his propensity to commit acts of violence I am of the view that the defendant had the knife available to use as a weapon and used it to commit the offence.

Paragraph 8 of The Guidelines prescribes a starting point of 30 years with a range of 20 - 40 years I will therefore begin with a starting point of 25 years imprisonment.

[28] Next I will consider the aggravating factors relative to the offence. I find the following aggravating factors: i) the use of a weapon; ii) the deceased was stabbed in the back while running away from the defendant and his friends; iii) the serious nature of the injuries which the deceased sustained; iv) the incident occurred in a public place in the presence of other persons where the deceased was offering a service to the public; v) disposal of the weapon by the defendant. I will therefore increase the sentence by 5 years making it 30 years imprisonment.

[29] The mitigating factors relative to the offence is that there was only one stab wound; ii) the defendant claimed the virtual complainant had a knife and he sustained an injury to his right finger. I will deduct two years making the sentence 28 years imprisonment.

[30] Next I will consider the aggravating factors relative to the defendant. These are: (i) The defendant has five previous convictions for offences of violence which are relevant, four of which are for wounding and one for unlawful harm; ii) The defendant has exhibited violent and aggressive temperament at school, to family members and in the community and he associates with bad company; iii) the defendant is reputed to walk around with a knife with a clove of garlic at the end; iv) while incarcerated at HMP the defendant was involved in an incident where he threw boiling water at an inmate.

[31] The mitigating factors relative to the defendant are: i) his age – he was 25 years at the time of commission of the offence; ii) his very difficult and traumatic upbringing, his economically deprived and abusive childhood; iii) some positive sentiments were expressed by

members of his family and the community about him; iv) the defendant has accepted responsibility for his actions and expressed remorse for causing the death of the deceased. He apologised to the deceased and the family of the deceased; (v) the authorities at Her Majesty's Prisons indicate they have seen an improvement in his anger management and he has been given a position of trust to work in the bakery there.

- [32] The mitigating factors and aggravating factors balance off so no adjustments will be made to the sentence.
- [33] It is established law that a guilty plea when made at the earliest opportunity will entitle the defendant to a discount of one third. The defendant was arraigned on 19th March 2021 and pleaded Guilty. The guilty plea was entered at the first opportunity which presented itself. He is therefore entitled to the full discount of one third. This will reduce the sentence by 9 years making it 19 years imprisonment.
- [34] The time spent on remand which is 2 years and 10 months will be deducted making his sentence 16 years and 2 months imprisonment.
- [35] Anthony Chase you are sentenced to 19 years imprisonment less time spent on remand which is 2 years and 10 months. In keeping with the court's obligation to consider rehabilitation as a principal aim of sentencing in this case the court orders that:
- i) You shall receive counselling for your anger management and aggression;
 - ii) You shall enroll in an educational and/or skills training programme offered at Her Majesty's Prisons, which will assist in your self-development and rehabilitation;
 - iii) The sentence shall take effect from today.

Victoria Charles-Clarke

HIGH COURT JUDGE

By the Court