

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

SUIT NO. GDAHCR2020/0013

BETWEEN:

THE CROWN

V

AZIM PHILLIP

Appearances:

Ms. Crisan Greenidge for the State

Mr. Jerry Edwin for the defendant

.....
2021: March 19, 30;
April 15.
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JUDGMENT ON SENTENCE

- [1] **CHARLES-CLARKE, J:** On Monday 29th April, 2019 the deceased Dennis John was viciously murdered. His throat was slit as he lay sleeping in his bed sometime around midnight. The defendant who had stolen marijuana from the deceased two weeks before, confessed to the crime. He is now before the court for sentencing.
- [2] The defendant was indicted on the 8th of May, 2020 for the offence of non-capital murder of Dennis John committed on Monday 29th April 2019 at Waltham in the parish of St. Mark in the State of Grenada. He was arraigned on 22nd June 2020 and pleaded not guilty. On 24th June 2020 the defendant changed his plea to guilty.
- [3] The court ordered a social enquiry report and submissions to be filed by the prosecution and the defence. At a subsequent hearing, the court ordered that a psychiatric and psychological report be prepared on behalf of the defendant and the matter was adjourned to await the reports. Following several adjournments awaiting

the reports a sentencing hearing was held on the 19th and 30 March, 2021. Both counsel for the Crown, Ms Crisan Greenidge and counsel for the defendant Mr Jerry Edwin filed written submissions and made oral submissions to the court.

THE FACTS

- [4] The agreed statement of facts indicate that at the time of the incident the deceased lived at his residence at Waltham, St Mark which he shared with his cousin Milton Cadore.
- [5] On Monday 22nd April 2019 Wayne Joseph who had earlier come from the home of the deceased 'to get a smoke' saw the defendant walking up the road. He enquired of the defendant where he was going. The defendant pointed in the direction where he came from buying weed. The following day he heard persons saying that the deceased was robbed.
- [6] About 7:00 pm on Monday 29th April, 2019 Wayne Joseph saw the defendant in St. John. The defendant told him he was going up to Victoria and stated "ah man say ah rob him so I going and find out". He observed an object protruding from the defendant's waist area. He enquired what it was. The defendant lifted his jersey and Wayne saw a knife. The defendant said "ah going to Victoria you go hear about that in the morning, doh informing the police I ah doh telling the police nothing".
- [7] At about 8:00 pm on Monday 29th April, 2019 Milton Cadore retired to bed leaving the deceased sitting on a chair in the living room. At about 12:20 am the next day whilst laying on his bed Milton saw the deceased man enter his room with his hands to his knees. He then placed his hand on his throat.
- [8] About minutes to midnight on Monday 29th April 2019 Trishon Mitchell was seated on a bridge in front of the fisheries building at Waltham using Wi-Fi when he heard the public bathroom door open and footsteps followed. He noticed the defendant come from the bathroom and walk up with a red bag on his shoulder. The defendant called out to him and he responded. The defendant continued walking and kept looking back.

- [9] Trishon then heard the voice of Milton Cadore shouting “oh God, oh God look someone come and cut Denis throat”. At the same time he saw the defendant running down the road towards Victoria. When the defendant was some distance away Trishon went to report what he had seen to Milton Cadore.
- [10] PC #439 King Fraser was a member of a party of policemen who responded to the home of the deceased just after midnight on Tuesday 30th April 2019. He and other officers were taken by Milton Cadore to a room where he observed the lifeless body of the deceased naked and sitting on the floor with his head leaning on the back of the bed. His eyes were opened and there was a large wound to his neck and blood on the body with a trail of blood leading to another bedroom about 30 feet away. Dr Modeste Curwen was summoned on the scene and pronounced the body dead.
- [11] An autopsy was conducted on the body of Denis John by Dr Dora Marino who noted the following:
- i) Body covered with blood;
 - ii) Open and deep wound measuring 15 x 7 x 4cm at right side of the neck extending to the trachea and involving 1 cm of tissue around it with exposure of the tissue with haemorrhagic infiltration; and
 - iii) Complete section of skin, muscles, right jugular artery, subcutaneous tissue, anterior region of trachea with haemorrhagic borders measuring 4x2 cm;
- [12] Dr. Marino concluded that the cause of death was hypovolemic shock; there was complete section of the jugular artery and the injury was due to a sharp object.
- [13] The defendant was detained by the police on 30th April 2019 and he gave a Question and Answer Interview. At that interview under caution he stated “ Ah went up Waltham, I went into his house with a knife, that the same knife I used to cut his throat, I went up in the alley, pass in the verandah, when I reach the verandah I passed through the window which was opened, go inside, I see Esau lying on his bed, he was not paying attention, I went behind him, block his face and used the knife to murder him and I leave they and pass back in the same window and run. I

go wash out me hands it had blood in me hand. I go in the bathroom by the fish market". He stated that he threw the knife in the sea and it was a knife which he took from his home. He admitted to stealing marijuana from the deceased two weeks before the killing. On Thursday 2nd May, 2019 the defendant was arrested and formally charged and cautioned.

[14] The Social Inquiry Report (the Report) dated 19th August 2020 which was prepared by probation officer Ms. Judy Milo as part of the sentencing process, highlights the childhood upbringing, economic status, familial and community relations and the behavior and character of the defendant.

[15] The relevant findings revealed by the Report are as follows:

- i) The Defendant was raised by his mother who was fifteen years old at the time of his birth and his father who was twenty-five years. When the defendant was three years old his mother left his father as a result of significant physical abuse she suffered from him.
- ii) The defendant had a very turbulent and unstable childhood plagued with violence, physical abuse, hunger, and deprivation. The probation officer noted the adverse effect of the lack of a stable home environment and the tremendous violence and physical abuse between his parents and his mother's other partners. One such incident which seemed to have 'left a deep-rooted paranoia and trauma' in the defendant was when he witnessed his mother's boyfriend attempting to behead her on a windowsill with an axe. The defendant related to the probation officer an unimaginable terror as he attempted to defend his mother but instead he was flung aside by her attacker. He had many other frightening, disturbing and painful experiences and lived with the fear that one of these men would kill his mother'.
- iii) The defendant was also subjected to harsh corporal punishment by his mother and her various partners especially from her husband, his stepfather, who was army trained and subjected the entire family to harsh abuse and punishment. As the eldest child he bore the brunt of this abuse.
- iv) The defendant's mother Ms. Deloris Antoine described him as a cool, quiet and loving child, who had a difficult life and who has been negatively

influenced by his friends over the years. She believes that his extensive exposure to violence in their home and her unstable living arrangements affected him negatively. She described him as headstrong; and stated that nobody can persuade him to change his mind. She recalls that shortly after a verbal altercation with him about smoking marijuana he left her house to live with her first cousin at Waltham. He returned two weeks before the incident without any explanation. When she first heard about the incident, she confronted the defendant who denied the allegation. The defendant later admitted committing the crime to her.

- v) The defendant left school at age fifteen at form 4. While attending secondary school the defendant would sleep on the school premises until he was taken in by one of his school mates Nickel Chiddick to live with his family for about two years. Nickel Chiddick described the defendant as a true friend who covered up for him and assisted him with his school assignments and examinations. He states that the defendant was frustrated and the day before the incident he observed the defendant smoked nine joints of marijuana which was strange and unlike him. He requested leniency for the defendant.
- vi) Ms. Rackel Phillip with whom the defendant lived two weeks before the incident described him as a kind and quiet, helpful individual who assisted her by cooking meals for her family and repairing her home. He mostly stayed home and they smoked marijuana together. Although they never had an altercation she eventually asked him to leave as a result of rumors she heard. A week later she heard of the murder. This shocked her as she had never seen a violent side to the defendant.

[16] Mixed sentiments were expressed by members of the community some of whom described the defendant as 'a cool youth who is not violent' a nice person and a loner. They all expressed shock that he committed this crime and remarked on the gruesome nature of this offence. Many felt that his very difficult upbringing contributed to the commission of this crime. While some asked for leniency others felt he should face the consequences of his actions.

DEFENDANT'S ATTITUDE TO THE CRIME

[17] The defendant accepted responsibility for his actions and apologized to the family of Dennis John, his friends and community for his unlawful action. At the sentencing hearing he told the court *"I am sorry for the hurt and pain I caused Mr. John and his family. I brought shame and embarrassment to myself, family and community. I thought marijuana would help me. I regret what I have done. I have taken action to see this will not happen again. I take responsibility for my action in April 2018. No matter how far life take me I will never make up for what I have done. I am very sorry for my action. I started educating myself at Her Majesty's Prison. I am enrolled in the empowerment programme. He informed the probation officer: "It hurts deeply and it makes me sad to know that the family of Mr. Dennis John is mourning over their loved one. It is a mistake I regret that will be with me for the rest of my life. No one knows how sorry I am. I am asking for forgiveness from my family. I am learning to forgive and forget and I am determined to make a change in my life and live according to God's will. Presently I am learning to redeem my identity so that I can positively influence change in my community. I am humbly standing at the court's mercy, taking full responsibility for causing the death of Mr. Dennis John on the 29th April 2019. I am very very sorry, RIP Mr. Dennis John".*

[18] The defendant's explanation to the probation officer for committing the offence is that the victim kept sending threats to him and his family and as a result he was thrown into a state of paranoia because he did not want the deceased to take his life. The probation officer opined that the basis of the defendant's action was his *'frightening, disturbing and painful (childhood) experiences and the fear that one of his mother's partners would kill his mother, Azim a child less than eight (8) years of age concluded and created a belief system that he too would be killed. Perhaps this incident served many years later as a catalyst to create the conditions under which Azim could take the life of the victim in what many may describe as a gruesome act.'*

SUBMISSIONS BY COUNSEL

[19] In their written submissions both counsel for the defendant and the crown referred the court to the Eastern Caribbean Sentencing Guidelines for Practice Direction 8E,

No. 1 of 2020. Both counsel highlighted the aggravating and mitigating factors relevant to the offence and the offender.

[20] In his submissions, Mr. Edwin referred to the social inquiry and the psychological report and asked the court to consider the defendant's difficult, traumatic and dysfunctional upbringing; his early use of marijuana, his emotional instability and anti-social personality disorder; his age and potential for rehabilitation as strong mitigating factors. While making his plea in mitigation Mr. Edwin questioned the findings by the clinical psychologist Dr. Augustine Panchoo about the defendant's lack of genuine remorse.

[21] In her written submissions, Senior Crown Counsel Ms. Crisan Greenidge highlighted the aggravating and mitigating factors relative to the offence and the offender. She referred the court to Dr. Panchoo's finding that the defendant was a danger to the public and his lack of genuine remorse, and the need for him to be given a custodial sentence. Ms. Greenidge referred the court to the sentences imposed in cases of murder from this jurisdiction which ranged between 30 to 35 years.

Discussion and Analysis

[22] 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.

[23] 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:

¹ (1974) 60 Crim App. R. 74

² SVG Crim App No.8 of 2008

³ SLU Crim App No. 8 of 2003

“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.”:

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

- [24] 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.
- [25] 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 replaces Sentencing Guidelines PD E No.1 of 2020. At the time of the sentencing hearing the latter was applicable, and

⁴ 2019 CCJ 06

submissions were made based on them, by both counsel. I note that there has been no significant change that would affect the submissions made or the sentence the court will impose. The ECSC Guidelines provide different starting points and range of sentences for different types of murder. Having arrived at a starting point based on the type or seriousness of the offence the court will then look at the aggravating and mitigating factors relative firstly to the offence, and secondly the offender, and then adjust the sentence accordingly. Deductions will be made for a guilty plea. Any time spent on remand shall be deducted. Further adjustments will be made for totality, proportionality and dangerousness as deemed necessary.

[26] 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.

[27] Having considered the relevant factors for the different types of murder I find this case could either fall under (b) or (c). In arriving at a starting point, I will first consider whether this case warrants a whole life sentence.

[28] 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.*

[29] 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; the abduction of the victim;

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.

[31] The evidence discloses there was premeditation by the defendant who left his home armed with a knife and went to the home of the virtual complainant in the middle of the night and viciously murdered him while the virtual complainant lay in his bed.

[32] 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.

[33] On the issue of dangerousness, I am informed by the social inquiry report which highlights the community view of the defendant's character and behaviour. It was not the general view of members of the community that the defendant posed a danger to them in the community. Many described him as a cool, nice and very helpful person and were shocked that he had committed this gruesome act.

[34] Next I will also consider the report of Dr. Augustine Panchoo, clinical psychologist who conducted a psychological assessment of the defendant. Dr. Panchoo presented a detailed report dated 2nd December 2020 and amended on 22nd February 2021 to the court based on his assessment of the defendant on 17th

November 2020. Dr. Panchoo also attended court and was questioned by Mr. Jerry Edwin counsel for the defendant on 30th March 2021.

- [35] In his assessment of the defendant, Dr. Panchoo administered four psychological tests namely: i) clinical interview, ii) childhood Trauma Questionnaire (CTQ), iii) SPECTRA: Indices of psychopathology, iv) mental status examination (MSE).
- [36] Dr. Panchoo's diagnostic impression based on his evaluations and assessments and guided by the Diagnostic and Statistical Manual of American Psychological Association, Fifth Edition (DSM-V) was that:
"Mr. Phillip is a product of a very dysfunctional home. His mother used severe physical punishment and humiliation to discipline him. His father was absent. Mr. Phillip was physically abused by several of the male lovers of his mother. Azim was witness to domestic violence and their abuses of his mother by visiting men throughout his childhood. As the first of his siblings Mr. Phillip assumed the caring role for the rest of his siblings while his mother was either out or too drugged out to attend to their needs. Azim often felt he had to protect them from abuses. Mr. Phillip scores on 4 out of 5 clinical scales on the Childhood Trauma Questionnaire (CTQ) showed severe to extreme abuse and his scores on 6 out of 15 clinical scales on the SPECTRA showed extreme elevations. Mr. Azim Phillip has suffered Complex Trauma. Mr. Phillip is a troubled and emotionally hurting young man".
- [37] Dr. Panchoo noted the effect of Adverse Childhood Experiences on a person's attachment and relationships, physical health, emotional response, behaviour, cognitive: thinking and learning, self-concept and future orientation. His significant finding regarding the defendant was that he *'does not have a girlfriend and has not had any significant romantic relationship in the past'*.
- [38] Dr. Panchoo also spoke of the effects on the body and brain. He noted that 'when a child grows up afraid or under constant or extreme stress, the immune system and body stress response system may not develop normally. Later on, when the child or adult is exposed to even ordinary levels of stress, these systems may automatically respond as if the individual is under extreme stress. Regarding the defendant he

stated *'Mr. Phillip reported that he stole marijuana from the victim and that he perceived that there were several threats from him towards his family. Mr. Phillip indicated that he felt a strong desire to protect his family by killing the victim. In the defendant's words "If he was dead then he nor his family will have to worry about him killing them anymore"'*.

- [39] Regarding cognition Dr. Panchoo noted *'that children with complex trauma history may have problems thinking clearly, reasoning, or problem solving. When children grow up under conditions of constant threat, all their natural resources go towards survival. When their bodies and minds have learned to be in chronic stress response mode, they may have trouble thinking a problem through calmly and considering multiple alternatives'*. Concerning the defendant Dr. Panchoo noted that when he asked the defendant if he wanted to kill the victim he smiled and said "yes". According to Dr. Panchoo *"during most of the interview and assessment, Mr. Phillip was somber and showed little emotion. The only time he smiled was when he answered "yes" to the question of "did you want to kill him"*. Dr. Panchoo concluded that *"It appears that Mr. Azim Phillip, without being conscious of his inner feelings, actually enjoyed the kill"*.
- [40] Dr. Panchoo diagnosed the defendant as suffering from anti-personality disorder (APD). He explained this to be a *"mental health condition that affects how someone thinks, perceives, feels or relates to others"*. He noted that criminal behaviour was a key feature of APD and there is a high risk that someone with APD will be imprisoned at some point in their lives. He indicated that APD is a lifelong disorder which is one of the most difficult personality disorders to treat but it can sometimes be managed and treated.
- [41] On the issue of dangerousness Dr. Panchoo concluded that *"based on the results of the test, the lengthy recorded history of charges and violations, reports and testimonies coming from the community and my professionally informed opinion, Mr. Azim Phillip is a danger to the public in general and if there are no changes in his awareness, perception and behaviour, it is more than likely he will find himself in the hands of law enforcement again"*.

- [42] Dr. Panchoo noted that although the defendant expressed sorrow for his criminal acts this was coming from a realization that he will be held responsible for his offences rather than from a heart of contrition.
- [43] During the sentencing hearing Dr. Panchoo was questioned vigorously by defence counsel, Mr. Jerry Edwin about the defendant's lack of remorse. Dr. Panchoo indicated that he could not quantify the remorse the defendant expressed and it was difficult for him to say whether it was complete or total. He concluded that the defendant's remorse was not genuine. This was because when he asked the defendant if he was sorry the defendant chuckled and said he was. However Dr. Panchoo agreed that this was not included in his report.
- [44] In response to a question from the court Dr. Panchoo stated that his assessment of the defendant being a danger to society was based on the defendant's response when he was asked if he wanted to kill the victim, he smiled and said "yes". Dr. Panchoo stated in evidence that it was his professional opinion the defendant needs a lot of psychological help to address his distorted way of thinking and unless he gets help to revive his cognitive thinking and perception about life he is a danger to the public. It was his view that *"a custodial sentence would act as a protection from future acts of violence against others and society as well as over the life and safety of the defendant"*. He also recommended psychotherapeutic treatment for twelve months to deal specifically with the defendant's childhood trauma, decision making and boundary setting, unresolved anger and cognitive distortions.
- [45] A psychiatric evaluation of the defendant was carried out by Dr. Arleys Francia Vasconcelos on November 12, 2020. Dr. Vasconcelos did not find the defendant had any history of mental illness. The examination revealed that *'he was well oriented in space, time and person. His short and long-term memory were normal. His speech was organized, clear and coherent and he was able to explain the reason for his incarceration. He denied suicidal and homicidal ideations'*.

- [46] Dr. Vasconcelos' diagnosis was *'mild unspecified cannabis-related disorder'*. She concluded that the defendant was free of psychotic symptoms and *'is able to understand the legal process and give instructions to his attorney and was therefore fit to stand trial'*.
- [47] Based on the evidence in this case, what was highlighted from the social enquiry report and noting Dr. Vasconcelos's finding of the defendant's mental status, I do not believe that the defendant is a danger to society. Dr. Panchoo's finding of dangerousness does not fully satisfy the requirements under the ECSC Guidelines. The court must be satisfied that the defendant will commit serious offences of violence and is a substantial danger to the public. This is the first offence of violence committed by the defendant albeit of a gruesome and most serious kind. From his antecedents I do not find the defendant has a propensity to commit offences of violence or that he presents a significant ongoing risk for members of the public by the commission of similar offences. Nor is there any indication that the defendant cannot be rehabilitated. The facts of the offence although abhorrent and gruesome are not the worst for this type of offence. A finding of dangerousness would move the court to lean towards a whole life sentence. I do not find a whole life sentence is warranted in this case.
- [48] I therefore believe that a determinate sentence is appropriate and will now consider the factors that will guide the court in arriving at the appropriate sentence.
- [49] Para (6) of The Guidelines provides that even where the seriousness of the offence is exceptionally high, but the offence does not warrant a whole life sentence and the offender was an adult when he committed the offence and any of the factors listed under para 7 which includes *'where the offender has pleaded guilty and would otherwise face a whole life term, the appropriate starting point would be 40 years with a range of 30 – 50 years'*.
- [50] Paragraph 8 prescribes a starting point of 30 years with a range of 20 – 40 years *'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’.

- [51] In light of the above, and the fact that the defendant pleaded guilty I will apply para 8 of the ECSC Guidelines and begin with a starting point of 30 years imprisonment.
- [52] Next I will consider the aggravating and mitigating factors relative to the offence. I find the following aggravating factors: i) In this case there was some degree of planning and premeditation - the defendant left his home in one parish armed with a knife and went to the home of the deceased in another parish to commit the act; ii) This was a brutal act resulting in the complete section of the jugular artery which led to his death as a result of hypovolemic shock; iii) The act was unprovoked at the time the deceased was in his bed sleeping and posed no threat to the defendant; iv) The deceased was a 54 year-old retiree who had migrated from England to settle in Grenada; v) The relatives of the deceased lamented the gruesome way he died and informed the probation officer of the pain and sadness they felt over his death.
- [53] I do not find any mitigating factors relative to the offence and will therefore increase the sentence by 5 years making it 35 years imprisonment.
- [54] Next I will consider the aggravating factors relative to the offender. (i) The defendant has one previous conviction in 2017 for housebreaking which is not relevant to this offence, but which goes to his character. (ii) The defendant engaged in anti-social behaviour during adolescence and had a dependency on marijuana.
- [55] The mitigating factors relative to the defendant are: i) his age – he was 19 years at the time of commission of the offence; ii) his very difficult and traumatic upbringing, iii) his economically deprived and abusive childhood - he was diagnosed by Dr. Panchoo as having anti-social personality disorder; iv) positive sentiments were expressed by members of his family and the community about him; v) 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 community for the hurt and embarrassment he had caused by his action.

[56] Although Dr. Panchoo did not believe that the defendant is genuinely contrite and thinks that his expression of remorse is coming from a realization he will be held responsible for his action. The defendant having repeated his expressions of remorse and regret for the pain and hurt he had caused the family of the deceased in open court, I am inclined to believe that he is genuinely remorseful. Moreover he would have had time to reflect and ponder on his actions during the time he has been on remand at HMP. He has indicated to the court his desire to change and the steps he has taken to improve himself while on remand which is a step in the right direction.

[57] The mitigating factors outweigh the aggravating factors therefore I will deduct 3 years making the sentence 32 years.

[58] 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 22nd June 2020 when he pleaded Not Guilty. At the request of defence counsel Mr. Edwin the defendant was re-arraigned on 26th June 2020 and pleaded guilty. I find the defendant's guilty plea was entered at the first reasonable opportunity after consultation with his lawyer. He is therefore entitled to the full discount of one third. This will reduce the sentence by 10.6 years making it 21.6 years imprisonment.

[59] The time spent on remand which is 1 year 11 months and 12 days will be deducted making it 19.6 years imprisonment in the round.

[60] Azim Phillip you are sentenced to 19.6 years imprisonment. 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 psycho-therapy for your anti-social personality disorder. At the end of a period of twelve months a report shall be presented to the court determine whether you are responding or making progress with the treatment given.
- ii) You shall undergo drug rehabilitation therapy and/or counselling as required;

- iii) You shall enroll in an educational and/or skills training programme offered at Her Majesty's Prisons, that will assist in your self-development and rehabilitation;
- iv) The sentence shall take effect from today 15th April 2021.

Victoria Charles-Clarke

HIGH COURT JUDGE

By the Court