

**EASTERN CARIBBEAN SUPREME COURT
TERRITORY OF ANTIGUA AND BARBUDA**

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

CASE NUMBER: ANUHCR2020/0028

BETWEEN:

THE QUEEN

V

D'MANI WILLIAMS

Appearances:

Mrs. Shannon Jones-Gittens, Counsel for the Crown
Mr. Sherfield Bowen, Counsel for the Defendant

2020: November 27th
December 3rd, 7th
2021: January 25th

SENTENCING REMARKS

Background

- [1] **SMITH, J.:** On 27th November, 2020 the defendant, D'mani Williams entered a plea of guilty to the offence of inflicting grievous bodily harm. The offence occurred in 2017 when was aged 15 and the complainant was 16.

Facts

- [2] On Saturday 17th June, 2017 sometime in the afternoon Jahrio Ferron then aged 8, was on the football field at Villa when the defendant, D'mani Williams approached him and asked him to move from the field. It was Ferron's contention that the defendant constantly interfered with him when he attended that field. When the defendant asked him to leave and he refused, this led to an argument

between the two and Mr. Williams struck the child at the back of his head. Ferron retaliated by hitting the defendant in his mouth. Ferron then walked over to the basketball court crying and was met there later by the complainant his brother, Jaheim Ferron, aged 16. Jaheim advised Jahrio Ferron to go and hit the defendant which he did and then ran off but was followed by the defendant who kicked him on his left leg.

- [3] Jaheim then ran towards the defendant and the two began to fight but were separated shortly thereafter. Nonetheless, they continued shouting at each other while being held apart. The defendant then ran onto the field and picked up a plank and approached the complainant.
- [4] The complainant then went to get two stones and the two faced off against each other. By this time a crowd had gathered and while most were trying to quell the situation, there was one who was encouraging the fight.
- [5] While the complainant stood there, the defendant took the plank and struck him in the head and Jaheim fell to the ground. While he was on the ground, the defendant stuck him again to the head and when he was going to strike him a third time the plank was taken from him by an adult. Jaheim got up from the ground and the defendant got away from the person holding him and punched the complainant in his head and continued firing punches at him. Jaheim at this point was bleeding from his head and was stumbling around as if in a daze. The incident from the time the defendant went for the plank up until he was striking the complainant was captured on cell phone video by a few bystanders and it supports the account given by the prosecution witnesses.
- [6] Jaheim eventually made his way home with the assistance of two other boys and was met by his mother. She said in her deposition that she observed that he was bleeding profusely from the head and his right eye was swollen. His mother decided to take him to the police station and she had to assist him in getting into the vehicle as he was disoriented.
- [7] The police instructed her to transport him to the hospital and by the time they got there, the complainant was bleeding from his nose and ears. While awaiting medical attention, he began to faint and had to be rushed to receive immediate attention. He became very combative due to the injury and was speaking unintelligibly.
- [8] When examined by the doctor, it was found that he was unable to open his right eye and an x-ray revealed that he had suffered a fracture of the right frontal bone of the skull. The neurosurgeon made the assessment that he had suffered traumatic brain injury. There were also several fractures of bones in his face. The doctors also found partial collapse of his lungs and he had to be admitted to the Intensive Care Unit for further treatment and observation. His blood pressure became elevated on day 4 of his stay and he received treatment. In the ICU he had to have ventilator support up until day 6 of his stay. He was then discharged from the ICU to the ward. His

blood pressure improved so that he no longer required antihypertensive medication. He was discharged from the hospital on 25th June, 2017 8 days after his admission. When he was reviewed on 3rd July, 2017 in the outpatient clinic he was found to have residual numbness to the left side of the head with occipital alopecia. He was given medication to treat these conditions.

[9] The defendant was taken into police custody on the same day of the incident and when he revealed that he was 15 years old, he was taken to get his mother and then both were returned to the police station where he gave a statement.

[10] In the defendant's version of events he said he had come from work and gone to the football field. He said he asked Jahrio to excuse from the field as they were going to play football. He said he held his hand to take him off the field and that's when the younger Ferron punched him in his mouth. He said he retaliated by hitting him in his head. He and some others then played football for about two hours. According to him he was speaking with friends when Jaheim sent Jahrio to punch him and that he did so and ran back to his older brother. He said he ran behind Jahrio and tripped him and then Jaheim intervened and started punching him. The defendant described being slammed on the ground and he said when Jaheim ran for two big stones he ran for the plank. He said he came in front of him and was "ranging up" so he swung two times and knock him on the head and then someone took the plank. He then stayed outside for a bit and cooled down and proceeded inside and played a game on his laptop.

[11] The prosecution submitted the following aggravating and mitigating factors in relation to this case:

Offence
Aggravating Factors

- i. The object used to inflict the injury was a large plank;
- ii. The complainant was struck multiple times;
- iii. The complainant received a very serious head injury for which he had to be hospitalized for eight days with the majority of his stay spent in the ICU; and
- iv. This offence was committed in the public view among many children

There are no mitigating factors in relation to the offence.

Offender

There are no aggravating factors in relation to the offender.

Mitigating factors

- i. The defendant is a first time offender.
- ii. His age - He was 15 years old.

- [12] The defence offered no objection to the aggravating and mitigating factors as put forward by the Crown.

The Law

- [13] The offence of inflicting grievous bodily harm is governed by **Section 22** of the **Offences Against the Person Act**, Cap. 300 of the Revised Edition (1992) of the Laws of Antigua and Barbuda. It provides for a maximum sentence of 5 years imprisonment.
- [14] However, since the defendant was 15 when he committed the offence, the Court must be guided by the **Child Justice Act, 2015**. This Act provides several non-custodial options to the Court for sentencing.
- [15] **Section 62** provides for a number of community based sentences which include placing the offender on probation for a period not exceeding 3 years.
- [16] Additionally, **Section 70** provides for the imposition of suspended sentences for up to 5 years with any of the conditions listed in subsection (3) of the section.
- [17] Finally, **Section 71 (b)** provides for an award of compensation not exceeding \$20,000 if the offender or his family is in a position to make such a payment.

Dispensing with a Pre-Sentence Report

- [18] **Section 60** provides for the Court to request a pre-sentence report to be prepared by a Probation Officer to assist in the sentencing process and to make recommendations where appropriate. However where the preparation of said report would cause undue delay in the resolution of the case the Court may dispense with the report. With the onslaught of Covid-19 and the Probation Department facing staffing difficulties the report would have delayed the resolution of this matter.

Aggravating and Mitigating Factors

- [19] The Court agrees with the aggravating and mitigating factors as put forward by The Crown and would only add as a mitigating factor the defendant's expression of remorse and the apology tendered to the complainant in Court.
- [20] **Section 61** of the **Child Justice Act** sets out the purposes of sentencing young offenders in the following terms:

- a) Encourages the child to understand the implication of and be accountable for the harm caused;
- b) Promote an individualized response which is appropriate to the circumstances of the child and proportionate to the circumstances surrounding the offence;
- c) Promote the reintegration of the child into the family and community; and
- d) Ensure that any necessary supervision, guidance, treatment or services which form part of the sentence, assist the child in the process of reintegration.

Compensation

- [21] As set out in paragraph 16 of this ruling the Court is empowered to make a compensation order under the **Child Justice Act 2015** where appropriate.
- [22] The Court has been advised that over the several months when adjournments were sought in this matter, it was to facilitate the discussion of a compensation award after defence counsel had made an offer relating thereto. There were several discussions on both sides with the parents of both the complainant and the defendant.

Relationship Between the Families

- [23] Having heard from the complainant, his mother and the mother of the defendant in Court, this Court is persuaded that to make a compensation order in these circumstances would be right and proper and go some way towards restoring the friendship and reconciliation of both parties and their families. The Court would also like to order a **“Family Group Conference for Sentencing”**¹ so that the issues between the families alluded to by the complainant’s mother could be ventilated and addressed, however due to the **Covid-19** pandemic and the protocols on social distancing this would not be feasible. Both mothers indicated that prior to the altercation both families had been friends but that friendship was now nonexistent. The defendant also alluded to a possible reconciliation with the complainant but the complainant was understandably hesitant. He indicated that he still suffers from migraine headaches as well as occasional dizziness as a result of the attack. Time will tell.

¹ Section 65 (1) Child Justice Act, 2015

Sentence

- [24] The Court is guided by the sentencing guidelines that urge non-custodial sentences for young first time offenders. As indicated above in paragraph 19 there has since been agreement that an award of \$20,000.00 would be satisfactory given all the circumstances in the matter. Through learned counsel, Mr. Sherfield Bowen, it has been indicated that the family of the defendant are in a position and are ready to make such a payment.
- [25] The Court therefore orders that compensation be paid to the complainant in the sum of EC\$20,000.00, \$8,000 is to be paid forthwith with a payment of \$2,000 on or before the 15th of each month to commence on 15th March, 2021. If in default of any payments 6 months imprisonment. The balance is to be paid no later than 15th July, 2021 if in default 6 months.
- [26] The defendant is also placed on probation for two years. A default of any of the terms of the probation order will result in 6 months imprisonment. While on probation the defendant is to be supervised by a Probation Officer and undertake anger management classes and counseling. He will be required to come back to this Court every 6 months with a report from the probation department so that the court can see that he is making progress. This is in keeping with the **Child Justice Act 2015**. The defendant is to report to the probation department from today 25th January 2021.

Ann-Marie Smith
High Court Judge

By the Court

Registrar

