

**EASTERN CARIBBEAN SUPREME COURT
SAINT CHRISTOPHER AND NEVIS
NEVIS CIRCUIT**

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

Claim Number: **NEVHCR2017/0003**

Between **Director of Public Prosecution**

-and-

Reece Walters

Before: His Lordship Justice Ermin Moise

Appearances:

Mr. Teshawn Vasquez of counsel for the crown

Ms. Marsha Henderson with Ms. Sandra Hector of counsel for the Defendant

Defendant present

2020: October, 19th

Judgment on Sentencing

1. On 3rd May, 2019, the defendant, Mr. Reece Walters, was found guilty of the murder of Shante Claxton (aged 15). The court ordered a pre-sentence report from the Department of Human Services prior to sentencing. However, upon receipt of the report, the court was of the view that a psychiatric report would be of some assistance in determining the appropriate sentence to be handed down in this case. This was based on certain information which emerged from the pre-sentence report. However, due to the challenges faced with the ongoing Covid19 pandemic, the psychiatrist was unable to complete the report for some time. He has now presented the report for the court's consideration and for that we are thankful and fully appreciative of the circumstances which led to the delay in its delivery.

The Facts

2. Ms. Shantel Nisbett (Ms. Nisbett) is the mother of Shante Claxton (Shante). On 6th September, 2014 Shante was only 15 years old when she was found dead in a bathroom at the St. Thomas

Primary School in the Parish of St. Thomas, Nevis. Ms. Nisbett states that on that date, at around 8:30am she was outside cleaning her yard and had a conversation with Shante. Shante went to get herself ready and eventually left for church. Ms. Nisbett realized that the usual time had passed and Shante did not return from church. It was her evidence that church normally ended at noon. This time had long passed and Shante did not return home. Ms. Nisbett called around to ask people if they had seen Shante, after which she got herself ready to attend a funeral.

3. Ms. Nisbett stated in her evidence that whilst at the funeral she made further enquiries and found out that Shante had still not returned home. She called her father, Mr. Orville Hull, and her daughter Shanika and they went in search of Shante. She searched the beach and the school and didn't find Shante. She met some "fellas" on the other side fixing something. She mentioned something to her daughter and they returned to the school. Whilst walking, her father came out and she spoke to him. He said that he had found Shante and started making calls. Ms. Nisbett did not see Shante herself. However, her father (Shante's Grandfather), had the unfortunate experience of finding Shante dead on the bathroom floor of the school.
4. According to Mr. Hull, during his search of the school, he came to a door which was not fully opened. It was kind of stiff so he took the end of his shirt and pushed the door. He then saw a hand and ventured further inside of the room. He saw Shante on the floor lying down. She was on her back. One of her hands was up and the other one was around the toilet. He looked further inside and saw Shante's skirt was way up across her chest. There was blood coming from both her nose and mouth. I note at this point that a used condom was on the floor in the bathroom where Shante was found. Mr. Hull then went to find Ms. Nisbett who was outside on the streets. He tried to calm her down but she started to scream. He also indicated that he attended the autopsy.
5. The autopsy was conducted by Dr. Valery Alexandrov. After examining Shante's body on 13th September, 2014, he gave the cause of her death as acute oxygen deprivation as a result of asphyxia caused by manual compression of the major vital vascular channels of the neck, including the jugular veins and carotid arteries combined with compression and obstruction of the airways in manual strangulation. During the trial, Dr. Alexandrov went on to explain what he meant by these terms. He stated that manual strangulation is excessive compression of somebody's neck by somebody's hand or hands. His conclusions were based on the fact that the autopsy found

classical symptoms of manual strangulation in that there were fingernail marks on the neck, hemorrhaging into the soft tissue of the neck and fractures of the thyroid cartilage and hyoid bone in the neck; among other things. Dr. Alexandrov gave an illustration of the hyoid bone and explained that even in death by hanging, this bone is not fractured. His opinion was that this can only happen if manual force is applied to that area, resulting in the fracture. Essentially this young lady was strangled to death in the bathroom of the St. Thomas Primary School.

6. Mr. Walters was subsequently arrested for Shante's death and whilst in police custody he gave a statement under caution. This was at his own instance as he indicated that "[he] just want to get it off [his] chest." A second statement from the defendant was also video recorded. In that statement he confessed to having been in the school with Shante on that date. He however did not confess to murdering her. In his statement to the police he indicated that Shante agreed to meet with him at the St. Thomas Primary School on 6th September, 2014 at 9:00am. On his way home from work on that morning, he stopped at the school at about 9:15 to 9:20am. She was inside of the school and they talked then went into the bathroom. They talked some more and started to get intimate. He put on his condom and as he was going to start having sex with her she started to tremble. She dropped on the ground so he started to panic. He went down on the ground with her and put his hand across her chest to see if she was still alive. He wasn't feeling anything so he put his head on her chest. He didn't hear a heartbeat so he started to panic, left the condom and ran. He ran through the cemetery. When he realized the bush was thick to go through he ran back and ran straight home. The following night he went to work thinking about the same incident. He wasn't concentrating on his work. At the time of the interview Mr. Walters had a visible injury to his eye. He indicated that this was as a result of a broom which fell during the course of work and hit him in his eye.
7. Intimate samples were taken from Mr. Walters and in the end an analyst determined that the DNA which was found on the used condom recovered from the scene matched that of Mr. Walters. DNA found under the Shante's fingernails also matched that of the defendant. The jury determined that Mr. Walters was guilty of Shante's murder.

The Pre-Sentence Report

8. During the interviews with the social case worker, Mr. Walters appeared to initially accept responsibility for what he had done. He stated that he “wished all this had never happened and that he was sorry that all that happened.” He went on to confess that he had met with Shante at the Primary School on that day but stated that it was a joint intention to engage in sexual intercourse. It is worth repeating that Shante was only 15 years old at the time. He told the social case worker that when they were having sex things got out of hand. When pressed as to what he meant he didn’t give a response. He went on to say that he did not remember everything as he was advised to block out everything from his head.
9. During the interview, Mr. Walters went on to change his story altogether. He stated that he was arrested by the police on 8th September, 2014 and taken to the police station at Cotton Ground. He said that he only gave the story to the police because they told him that if he did, he wouldn’t go to prison. He said he had no recollection of going to the school on 6th September, 2014 and that he was angry at the police for what they told him to do. He said he was also angry at himself for listening to them. He stated that he was forced into confessing to what he had said because he was told that Shante’s uncle would have killed him and that the police would allow it. According to the PSR Mr. Walters stated that he had never known Shante and had only seen her in town and never spoke to her at any time. He did not remember making any plans to meet with her at the school on the day of her murder.
10. Despite Mr. Walters’ account, his mother stated that she knew of a relationship between himself and Shante and that he would visit her home. The social case worker also interviewed one of Mr. Walters’ friends, Mr. Chris Jeffers who stated that Mr. Walters and Shante used to be friends. This is a fact which is denied by Shante’s family.
11. In the Pre-Sentence Report, the defendant was deemed to have been generally cooperative. Interviews were conducted with both of his parents as well as his grandmother. By all accounts, he was well loved by his family. His parents lived apart and he appears to have been helpful to both of them. His family expresses surprise that he would be involved in such an incident. He assists his father in caring for animals which he rears and his grandmother also refers to him as being

respectful to her. He attends church services with her whenever she asks him to and she expressed shock that he would have committed such an offence.

12. Mr. Walters was not much of a performer at school. His grades were well below average and the school principal lamented the fact that he never appeared to take school work seriously. Some remedial work was done with him and he was able to complete up to form 4 at secondary school. He never wrote any examinations at CXC. The reasons given in the report was that he did not have the money to pay for them. Despite this, his behavior never appeared to be a problem. There is nothing in his history which points to violence or disobedience in any way.
13. Mr. Walters was described as being an athlete and a member of at least two athletic clubs in Nevis. One of his coaches interviewed said that he trained regularly but was never really focused. He always liked to clown around. The coach was nonetheless shocked that he would have committed such an offence. Mr. Walters also joined a local gym and the owner of the gym expressed surprise at the events which led to him being convicted. He was dedicated to this aspect of his life and looked up to the gym owner. He also had an interest in firefighting and volunteered with the local fire service on occasion. The reports indicate that by all accounts Mr. Walters was passionate about that kind of work and was well behaved in his performance when on duty.

Victim Impact

14. From the Pre-sentence report, the court is left in no doubt that the death of this young lady has caused a significant and tragic impact on her loved ones. By all accounts she was an intelligent young lady who had a promising future. Both of her parents spoke of her as a loving child who was well behaved and well loved by her family. Her grandfather had to suffer the indignity of finding her dead in the bathroom of this school with her underwear pulled down below her knees.
15. The evidence presented by the family also indicates that the day after Shante's death, whilst in mourning, Mr. Walters went to the family home. At that time no one knew that he was the one responsible for Shante's death. Shantel Nisbett states that her family has not been the same since then. Shante's father has never been able to speak about the incident. He has stopped going to church because he is reminded of Shante's grave whenever he does so. He stated that he "went to

the scene right away where [he] saw [his] child's lifeless body. Things are not the same since then. Everything changed. Everything went downhill." He states that he no longer has the same relationship with his other children. He cannot accept that she is gone.

16. The family takes balloons to Shante's grave every year on what would have been her birthday. Ms. Nisbett also states that she often wonders what Shante would have become in life. She had no known medical issues. She states that it's very hard for her because her daughter is dead and Mr. Walters is in prison eating and drinking.
17. The family has also had to contend with Mr. Walters' own explanation as to his relationship with Shante. His mother insisted that the two had a steady relationship and that Mr. Walters bought her gifts on occasion. She stated that Mr. Walters was known to Shante's family and that he frequented the home. Ms. Nisbett denies this and states that Mr. Walters never frequented her home and that there was no ongoing relationship between the two. Mr. Walters denies some of what his mother had to say. However, in the end it must be observed that this was a 15 year old child. Mr. Walters was an adult and there is no excuse in law or otherwise for his contact with Shante on that day. Especially given the circumstances of his own explanation to the police.

The Psychiatrist's Report

18. Mr. Walters was deemed to have been generally cooperative in his engagement with the psychiatrist. Interviews were conducted with both of his parents as well as his grandmother, among other persons. As it relates to his attitude towards the offence for which he was convicted, the following passage from the psychiatrist's report is of some assistance:

Although Walters professes inability to recall the sequence of events which immediately preceded the death by strangulation of Shante Claxton, he accepts responsibility for the offence. He says he recalls the preliminaries before the initiation of the sex act. He recalls her giving him a condom which she had brought. While attempting to consummate the act, he recollects her telling him that she didn't want to proceed with the act, and him enquiring why, a question to which he is not certain of what the response was. He says he complied with her request but told her that he didn't want to be her friend anymore. He recalls her hitting him and him retaliating. From this point forward up to the point of his panicking and

abandoning the scene in a state of confusion, he professes a blurry recollection. He believes there was a struggle of some sort. His blurry recollection of a segment of the encounter notwithstanding, he accepts responsibility for the homicide. He understands, he says the pain that the family must be enduring and wished there were a way for him to assuage their pain.

19. Essentially, the defendant's account of what transpired, as given to the psychiatrist goes somewhat further than what was initially contained in his statement to the police during the course of the investigation. It is also a retreat from his allegations to the social worker of being tricked into confessing by the police. However, although he gave some account of the events leading up to the actual death, he expressed an inability to recall the essential details of the actual murder. According to the psychiatrist Mr. Walters used words such as *".... just can't remember."* *".....like my mind was somewhere else."* *".....I don't even know what I did".* *".....It just was not me,...like I gone somewhere else".* *".....I let my emotions get the better of me".* *"...I remember she hitting me, I hit her back and then things just went off".* When asked whether she was screaming, he said *"Yes, (long pause, then)I couldn't really make out the words".*

20. The psychiatrist went on to state as follows:

*He says he does not recall strangling her and that he has never before lost control to the extent that he was violent, not to mention dangerously violent, nor did he know himself to have had difficulty recalling details of any significant occurrence in his life. Over time he seems to vaguely recall, as I can best put together some of his disjointed responses and utterances, that he did not actually penetrate the deceased and that there was some sort of acrimonious exchange and a scuffle. He thinks she told him that she did not want to go through with the act anymore; that he asked her why; he is not certain what her response was, but he told her he did not want to be her friend anymore. He thinks he may have told her something hurtful – he is not certain; she hit him and he reciprocated. It is doubtful how much this disjointed account from his vague recollection can be relied upon, or whether it is confabulation (made up stories to fill in gaps of faulty memory), which occurs in various memory disorders and is different from deliberately lying. He compensated for his flawed memory also by repeating at several junctures *".....one thing led to another"*, endeavouring it seems to circumvent details."*

21. Having examined what information was available regarding Mr. Walters' past medical history, the psychiatrist formed the opinion that "[h]is baseline mental state betrays no psychopathology or gross character flaws or personality disorder, and his social history do not seem to support a propensity for spontaneous or premeditated acts of aggression." Further neurological evaluation has been recommended, given the initial evaluation of accounts of the defendant possibly suffering from epileptic seizures. The psychiatrist therefore noted that there is "reasonable medical probability that at the time of commission of the criminal act Walters may have had no knowledge of the deed. In my opinion therefore it would be clinically prudent to further explore underlying causation of what might well be ictal (seizure induced) violence and post-ictal confusion." Despite this however, the psychologist did not make any finding of a mental disorder which Mr. Walters is known to have suffered. Whilst this court will certainly take the recommendations into consideration as it relates to Mr. Walters' rehabilitation, there is no doubt in my mind that he is responsible for his actions and ought therefore to face the consequences of what he has done. Based on the psychiatrists report Mr. Walters seemed to have remembered Shante screaming but could not make out the words she was saying. I also bear in mind his attempts to retract his story to the social case worker in stating that he was tricked into giving whatever information he had given to the police.

Sentencing Guidelines

22. Counsel appearing on both sides had initially filed submissions on sentencing. However, this was prior to the submission of the psychiatrist's report as well as the court's promulgation of the sentencing guidelines for murder. The crown in this case has not argued for the imposition of the death penalty and counsel on both sides did not wish to cross examine the psychiatrist or the social worker who represented the PSR. The crown sought a sentence of life imprisonment with a review to be conducted after 40 years. Counsel for the defendant had initially argued that a determinate sentence of 18 years was reasonable in the circumstances, but conceded in exchange before the court that such a sentence would be too lenient in the circumstances.

23. In considering the appropriate sentence to impose on the defendant the court must determine whether a whole life sentence or a determinate sentence is appropriate. Section 4 of the guidelines state as follows:

4. The appropriate starting point is a whole life sentence if:

a. the court considers that the seriousness of the offence (or the combination of the offence and one or more offences associated with it) is exceptionally high; and

b. the offender was aged 18 or over when he committed the offence.

24. Section 5 of the guidelines state that a murder involving sexual or sadistic conduct is one which is considered to be exceptionally high. In this case, the murder involved a sexual encounter between the defendant, who is an adult, and a 15 year old girl. Although he has insisted that they both agreed to the encounter, I take into consideration her age and the fact that she could not have consented as a matter of law. Even if the court were to take Mr. Walters' explanation at its highest, he has suggested that there was resistance on her part to the encounter. She was left not only murdered, but with a serious violation of her dignity as a young female. Her grandfather and father also had to suffer the indignity of seeing her in that state with her skirt above her chest and her underwear down to her knees, along with a used condom lying on the floor next to her. It is unclear as to whether there was any penetration which took place. However, the condition in which she was found, coupled with the explanation given by the defendant, is sufficient to find that this murder took place with some connection to sexual or sadistic conduct.

25. I therefore consider that this case is one in which the seriousness of the offence is exceptionally high. Although the guidelines would largely replace heavy reliance on previous case law, I would mention the cases of ***R. v. Pollard***¹ and ***David Roberts v. The Queen***² as cases in which courts have been prepared to proclaim a life sentence for death by strangulation when the murder is connected with a sexual offence against a vulnerable victim. I will examine these cases in detail later on in this judgment.

¹ [2007] ECWA Crim 965

² HCRAP2008/0008

26. However, I also consider section 6 of the guidelines which states that the court may also impose a determinate sentence if it is of the view that the offence does not warrant a life sentence. Section 7 of the guidelines also states that a determinate sentence may be imposed where the murder involving a lesser degree of sexual or sadistic conduct than referred to above. The question is whether the nature of the sexual conduct in this case, when considered in light of the other facts surrounding the murder, is such that it does not warrant that the defendant be imprisoned for life.

27. I am not of the view that the nature of the sexual conduct reduces this case to one of a determinate sentence. It is true that one can well imagine a more sadistic and egregious sexual violation. However, I do find that the age of this victim weighs heavily on the court's mind. This was a 15 year old girl cut down in the prime of her youth. The evidence suggests that she tried to fight off Mr. Walters and resist the sexual encounter. His DNA was found beneath her fingernails. In addition to that, the evidence of the pathologist described the manner of death as one which would have had significant force being applied to this child's neck. Mr. Walters himself confirmed in his interview with the psychiatrist that he heard her screaming but could not make out the words she was saying. It would certainly be difficult for one to have to imagine what this child must have been going through while being strangled to death in that way when an attempt had been made to violate her sexually. I would therefore not reduce this sentence from that of life. I would however consider the aggravating and mitigating factors of this case in order to further explain the court's decision and also to consider an appropriate time frame within which Mr. Walters' sentence is to be reviewed.

28. The mitigating factors in this case are as follows:

(a) The defendant is of previous good character. Not only does he not have any previous convictions, but, by all accounts, he was well liked by his family and friends. He had not shown any previous propensity to violence as has been highlighted by both the PSR and the psychiatrist's report. His behavior at school was not delinquent, save for his lack of interest in school work. Those who interacted with him in the sports clubs, gym and fire service express shock that he would commit such an offence;

(b) There is no evidence of premeditation as it relates to this murder.

- (c) The defendant has shown some measure of remorse. He has offered an apology for what he has done and has expressed regret. He did however, put the court and the family of the victim through an entire trial and sought to recant his story in his interview with the social worker. The court will nonetheless consider his expression of remorse as a matter to be weighed in his favour.

29. I consider the aggravating factors to be as follows:

- (a) The age of the victim. As I have stated this was a 15 year old child.
- (b) The fact that this murder was associated with sexual conduct. It is difficult to reconcile the truth behind what Mr. Walters has said about his interactions with Shante so far. However, what must be noted is that this child could not have consented to any form of sexual connection with Mr. Walters. Even if the court were to take his version at its highest, the facts are compounded by the fact that Shante expressed a desire not to have sexual intercourse with him and for this she eventually lost her life.
- (c) The nature of the murder itself. Shante was strangled with such force that one of the major bones in her neck was broken.
- (d) That Shante was left in the bathroom with her skirt up to her chest and her underwear down to her knees with a used condom nearby. This was a rather undignified way for her family to have found her. Not only was her life taken away from her, but her dignity was violated;
- (e) This offence also took place in a primary school. Had Shante not been found on that afternoon one can well imagine the horror of what could have occurred in that school on a Monday 8th September, 2014.
- (f) That the day after the murder, Mr. Walters visited Shante's family's home. He went there along with her uncle. The family did not know at the time that he had been responsible for her death and even exchanged pleasantries with him.

30. Taking these circumstances into account I am of the view that the aggravating factors outweigh the mitigating factors in this case. I would therefore not reduce the defendant's sentence from one of life in prison to a determinate sentence. However, it is my view that I must go on to consider a minimum term which Mr. Walters should serve before being considered for early release. I say so as I find authority for this position from the decision of the CCJ in the case of **Renaldo Alleyne v. The Queen**³³. In that case the court came to consider a number of issues as it relates to the imposition of a life sentence upon an offender. After drawing reference from a number of cases from various Caribbean jurisdictions, including that of the Eastern Caribbean Supreme Court, the court concluded that:

- (a) The principles of rehabilitation, retribution, deterrence and prevention all remain relevant in coming to an appropriate sentence, including cases where a life sentence may be imposed;
- (b) That the principles of deterrence and prevention may be overriding in the peculiar facts of the case so as to warrant the imposition of a life sentence, regardless of the defendant's prospects of rehabilitation;
- (c) However, a whole life sentence does not mean that the convict should literally spend the rest of his natural life in prison. I do take into account the fact that the guidelines introduced by the Eastern Caribbean Supreme Court ascribe a specific meaning to whole life sentences. However, I do not take this definition to mean that the intention of the guidelines is to overturn the authority of the court in setting a minimum tariff in order to consider whether a defendant sentenced to life in prison may be properly rehabilitated so as to be returned to society in the future;
- (d) That when imposing a life sentence, a sentencing judge has not only the authority, but the responsibility to recommend a tariff or a minimum period of incarceration to be served for the purpose of prevention and deterrence.

31. There is no provision in legislation in Saint Christopher and Nevis for the parole of individuals serving prison sentences. In light of that I consider the decision of **Renaldo Alleyne v. The Queen**

³³ [2019] CCJ 06

where it states that in such circumstances a defendant who has been sentenced to prison for life should have his sentence reviewed by the court after a reasonable period to determine whether he had been properly rehabilitated and fit to return to society. The CCJ considered information regarding the range of time served by persons in Barbados who had had their life sentences reviewed. These ranged from 8 to 33 years. The court could not find any consistency in the manner in which these minimum periods of incarceration were determined. It would in some measure depend on the individual facts of the case and the extent of the defendant's own prospects of rehabilitation.

32. Insofar as that is the case, I would consider the recommendations of the psychiatrist and the social worker and find that the defendant has reasonable prospects for rehabilitation. However, in my view I would weigh prevention and deterrence very heavily in the imposition of the life sentence as well as the minimum period of incarceration before a review can be done. This involves the strangulation of a 15 year old child in circumstances where the defendant, who was 21 years old at the time, attempted to have sexual intercourse with her. The court should send as strong a message as it possibly can, that this would not be tolerated in our society whilst balancing the defendant's own prospects of rehabilitation.
33. The crown referred the court to the case of ***R. v. Pollard (above)*** where the defendant was sentenced to life in prison for sexually assaulting and strangling a 13 year old girl. In that case there was found to be evidence of breach of trust as the defendant was the partner of the child's mother. He also made an attempt to make the scene look like that of a suicide. He had no convictions and did plead guilty to the offence. Despite the imposition of a life sentence the court imposed a minimum term of 21 years before consideration of early release. I do appreciate that there are distinguishing elements to the present case. The relationship of trust in ***Pollard*** does not exist in this case and it is one which emerges from a jurisdiction foreign to our own, with its own legislative considerations. However, I also note that Mr. Walters did not plead guilty to the offence.
34. The Crown also referred the court to the case of ***David Roberts v. The Queen***⁴ where a defendant was also sentenced to life in prison for the strangulation of a 75 year old woman who was blind. There was also a sexual offence committed in the process of this murder. This case

⁴ HCRAP2008/0008

emerged from one of our own jurisdictions and I do find it a useful guide in determining an appropriate sentence in the present case.

35. Having considered these authorities I also give further consideration to the guidelines established by our court. In **Pollard**, the English courts considered the starting point for sentences for murder in coming to a minimum period which the defendant must serve. That starting point was 30 years. Taking into account the balance between the aggravating and mitigating factors, the court set a tariff of 21 years which was an increase from the 16 years initially set by the trial judge. In our own sentencing guidelines the starting point has increased to 40 years from the 30 year period previously adopted by the courts. Taking into account the mitigating factors which I have referred to, I am of the view that a period of 30 years is a reasonable time within which the objectives of deterrence and prevention can be met in this case. At that point the defendant's sentence may be reviewed by the court so as to determine whether he is sufficiently rehabilitated in order to return to society. This review is to be done by the court, unless a parole board or other like institution is established by that date.
36. I would also order that the defendant be periodically evaluated by a psychologist and that where recommended, neurological examination also be conducted so as to ensure that any such issues which he may have be addressed before he is considered for release. These examinations should take place at four year intervals, unless the professionals are of the view that more frequent sessions are necessary.
37. The defendant is therefore sentenced as follows:
 - (a) Life Imprisonment;
 - (b) That he must serve a minimum of 30 years before a review of his sentence is to be conducted by the court to determine whether he is sufficiently rehabilitated for reintegration into society. If the legislature of Saint Christopher and Nevis has subsequently made adequate provision for the establishment of a parole board or similar institution, the defendant's sentence may be reviewed in accordance with those provisions;

(c) That during this period the defendant is to be assessed by a mental health practitioner at least every four years, or more frequently if recommended by the health professionals;

(d) The time spent on remand will count towards the computation of the 30 year period.

**Ermin Moise
High Court Judge**

By the Court

Registrar