

THE EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA
IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

CLAIM NO. SLUCRD2018/0643

BETWEEN:

THE QUEEN

Claimant

and

DANIEL MAYNARD

Defendant

Appearances:

Mr. Keron Bruney Counsel for the Defendant
Mr. Bernick Faisal Counsel for the Crown
Defendant present
Mr. Jermaine Alexander Probation Officer

2020: April 27.

DECISION

- [1] **WILLIAMS J:** The Defendant, Daniel Maynard, was arrested and charged for the offence of Grievous harm on the 31st day of August, 2017. He was identified by the Virtual Complainant and then remanded to the Bordelais Correctional Facility.
- [2] On the 11th June, 2019, the Defendant pleaded guilty to the offence of Grievous Harm and is now before the Court for Sentencing.

Facts:

- [3] On the 10th September, 2017, the Virtual Complainant was operating his omnibus along the Castries/Gros Islet Route when the Defendant challenged the Virtual Complainant and told him that he had hit him with his vehicle, on a previous occasion.

- [4] The Defendant who had been riding a bicycle, placed it in the path of the virtual Complainant and then approached the Virtual Complainant holding a stone and hit him on the left side of his head with a stone.
- [5] The Virtual Complainant was taken to hospital where he was unable to walk and became partially blind in both eyes.
- [6] Eventually, upon discharge of the Virtual Complainant from the hospital, he permanently lost vision in one eye. As a result, the Virtual Complainant was unable to drive and could no longer provide for his family of three (3) school children.

The Law

- [7] Section 98 (1) of the Criminal Code Chapter 3:01 of the Revised Laws of Saint Lucia provides that:

“A person who intentionally causes Grievous Harm to another is liable on conviction on indictment to imprisonment for ten (10) years or on summary conviction to imprisonment for three (3) years.”

- [8] Aggravating Factors of the offence:

- a) Use of a weapon to cause harm to the Virtual Complainant
- b) The Virtual Complainant was hit in the head with a stone by the Defendant
- c) The Virtual Complainant lost vision in his right eye
- d) Pre-meditated attack on the Virtual Complainant which stemmed from an earlier incident
- e) The Virtual Complainant was the primary caregiver for three (3) dependent school age children and was unable to work following the injury and remained unemployed

- [9] Aggravating factors of the Offender:

- a) The Defendant did not report the initial incident to the Police
- b) The offence was committed for the Defendant's financial gain

- [10] Mitigating factors of the offender:

- a) No previous convictions
- b) The Defendant entered an Early Guilty Plea
- c) The Defendant has expressed remorse over the incident

- d) The Defendant's age; he was nineteen (19) years at the commission of the offence

The Powers of the Court in Sentencing

- [11] Section 1102 (1) and 1102 (2) of the Criminal Code provide that:
"Without prejudice to Sections 1096 to 1101 of the Criminal Code, a Court in sentencing an offender convicted by or before the Court, shall observe the general guidelines of Sentencing set forth in sub-section (2) of the guidelines referred to as follows:
- a) The rehabilitation of the offender
 - b) The gravity of the punishment must be commensurate with the gravity of the offence
 - c) An offender shall not be sentenced for an offence of which the offender has been convicted or for another offence or other offences which the offender has asked the Court to take into consideration in passing sentence;
 - d) Where a fine is imposed, the Court in fixing the amount of time must take into account among other relevant considerations, the means of the offender so far as these are known to the Court regardless of whether this will increase or reduce the amount of the fine
- [12] This Court will apply the principles of sentencing, namely Deterrence, Retribution, Prevention and Rehabilitation to the facts of the case.
See: R vs. James Sargeant (1974)
60 Criminal Appeal. 74
Desmond Baptiste vs The Queen
Criminal Appeal 8 of 2003

Rehabilitation

- [13] The Defendant must be able to engage in rehabilitation activities to reintegrate into society.
- [14] The Defendant's sentence would incorporate an Educational element that could increase his employability.
- [15] Also the pre-sentence Report indicated the Defendant's inability to control his temper coupled with his marijuana abuse habit. This would be addressed in the sentence.

Sentencing of young offenders

[16] The case of R vs Desmond Baptiste is instructive and this Court adopts the words of Byron C.J. (as he then was)

“On the issue of age of the offender, a sentence should be mindful of the general undesirability of imprisoning young first offenders.

For such offenders, the Court should take care to consider the prospects of rehabilitation and accordingly give weight to such prospects of rehabilitation.

Where imprisonment is required, the duration of incarceration should also take such factors into consideration.”

[17] The Defendant was nineteen (19) years old at the time of commission of the offence.

Pre-Sentence Report

[18] The Pre-sentence Report painted the Defendant in a favourable light.

[19] The Defendant's parents separated when he was of an early age and this seemed to have had a serious impact on him and affected him in a significant way.

[20] However, the Court must consider how the resulting decline in his behaviour would have contributed to his actions towards the Virtual Complainant on the day of the incident.

[21] The Report speaks to instability and uncertainty in the Defendant's life, and his relationship with his mother and her abusive boyfriend. However, the Defendant had a choice to live with his father who he shared an amicable relationship with, and gave no indication as to why he chose to stay with his mother.

[22] The report also speaks to literacy issues; marijuana abuse by the Defendant, anger management issues and the sentence of the Court would address those issues and recommend treatment to decrease the likelihood of re-offending by the Defendant.

Sentence

- [23] The offence of Grievous harm is a serious one and carries a maximum penalty of ten (10) years.
- [24] The authorities on this type of offence are considered by this Court, namely:
- a) Queen vs Ryan Langellier SLUCRD2013/1011
Where Cumberbatch J. gave a non-custodial sentence whereby the Defendant was ordered to pay the Virtual Complainant \$ 15 000.00, put on one year probation and community service.
 - b) R vs Lenzie Polimis
SLUCRD2008/1147
Benjamin J. set a starting point of ten (10) years based on the maximum for the offence of Grievous Harm. The injury to the Virtual Complainant was severe and the Court ordered compensation of \$8000.00, and sentenced the Defendant to five (5) years imprisonment since he was perceived to be a danger to the public.
- [25] The starting point for this Court would be four (4) years.
While the Aggravating factors outweigh the Mitigating factors the age of the Defendant and being a first time offender would result in a reduction of the sentence.
- [26] The Defendant entered an Early Guilty Plea and is entitled to a third (1/3) discount on the sentence = three (3) years, one (1) month.
- [27] The Court would further reduce the sentence because of the Defendant's age, by one (1) year and one (1) month = two (2) years
- [28] The Court's sentence would be (taking into account time spent on remand of one (1) year and six (6) months, 27 days) = five (5) months.
- [29] The Court will also make a compensation order of six thousand dollars (\$6000.00), to be paid to the Virtual Complainant's estate since he is now deceased. This will be paid after his release from prison, within two (2) years. In default, he will be sentenced to one (1) year imprisonment.
- [30] This Court will also make ancillary orders that the Defendant will:
- a) Attend anger replacement therapy sessions during his period of incarceration at Bordelais Correction Facility

- b) Attend Turning Point sessions to assist him in curbing his Drug addiction.

JUSTICE LORRAINE WILLIAMS
HIGH COURT JUDGE

BY THE COURT

REGISTRAR