

THE EASTERN CARIBBEAN SUPREME COURT
SAINT VINCENT AND THE GRENADINES
IN THE HIGH COURT OF JUSTICE

SVGHCR2014/0027

REGINA

V.

LIONEL HOYTE

Appearances:

Ms. Sejilla McDowall and Ms. Renée Simmons for the Crown
Mr. Joseph Delves and Ms. Patina Knights for the Defendant

2020: March 27

SENTENCING REMARKS LIONEL HOYTE

Cottle, J.:

- [1] The Prisoner at bar pleaded guilty to an indictment which charged him for the murder of the mother of his children, Helen Fox. This plea of guilty was entered after a sentence indication hearing where the court indicated that a guilty plea would attract a maximum sentence of 22 years.

The Facts

- [2] The prisoner shared a 12 year common law relationship with Helen Fox. The union produced two sons aged 8 and 3 respectively at the date of the murder of their mother by their father. On 29th April 2013 the prisoner travelled from the Grenadine island of Canouan where he worked as a security guard, to the main island, St Vincent, where Helen Fox resided with her two sons. At around 9 pm she was in bed asleep while the boys watched television. The Prisoner entered the bedroom and in the presence of his sons, he began to verbally abuse Helen Fox. He stabbed her about the face and neck saying as he did so that "he would end up in jail for her." He then left the room. The young children turned the room lights on and saw their mother bleeding profusely from the neck. They used paper tissue and a bed sheet to try to stop the bleeding and at the direction of their mother they called their grandmother who resided on the upper floor of the same building.

Christina Alexander answered the summons of the children. She asked Helen Fox who had injured her to be told twice that it was the Prisoner who had stabbed her. A neighbor who came to assist drove Helen Fox to the Milton Cato Memorial Hospital in his truck. The best efforts of the hospital medical staff were in vain and Helen Fox succumbed to her wounds at approximately 10 40 pm. The subsequent post Mortem examination revealed that she died from multiple stab wounds. The pathologist identified 17 stab wounds in total.

- [3] At 10.15 pm the prisoner walked into the Central Police Station in Kingstown. There was blood on his clothing and on a bag he carried. He wore no shoes. He told the police that he had been in fight with his girlfriend and had sustained a small cut on one finger, perhaps inflicted with a knife. When he was formally interviewed by the police the prisoner told them that he had heard rumours that Helen Fox was having an affair and he came to St Vincent from Canouan to confront her. He said it was when he heard Christina Alexander screaming his name that he realized he had done something wrong so he came to the police station. He was later seen by Dr. Ermine Belle the consultant psychiatrist. He told the doctor that when he confronted Helen Fox she admitted to having an affair. He then remembered seeing blood but he did not recall what happened. Dr. Belle opined that the prisoner was “vulnerable to stress” and lacked coping mechanisms to deal with taunting and ridicule. She thought he would benefit from psychotherapeutic intervention.
- [4] In this case the prosecution did not seek the imposition of the death sentence which remains available as a possible penalty upon conviction for murder in St Vincent and the Grenadines. The maximum sentence open to this court is imprisonment for life.

The Prisoner

- [5] Lionel Hoyte will turn 45 years old on 16th April 2020. He has no previous convictions. He had served as a police officer in the Royal St. Vincent and the Grenadines Police Force for 12 years. He later secured employment as a security Guard at a hotel resort in Canouan. The prisoner had a history of suffering from depression. A previous girlfriend had been unfaithful to him and his depression at the end of that relationship drove him to seek professional help. The Psychiatrists who examined him after his arrest found that he was exhibiting symptoms of depression albeit not Major Depressive Disorder. Dr. Belle was of the view that at the time of the killing of Helen Fox he was suffering from clinical depression.
- [6] The classical aims of criminal punishment are well known. This court keeps them in mind always as it attempts to arrive at the appropriate sentence in every case. These aims were reiterated by Byron CJ in the case of Baptiste V R Criminal Appeal 8 of 2003:
1. Retribution... Shows the view of society about the behavior of the prisoner: *“Retribution at first glance tends to reflect the Old Testament biblical concept of an eye for an eye, which is no longer tenable in the law. It is rather a reflection of society’s intolerance for criminal conduct. Lawton LJ stated at page 77 that: “...society through the courts, must show its abhorrence of particular types of crimes, and the only way the courts can show this is by the sentences they pass.”*

2. Deterrence general and specific: *"Deterrence is general as well as specific in nature. The former is intended to be a restraint against potential criminal activity by others whereas the latter is a restraint against the particular criminal relapsing into recidivist behavior. Of what value however are sentences that are grounded in deterrence? Specific deterrence may be an ineffective tool to combat criminal behavior that is spontaneous or spawned by circumstances such as addictions or necessity. Drug and alcohol addiction as well as need may trigger high rates of recidivism. Experience shows that general deterrence too is of limited effect. These sentences tend to lose their potency with the passage of time."*
3. Prevention... protects the public from the offender by removing them from society: *"The goal here is to protect society from those who persist in high rates of criminality. For some offenders, the sound of the shutting iron cell door may have a deterrent effect. Some however never learn lessons from their incarcerations and the only way of curbing their criminality is through protracted sentences whose objective is to keep them away from society. Such sentences are more suitable for repeat offenders."*
4. Rehabilitation to prepare offenders for re integration: *"Here the objective is to engage the prisoner in activities that would assist him with reintegration into society after prison. However the success of this aspect of sentencing is influenced by executive policy. Furthermore, rehabilitation has in the past borne mixed results. Of course sentencing ought not to be influenced by executive policy such as the availability of structured activities to facilitate reform."*

[7] As it stands at present there are no sentencing guidelines laid down for a sentencing court to follow for the offence of murder. Until these come into effect the court guides itself with reference to decided cases although the existing proposed draft sentencing guidelines for this offence offer a little useful guidance as to factors which might be considered when selecting a starting point.

[8] The method this court applies in trying to achieve those aims is also well known.

[9] The offence is considered. The aggravating and mitigating features are weighed up. Beginning with an established starting sentence adjustments are made to reflect the balance of the aggravating and mitigating features. The personal characteristics of the offender are also taken into account and this too may affect the final sentence. Any discount for an early guilty plea is applied and any time spent on remand prior to sentencing is deducted to arrive at a final sentence.

The Starting Point

[10] In the case of *Rudolph Lewis V R SVGCRAP 2009/016* the Court of Appeal substituted a sentence of 25 years in prison for the appellant who had been sentenced to life imprisonment at his trial. He had stabbed his girlfriend 21 times as he suspected she had been unfaithful to him. He pleaded guilty at his trial although this plea was refused by the learned trial judge. The jury subsequently convicted him. In *R V Jean Fontinelle SLUCRD 2011/1679* Ramdhani J examined a number of authorities as well as the relevant UK sentencing guidelines before he fixed a starting point of 30

years for the offender who had pleaded guilty to murder. Similarly in R V Curtis Joseph SLUCRD 2012/2292 Cumberbatch J used a benchmark of 30 years for an offender who pleaded guilty for murder. I am satisfied that in this case it is appropriate to use a starting point of 30 years in this sentencing exercise. I come to this conclusion despite the suggestion by counsel for the prisoner who urged the court to distinguish the cases cited on the basis that the offenders in those cases had far greater culpability. With the greatest of respect for counsel, I find I cannot agree. I find there was premeditation and a brutal murder in the presence of the infant children of the deceased by inflicting 17 stab wounds in this case. This shows a particularly high level of seriousness of this particular offence.

Aggravating Feature of the Offence

- [11] A weapon was used. This murder was committed in the bedroom of the deceased in the presence of her two young children. It was an unprovoked attack with multiple stabs inflicted. There was some degree of premeditation. The offender brought the weapon to the scene and stated his intention to end up in jail for the deceased as he stabbed her over and over. This type of offence is prevalent in St Vincent and the Grenadines.

Mitigating Features of the Offence

- [12] The prisoner has pleaded guilty. Counsel for the prisoner submitted that the court should find there was no premeditation. I do not agree. The prisoner came to St Vincent with the expressed intention of confronting Helen Fox over her rumoured infidelity. He came armed with a knife. As he entered the room he started verbally abusing the deceased and began to stab her with a knife. No evidence was led as to the prevalence of this type of domestic violence meted out to females by male partners but this court cannot be willfully blind to the pattern and frequency of cases involving this type of violence which comes before the court.

Aggravating Features of the Offender

- [13] None

Mitigating Features of the Offender

- [14] He is of previously good character and has no prior convictions. He has a history of coping poorly with rejection and was clinically depressed at the time of the killing although this was not enough to substantially impair his responsibility for his actions.
- [15] Beginning with the selected starting point of 30 years I move upwards by 6 years because I consider the aggravating features to outweigh the mitigating ones. I consider the peculiar personal circumstances of this prisoner. It is accepted that he found it difficult to cope with stress and suffered from clinical depression. There was a report from a psychologist which was cited by

counsel for the prisoner. I have not relied to this report as the psychologist is not a trained medical professional and is not competent to render an opinion as to the mental health of the prisoner. Indeed it is telling that the psychologist is the only person who claims to have assessed the prisoner as suffering from Major Depressive Disorder. Still I am content to find that the mental health challenges faced by the prisoner merit a downward departure from the notional sentence. I also note that he has no previous convictions. I would move down by 3 years for these reasons. The notional sentence at which I arrive is 33 years imprisonment. I would then deduct one third to take account of the guilty plea of the prisoner to arrive at 22 years. This is particularly so in this case as the guilty plea obviates the need for an already traumatized child to testify against his father. Next I take account of the time spent on remand. The prisoner has now spent 6 years and 11 months on remand. I deduct this period. I arrive at a final sentence of 15 years and 1 month from today. I also direct that the prisoner be afforded the psychotherapeutic intervention that is available to help in his rehabilitation as he learns that there are other ways to cope with stress rather than violently lashing out.

Order of the court is therefore as follows:

1. The prisoner is sentenced to a term of imprisonment of 15 years and 1 month from today (27 March 2020).
2. The prisoner to undergo psycho-therapeutic intervention while serving this sentence.

I thank all counsel for the excellent assistance they have provided the court in this matter.

**Brian Cottle
HIGH COURT JUDGE**

By the Court

Registrar