

SAINT LUCIA

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

(CRIMINAL)

CASE NO. SLUCRD2011I0906, 908 BETWEEN:

THE QUEEN

Complainant

-v-

1. NERVIC LOUIS

2. JEROMIE JONES

Defendants

Appearances:

Ms. Tamara Foster for the Crown

Mr. Ferguson John for the Defendants

2017: December 8.

JUDGMENT ON SENTENCING

[1] **CUMBERBATCH, J.:** In or around the month of March 2011 the Defendants and one J' Vele Lollol ('the Virtual Complainant') were involved in hostilities arising from an illegal cockfight in their village. These hostilities continued and on the 27th March 2011, the Virtual Complainant was attacked and injured by the Defendants and others. He was shot in the back with a fishing gun by Nervic Louis and chopped by the Defendant, Jeramie Jones with a cutlass. The Virtual Complainant was hospitalized suffering from the following injuries to wit:

"The Virtual Complainant sustained a laceration to the posterior region of the neck , approximately 8 cm long and 2-3 cm deep; a laceration to the right shoulder , r approximately 2-3 cm long and 1 ½ cm deep; a laceration 6 cm long, and 1½cm deep to the right forearm; a laceration 1cm long and ¼ cm deep to the right 5th digit; a laceration to the left ankle , 10 cm long and 4-5 cm deep , associated with fractures of the left tibia and fibula. Dr. Claudius George opined that the injuries may cause disability. "

[2] On August 16th 2012 the Defendants were indicted for the offence of Causing Grievous Harm to the Virtual Complainant contrary to Section 98(1) of the Criminal Code 2004. At their arraignment they entered pleas of not guilty. However, after much toing and froing on the 26th September 2017 they pleaded guilty as indicted.

THE PRE-SENTENCE REPORT OF NERVIC LOUIS

[3] This Defendant was raised by his parents who lived and cohabited in a common law union at Bruceville Vieux Fort. He dropped out of school at age 14 and joined his father on fishing expeditions. Indeed he is currently employed as a fisherman and deep sea diver.

[4] His mother states that his behavior changed when he started associating with bad company. Community residents share this view and disclose that he is involved in delinquent activities with his friends and has a history of theft. It is common ground that the Defendant has three previous convictions for stealing committed between the years 2011 and 2015 for which he served periods of imprisonment.

[5] The Defendant has expressed remorse and wishes to restore the friendship he once had with the Virtual Complainant. He smokes cannabis three times a day and currently resides with his family for which he has become the main breadwinner following the death of his father.

THE PRE-SENTENCE REPORT OF JEROMIE JONES

[6] This Defendant is an issue of a common law union and was raised by his parents until the dissolution of the said union when he was around 3 years old. Thereafter he was raised by his mother and step-father. His education was abruptly terminated when he at age 15 he was involved in a fight at school.

[7] Community residents opine that the Defendant's association with delinquent friends has led to his downfall. He is reported to have a history of theft and is known to be in the company of a gang of friends. The Defendant has two previous convictions for offences of violence. He takes full responsibility for his actions but claims that he retaliated to attacks and threats from the Virtual Complainant.

[8] I have considered the evidence herein and find the following to be the aggravating and mitigating factors.

Aggravating Factors

1. The offence was planned and premeditated,
2. The Defendants armed themselves with offensive weapons before attacking the VC,
3. The nature and extent of injuries inflicted on the VC,
4. The Defendants are not first offenders.

Mitigating Factors

1. The guilty pleas,
2. The remorse expressed

[9] Having balanced the aggravating and mitigating factors herein, I find that the aggravating factors outweigh the mitigating ones. I will proceed to consider and apply the classical principles of sentencing to the facts and circumstances herein.

RETRIBUTION

[10] This incident reeks of gang violence. Both Defendants have a history of being in unsavory company and involvement on criminal activity. I have no doubt that the incident occurring at an illegal cockfight was the precursor to the attack on the Virtual Complainant which was carried out by the Defendants and others.

[11] The Court must show its abhorrence for gang activity and its consequential violence by the sentences.

DETERRENCE

[12] The Defendants do not seem averse to involvement in criminal activity more so gang violence. It is a well-known fact that gang activities would have a devastating effect on the society especially in this nation which is heavily reliant on tourism for its economic development.

[13] It is incumbent on the Court to impose suitable sentences structured to deter these Defendants and others from involvement in gang activities.

PREVENTION

[14] The Defendants though involved in gang activity have not reached the threshold of being considered to be dangers to the society. The Defendant Nervic Louis is now lawfully employed and from all appearances seems to have taken a decision to reform himself. The same cannot be said however for the Defendant Jeramie Jones who is in custody for another offence.

[15] However I do not find this principle applicable here.

REHABILITATION

[16] The Court must endeavor to have the Defendants rehabilitated to ensure they are not recidivists and to assist in their reintegration to the society. Whilst the Defendant Nervic Louis seems to have taken steps to turn his life around, I am concerned about his cannabis addiction and the risk factors identified by the Probation Officer in the Pre-Sentence Report. Thus it is important that he undergoes a period of counseling to address his drug abuse. I am also impressed by his offer to compensate the Virtual Complainant for the injuries inflicted on him and his hope of reigniting the friendship he shared with the Virtual Complainant.

[17] The Defendant Jeramie Jones who is currently in custody at the Bordelais Correctional Facility should be allowed to benefit from appropriate rehabilitative programs whilst on remand.

SENTENCE

[18] The offence for which the Defendants stand convicted carries a maximum sentence of 10 years imprisonment. I find that a benchmark of 6 years imprisonment should be applied herein. I will deduct 2 years for the guilty plea and one year for the delay.

[19] Accordingly the Defendant Jeramie Jones is sentenced to three years imprisonment. He shall be credited for all time spent on remand whilst awaiting his trial.

[20] The Defendant Nervic Louis is sentenced as follows:

1. The Defendant shall pay compensation to the Virtual Complainant in the sum of \$8,000.00 in the manner hereinafter set out:

a. The sum of 6 monthly payments of \$1,200.00 commencing on January 3, 2018 and to continue paying on the first day of business of each and every month and one 1 payment of \$800.00

2. The Defendant is placed on probation for 1 year during which time he shall;

a. Undergo counseling for his drug abuse and any other issues as determined by his probation officer;

b. Perform 100 hours community service at times and locations to be determined by his probation officer;

3. In the event of the Defendant's failure to pay compensation as ordered he shall serve a period of imprisonment of 3 years,

4. In the event of the Defendant's failure to serve his probation as ordered he shall serve a period of imprisonment of 1 year.

FRANCIS M. CUMBERBATCH

HIGH COURT JUDGE

BY THE COURT

REGISTRAR