

IN THE EASTERN CARIBBEN SUPREME COURT

ANTIGUA & BARBUDA

IN THE HIGH COURT OF JUSTICE

Case no. ANUHCR2015/0122

REGINA

V

STEVE URLINGS Jr

Appearances:

Mr Adlai Smith for the Crown.

Mr Michael Archibald for the defendant.

2017: July 24

SENTENCE

- 1 **Morley J:** Steve 'Krypto' Urlings Jr falls to be sentenced, following conviction by the jury on 15.06.17, for the murder of Albert 'Pressureman' Browne in Booby Alley, St Johns, at about 8.30pm on 01.09.14.
- 2 The killing was brazenly in public and in cold blood. It has the hallmarks of an execution.
- 3 The evidence showed that Urlings made a mask of a handkerchief or bandana, covering downwards from his nose, walked up to Browne who was seated between friends on a picket fence, and without a word, and in the presence of many others, shot him through the neck, and when on the floor mercilessly shot him twice through the heart. Urlings then proceeded in what has been described as a 'run-walk' or 'chipping manner', calmly, through Booby Alley, onto Wilkinson's Cross, then into St John's St, from where he then ran and walked eastwards, while

followed in a minibus by PC Jermaine Moore, and Prison Officer Makeeda Tweed, though they eventually lost sight of him.

- 4 There was no doubt that Browne had been murdered, and the question at trial had been by who. Evidence was called from various witnesses who each helped to identify the killer as Urlings, and many will each be formally noted as thanked, and in two cases officially commended, by me after I have passed sentence.
- 5 There has been no explanation for this murder. It appears Browne, only just 19, was aware that Urlings, then 24, was thinking of killing him as he told his friends of likely attack on him by Urlings, and asked to be buried in bright colours. There appears to have been some altercation in the jail, while Urlings was earlier on remand for another offence, between Urlings and Dwayne Joseph, though it is not clear what this was about, and only that Urlings stabbed Joseph over property, while there is a vague suggestion that Browne, who had been 14 months in jail before, may possibly have been part of Joseph's gang. In addition, following release from custody in February 2014, in around June 2014 it appears Urlings was shot at in a drive-by shooting, where the bullet struck his leg. Finally, it is known that the gun used to kill Browne was used in a robbery by three persons of a Chinese restaurant in August 2014. However, nothing clearly shows why Urlings murdered Browne.
- 6 As the trial has proceeded, I have been concerned about whether Urlings is part of a gang. I find that on balance that he probably is, because:
 - a. The witness Jahwer Christopher has had to be released from serving a sentence and to be allowed to go into a measure of hiding in order to protect him from possible retaliation by Urlings and those who know him.
 - b. It has been reported that Urlings has threatened to kill Makeeda Tweed, who is a prison officer, which suggests a brazen fearlessness beyond acting as an individual.
 - c. Urlings friend Kamoo Phillip gave evidence in support of Urlings, from which it is clear Phillip has a history of access to firearms, of interest to gangs, with it being probable it was he who supplied Urlings with the firearm with which to kill Browne, as they were seen together earlier on the night of the murder.

- d. The drive-by shooting of Urlings shows that a gang was after him, suggesting he too is in a gang.
 - e. The murder of Browne has all the hallmarks of gang-related violence, being without argument, an execution, in a public place, in front of others, with a certain calmness after, suggesting an expectation others will not intervene, precisely because this is a gang event.
 - f. The fact the gun was used in a robbery by three, whether or not he was involved, shows it passes through criminal company, again supporting that in his background is gang membership.
- 7 However, an 'on balance' finding is insufficient, as it is less than being sure. I will not therefore sentence this murder as being gang-related, which would have added significantly to his sentence, and might possibly have made him eligible for a whole life term.
- 8 On the other hand, I do find that Urlings is dangerous. This is because the killing was very deliberate, brazenly in public, merciless, and he behaved calmly after. I will factor dangerousness into the assessment of premeditation.
- 9 Turning to victim impact, I have heard in court from Browne's mother who in some emotion has described her love for her son, their regular times dining together, how she misses him as her youngest of four, and how his murder has affected her health, so that she suffers from hypertension, and is fearful she might be harmed. His father attended court but was too overcome to speak to me.
- 10 Turning to the PSR, dated 13.07.17, by Laura O'Garro, it is clear that Urlings maintains his innocence, repeated before me in person by him as part of the *allocutus*, and he has deep seated anger about being abandoned by his mother, aged 3. He was mostly raised by his paternal grandmother on the USVI, but at 16, attending his grandfather's funeral on Antigua, decided to stay on, where, though he excelled as a welder, he fell into criminal company. In the words of the author, with which I agree, '*one can safely infer that there might be a strong connection between Urling's problematic behavior and the feelings of emptiness, anger, and hurt*' caused by his mother's abandonment.

- 11 Criminal company led to four convictions, so that for escaping lawful custody, housebreaking, wounding with intent and unlawful wounding, between 2008 and 2012, he has in his background, prior to 2014, sentences totaling 4 years and 3 months.

Constructing the sentence

- 12 Turning to the appropriate sentence, I should first say that this is a case for which the Office of the DPP does not seek capital punishment. I will not sentence Urlings to death.
- 13 As to the correct period to serve in prison, which on Antigua allows a maximum of life imprisonment, I have chosen to be assisted by the UK sentencing guideline for murder created by schedule 21 of the *Criminal Justice Act 2003*.
- 14 In the UK, for murder the sentence is termed 'life imprisonment', though the judge must set a *minimum term* to be served before a defendant might begin to be considered for possible parole. However, there is no parole mechanism on Antigua, so that life imprisonment could be expected to mean a whole life term with no prospect of release. For determinate sentences, (ie sentences calculated as a number of years), there is automatic remission of one-third for good behavior. I consider that, if I am to be assisted by the CJA 2003, I should take account of automatic remission, so as properly to calculate the equivalent of a minimum term.
- 15 Reflecting on para 4(2)¹ of the schedule, because Urlings has not been convicted of multiple murder, but of one murder, despite the level of premeditation, and being unable to be sure this was gang-related, in my judgement a whole life term is not appropriate.
- 16 Under para 5(2)(b)², the *starting point* for the minimum term to be served for a single murder with '*the use of a firearm*' is '*30 years*'.
- 17 I turn then to the *aggravating features*. Under para 10(a)³, '*a significant degree of planning or premeditation*' is identified as aggravating. However, I find in parallel that the acquisition of the firearm was in fact part of the planning and premeditation, and is already reflected in the high

¹ See Blackstones Criminal Practice 2017 para E3.4.

² Ibid.

³ Ibid.

starting point. This diminishes the extent of the aggravation, but not completely, as conceptually there are many cases where the use of a firearm does not disclose such premeditation as here. In this case, there has been significant premeditation, linked to dangerousness, as Urlings went looking for a gun and went looking for Browne, increasing the minimum term by a further 8 years, and in the context of being dangerous, by a further 6 years, so that the minimum term should therefore increase, by 14 years to 44 years.

- 18 I turn then to the *mitigating features* as they appear under para 11⁴. None are relevant, and I add that Urlings is unfortunately not of good character. However, I do find that his background is tragic, in that he has long been without support from his mother, being raised by his grandmother, who now lives off-island, so that to my mind there was a certain inevitability he would turn to crime. Throughout the trial he has been respectful and well mannered, and I sense if he had had a better upbringing he would have been a good citizen. It seems to me he is one who has had few chances in life, and now has thrown his life away, disdainfully, as if it is worthless, as I sense he himself feels he is. The double tragedy in this case is that two lives are ruined: Browne has lost his, and Urlings has given his up. In these circumstances, I do find a measure of mitigation, and will reduce the minimum term by four years, to 40 years.
- 19 Urlings pleaded not guilty, and was convicted after trial by jury, so there is no credit available for a plea.
- 20 In my judgment, the calculated minimum term of 40 years is what would be served in the UK. However, jail conditions are different there.
- 21 As I have recently observed when passing sentence for murder on *Errol Barnes* on 08.06.17, I visited the prison on Antigua for two hours on 22.12.16. The prison staff do excellent work in very difficult circumstances. The prison is called '1735', as that is when it was ground first used for custody. The facilities appear to date back to the 19th Century, more in keeping with 1867, 150 years ago, rather than 2017. Facilities are rudimentary. The prison is overcrowded. Convicted prisoners were in small cells and allowed out only during daylight hours. There is potential for the spread of disease. There is an outside bank of toilets into a pit under

⁴ Ibid.

- corrugated iron, about 30m from the kitchens. During lockdown, urination and defecation are into plastic buckets, lacking any privacy and requiring morning slopping out. I consider these conditions to be far more difficult than in a UK prison, and consequently there should be a further reduction in the minimum term to allow for the fact it is to be served in harsher conditions.
- 22 I assess these harsher conditions merit a reduction from a UK sentence of about one-quarter. This means that the minimum term, to be served in '1735', is to be reduced by 10 years to 30 years.
- 23 Turning then to how to effect a minimum term of 30 years on Antigua, I take account of automatic remission, meaning that 30 years should be considered two-thirds of the sentence. This means that the correct sentence, to effect a minimum term of 30 years, is 45 years' imprisonment.
- 24 Urlings also falls to be sentenced for stealing a Nissan Sentra, valued at \$15000ec, overnight on 13.09.11, to which he pleaded guilty on 27.04.17, and which I have already told him will not affect his murder sentence. I therefore pass a sentence in respect of larceny of the car of 12 months imprisonment, to run concurrently.
- 25 *Steve Urlings Jr, please stand up.* For the cold-blooded murder of Albert Browne, the sentence is 45 years imprisonment. Time served on remand will count. You will serve two-thirds of the sentence, being 30 years, before being eligible, if of good behavior, to automatic remission of the remaining third. You are still a young man, now aged 27, so you should reflect that you will have some measure of life ahead of you when likely released at 54. Though I have considered it, I have not passed a whole life term. For stealing the car, there will be 12 months concurrent. You may go down.

The Hon. Mr. Justice Iain Morley QC

High Court Judge

24 July 2017