

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

SAINT LUCIA

CRIMINAL CASE NO. SLUCRD2008/1147

BETWEEN:

THE QUEEN

Claimant

AND

LENZIE POLEMIS

Defendant

Appearances:

Mr. D. Green for the Defendant

Mr. S. Cenac for the Crown

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2011: May 26, June 22 & July 29
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SENTENCING JUDGMENT

[1]. **BENJAMIN, J.:** The Defendant was originally charged on an indictment with two counts for the offences of causing a maim and causing grievous harm to Ricky Peter at Mon Repos in the quarter of Micoud on August 23, 2008. Upon re-arraignment at his request, the defendant pleads not guilty to the count for maiming and guilty to the count for grievous harm. The Crown accepted the plea and offered no evidence in relation to the first count

for maiming. The defendant is before the Court for sentencing for the offence of intentionally causing grievous harm to Ricky Peter.

- [2]. The simple facts as stated by the Crown are as follows: Ricky Peter was on his way home in Mon Repos at about 10:35 p.m. on August 23, 2008 when he felt a blow. He turned around and saw the defendant whom he knew from before as "Pooney", and with whom he was not on good terms. The defendant rushed towards him with a cutlass. The complainant tried to run away from the defendant but he was pursued and dealt several blows to his hand and to his back. As a result he fell on the ground. The defendant then dealt a blow to his left shoe. In the course of the investigation, Police Constable 663 Randolph observed wounds to the back of the complainant's arm and to the small toe of his left foot with copious bleeding.
- [3]. The defendant was confronted by PC Randolph, told of the report and cautioned. He handed over a 4-nail cutlass to the Constable said in response: "Officer is not so the thing happen. I would say how it happen to the Magistrate."
- [4]. The medical report prepared by Dr. Thomas listed six severe lacerations to the forearms, shoulder, back and anterior abdomen of Ricky Peter. The complainant's left small toe was severed. In the doctor's opinion, severe force was used to inflict the injuries. These injuries required the complainant to be hospitalized for six weeks.
- [5]. It is necessary to add that the complainant was seen in Court and he is unstable in his gait and he requires a staff to walk. His general appearance is that of a seriously ill person but nothing presented to the Court suggests that his present condition is attributable to injuries sustained at the hands of the defendant during the incident under present review.
- [6]. The defendant admitted one conviction for stealing dating back to November 2008 when he was sentenced to six (6) months' imprisonment.

- [7]. The Court has had the benefit of a pre-sentence report ordered after the defendant changed his plea. The report chronicled the history and development of the defendant from birth up to the present. The defendant is now twenty-seven (27) years of age and is a citizen of both Saint Lucia and the United States of America. He is unmarried and he has no children. His parents and siblings all reside in St. Croix, U.S. Virgin Islands.
- [8]. The defendant is the third of his mother's five children and the second born of his father's four (4) children. He grew up in Mon Repos, Micoud with his parents as a quiet, normal child. His father was a banana farmer and his mother operated a local shop selling groceries. The family shared good relations and the defendant was and continues to be close to his mother.
- [9]. At the age of eleven (11) years, the defendant migrated with his entire family to St. Croix, US Virgin Islands. Life on St. Croix was initially a struggle but the defendant managed to complete his vocational high school education as valedictorian of his night class. The defendant attended college pursuing studies in engineering for two semesters at the age of nineteen (19) years. After an incident involving a dean of the college in Maryland, the defendant expelled. Thereafter, he travelled to St. Lucia in the year 2006 ostensibly on vacation and has not left Saint Lucia to date.
- [10]. The defendant has never had full-time employment. In his younger days he assisted his father on the banana plantation and in St. Croix he was employed at various jobs including in the areas of construction and landscaping.
- [11]. The defendant was twenty-two (22) years of age when he returned to Saint Lucia. At first he resided with his mother's sister in the same community in which he grew up. His aunt and uncle observed that the defendant did not appear to be mentally normal. In addition, he began to follow bad company, indulged in alcohol and marijuana abuse in his aunt's

presence generally showing disrespect and rudeness towards her. As a result, he went to live in his parents' home which had been previously tenanted. Although, the defendant's mother came to Saint Lucia and took him to the doctor, the defendant refused to take the medication and continued to demonstrate strange and unacceptable behaviour.

- [12]. The defendant's version of the relationship with his aunt is that it deteriorated when he took groceries from her shop intending to pay her when his parents sent money. However, she reported the matter to the Police. This was confirmed by his aunt as being true. She stated that the defendant squandered what his parents sent for his upkeep.
- [13]. The report painted a picture of a young man with mental issues, unemployed and being maintained by his parents who lived abroad. The defendant kept bad company and was known to smoke marijuana and drink alcohol.
- [14]. Inquiries made in the community painted a disturbing picture of the defendant as being a bully, a troublemaker and a wicked and violent person. Reports have been made against him to the Police for violence and threats. Because of his behaviour, he is regarded as a risk to the community. Persons observed his behaviour as being consistent with mental problems. The Probation Officer identified the defendant as a potential recidivist.
- [15]. As to his relationship with the complainant, the defendant stated that he objected to the complainant and his friends frequenting his parents' house to sell and smoke marijuana after he lost his passport and other personal items. In turn, the complainant accused the defendant of being responsible for the loss of his marijuana. The defendant recounted several hostile encounters with the complainant culminating in the incident where he admitted using a cutlass to cut the complainant.
- [16]. The defendant has expressed remorse and a willingness to compensate the complainant. Clearly, such compensation must be derived from the defendant's parents. Indeed, his

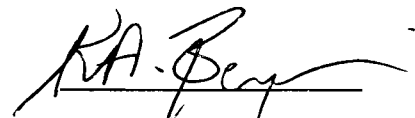
mother has expressed an interest in taking the defendant back to St. Croix provided he is free to do so.

- [17]. Having regard to the consistent references to the defendant's odd behaviour by his aunt and uncle, the members of the community and at the Bordelais Correctional Facility, the Court ordered a psychiatric assessment. This was done against the background of the Court recognizing that the defendant is of obvious intelligence and holds substantial academic promise. In addition, the events of 2006 that led to the defendant leaving Maryland to come to St. Lucia have a direct bearing on his present unsatisfactory state but remain shrouded in some mystery.
- [18]. Learned Counsel conceded that the defendant's plea could have been made in a more timely fashion and that the seriousness of the offence. The defendant is desirous of rejoining his family in St. Croix. The Court was invited to impose a non-custodial penalty and order compensation. The victim has been offered and has accepted the sum of eight thousand dollars (\$8,000) by way of compensation for his injuries to be paid in one month.
- [19]. The efforts of the Court to obtain a psychiatric assessment of the defendant proved futile. As a result, the Court is unable to verify, by expert opinion, the existence of any psychiatric disorder. The defendant must therefore be sentenced on the basis of the absence of any psychological issues.
- [20]. It is to be noted that the incident arose from prior disagreements. The defendant said the complainant owed him money while the complainant accused the defendant of stealing marijuana belonging to him.
- [21]. The Court has considered the possibility of a non-custodial sentence. Having regard to the bad reports about the defendant from the community, the defendant's antecedents and the viciousness of the attack on the unarmed complainant, the imposition of a custodial

sentence is inevitable to act as general deterrent to others and as a deterrent to the defendant in the future. It is desirable that the defendant be incarcerated for a period commensurate with the seriousness of the offence. Such length of time must be sufficient to enable the rehabilitation of the defendant while not dashing his hope for re-entry to society and for exploiting his obvious talents.

[22]. In my view, a suitable notional sentence for this offence ought to be ten (10) years imprisonment. From that there will be a limited reduction for the plea of guilty which could have been entered sooner. Also, the defendant is entitled to credit the entire period of one year and five-months spent on remand.

[23]. Accordingly, the defendant is sentenced to five (5) years imprisonment. In addition, the defendant is ordered to pay to the complainant by way of compensation the sum of eight thousand dollars (\$8,000) within one month or in default to serve twelve (12) months consecutive to the sentence of imprisonment.


KENNETH BENJAMIN
HIGH COURT JUDGE