

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

SAINT LUCIA

CRIMINAL CASE NO. SLUCR 2008/0818

BETWEEN:

THE QUEEN

Claimant

AND

MITCHEL JOSEPH AKA "BAGE"

Defendant

Appearances:

Mr. A. Elliot Counsel for the Defendant

Mrs. Victoria Charles-Clarke Director of Public Prosecutions for the Crown

.....
2011: February 3 & 9
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JUDGMENT ON SENTENCING

- [1]. **BENJAMIN, J. :** The defendant was convicted by a mixed jury for the offence of capital murder. The indictment was laid on January 13, 2010 and it was alleged that on Sunday, the 27th day of April, 2008 at Ciceron situate near the city of Castries, the defendant committed capital murder by causing the death of Police Constable No. 5 Lester Remy contrary to section 85 (1) (a) of the Criminal Code of Saint Lucia 2004.
- [2]. At the time of conviction, the learned Director of Public Prosecutions gave notice of the intention of the Crown to seek the death penalty. Pursuant to this oral notice, a written notice was filed on January 19, 2011 setting out the grounds upon which the death penalty was being sought. Upon the reading of the allocutus after conviction, the Court ordered

that there be furnished for the use of the Court at sentencing a pre-sentence report and a psychiatric assessment of the defendant. These reports have been made available to the Court, the Director of Public Prosecutions and Defence Counsel.

- [3]. At the sentencing hearing, the Crown led two witnesses and the Defence presented the testimony of one witness. The defendant is now before the Court for sentencing.

FACTS

- [4]. Police Corporal Ian Labadie received a call from the deceased, Lester Remy at 10:00 a.m. on Sunday the 27th day of April, 2008. At the time, the deceased was a Police Officer with the Force No. 5 having been enrolled in the Royal Saint Lucia Police Force on June 30, 1998. Both Officers were then assigned to the Major Crime Unit, a unit which was tasked with investigating serious crimes including homicide and fraud. The deceased was issued with a 9mm Glock Semi-automatic Pistol by his supervisor, Inspector Anastasius Mason, on the 29th day of June, 2007 for his use in the protection of himself and his colleagues given the nature of his duties.
- [5]. Corporal Labadie drove to the Criminal Investigation Department on Bridge Street in Castries and the deceased and Constable Rudolph Phillip boarded the police unmarked vehicle. They went in search of the defendant and travelled as far as the Barre d'Lisle area before turning around and driving to Ciceron. While driving in Ciceron, the defendant was observed standing in front of his mother's house speaking to two other persons. The vehicle drove past and returned to that house shortly after. Approaching the house, the defendant was seen to step through the gateway into the yard which was fenced at the front with galvanized sheets. The deceased was seated at the right of the rear seat and swiftly disembarked from the vehicle. He ran into the front opening of the yard while Police Constable Phillip went to the rear of the yard. The deceased was heard shouting: "Bage! Police! Stop!

- [6]. Corporal Labadie got out of the vehicle and went into the yard where he saw the deceased and the defendant wrestling. The Corporal held the defendant from behind and while doing so he heard the deceased announce: "Weapon!" There followed five gunshots, last of which Corporal Labadie observed being fired from a .380 Glock Pistol in the hand of the defendant before managing to wrest that firearm from the defendant. Corporal Labadie wrestled the defendant to the ground. The firearm was handed to Constable Phillip who by then had arrived on the scene. Corporal Labadie said to Police Constable Phillip: "Phillip that man just shoot 5!" The defendant was subdued and subsequently handcuffed.
- [7]. The deceased was seen lying on his back with blood on him. He complained to Constable Phillip that the defendant had shot him. The Glock 9mm Pistol belonging to the deceased was recovered with a magazine containing 14 rounds of ammunition from under his head. The deceased was conveyed to hospital by ambulance and later died there.
- [8]. When the defendant was handcuffed by Police Constable Phillip, he was told that he had just shot a Police Officer and was arrested and cautioned. Thereupon, the defendant shouted (in the words of Corporal Labadie): "I dead already! Fuck Remy! Fuck 5! Just shoot me in my head!" Police Constable Phillip said he heard the defendant say: "Phillip! Fuck that man! I ain't give a fuck about 5! I don't give a fuck if da man die!"
- [9]. Police Constable Phillip cleared the Glock .380 Pistol handed to him by Corporal Labadie and found that it contained five rounds in the magazine and one round in the chamber. The expert evidence of the forensic firearms examiner, Inspector Graham Husbands confirmed that both firearms recovered at the scene were in working order.
- [10]. The defendant was also taken to the Victoria Hospital where he was treated for a gunshot injury which fractured his left thigh. Bullet fragments were recovered from that injury.
- [11]. The post-mortem examination concluded that the medical cause of death of the deceased was bleeding to death as a result of multiple gunshot wounds. The Pathologist observed four (4) gunshot entry wounds to the left side of the neck, the left armpit to the front of the

body, the left side of the abdomen and the left leg. All the wounds were to the left side of the body. The main gunshot wounds were to the left armpit and to the left side of the neck which caused damage to the left lung, blood vessels and the thoracic vertebrae. The left lung was collapsed and there was a large accumulation of blood in the left chest cavity. The spinal cord was damaged by two of the bullets passing through the first and second thoracic vertebrae. In the opinion of the Pathologist, even with rapid medical intervention, the chances of survival were very small.

- [12]. The gunshot to the left leg caused a fracture of the left tibia and a fragmented bullet was recovered at the site of that injury. Two other bullets were recovered from the right side of the deceased's back. An exit wound was noted at the right back of the deceased.
- [13]. There were two shell cartridge cases recovered at different times at the scene. The first was identified by Inspector Husbands to have been fired from the Glock 9mm Pistol issued to the deceased and the second was found to have been fired from the Glock .380 Pistol taken from the defendant by Corporal Labadie at the time of the incident. The two bullets recovered from the body of the deceased were found to have been fired from the said Glock .380 Pistol.
- [14]. At the trial, the female live-in companion of the deceased spoke of going to the Hospital and seeing the defendant whom she recognized as someone she knew from school-days. She told the Court that the defendant said to her: "Is Remy your boyfriend? I am sorry! I am sorry!"
- [15]. The defendant did not give evidence. However, the crux of his defence as embodied in the questioning of the Crown's witnesses was that the defendant was not in possession of the Glock .380 Pistol and ergo he did not shoot the deceased. By the verdict of the Jury, the defence was plainly rejected.

WITNESSES AT THE SENTENCING HEARING

- [16]. At the sentencing hearing, the Crown led two witnesses, Assistant Superintendent of Police Anastasius Mason and Margareta Remy, both of whom gave evidence at the trial. In essence, Assistant Superintendent Mason repeated the evidence given at trial as to the fact of the deceased being a Police Officer and his service record. He went on to detail the deceased's devotion to duty beyond required hours of work and tasks assigned. He spoke of the traumatic effect that the deceased's death has had upon the other members of the Unit and the high regard in which the deceased was held for his jovial temperament and team spirit. Mr. Mason was unaware of any adverse report about Lester Remy in his capacity as a Police Officer.
- [17]. Margareta Remy is the aunt of the deceased who lived with her family for over four years subsequent to his enrollment as a Police Officer. She described his formative years with his nuclear family. The deceased was described as a tower of strength to his mother, grandmother and siblings and as helpful to and a guiding influence upon his twin sisters.
- [18]. In the course of the testimony of Margareta Remy, the attention of learned Defence Counsel was drawn to section 86 (7) and (8) of the Criminal Code which provide the following:
- “(7) At the hearing for sentencing, the family of the victim shall be given an opportunity to address the Court on any matter connecting with the offence.
- (8) For the purpose of subsection (7), the Court shall in each case make a determination as to who constitutes the ‘family of the victim’ taking into account the circumstances of the case.”
- Let me at once state that it is palpable that Margareta Remy is a member of the family of Lester Remy, for the purposes of subsection (8).
- [19]. As to the proper interpretation to be given to subsection (7) of section 86, I can do no better than to repeat my dicta in The Queen v Elias George – Criminal Case No. SLUHCR2007/0076-0077. In that case, I opined:

[6] The guidelines laid down in Evanson Mitchan set out the burden of proof and the standard of proof at a sentencing hearing where the appropriateness of the death penalty is in issue. However, nothing further was iterated as to whether such proof countenanced the leading by the Crown of additional evidence, including evidence as to the impact of the offence on the victims' family.

[7] The Practice Direction issued for English Courts is of mere persuasive effect. However, there is some merit in the assumption that any view by a family member that is not against the imposition of the death penalty would be tainted by a suggestion of subjectivity. The less subtle aim would be to influence the Court towards the imposition for the death penalty.

[8] In Saint Lucia it seems to me that an answer lies in section 86(7) which specifically contemplates the receipt of additional evidence in respect of a capital offence. However, such offence is circumscribed to embrace only evidence "on any matter connected with the offence." Any construction of that phrase would of necessity attract the interpretation most favourable to the defendant, which is that evidence as to the impact of the offence on the family of the victim is not referable to the offence in a direct way."

In the premises, I rule that the evidence of neither witness would be taken into account given that the evidence of the service record of the deceased as a Police Officer ought properly to have formed part of the Prosecution's case at total, as indeed it did.

[20]. The sole witness for the Defence was Mr. Felix Nathan, the Vice Principal of the Ciceron Combined School. He referred to a Grade 6 student named Cez Hippolyte who was prone to disciplinary problems. Mr. Nathan told the Court that during the morning break, the student's father would call at least once per week to speak with his son. The significance of this evidence is to be gleaned from the pre-sentence report which identified the student as the child of the defendant.

CAPITAL MURDER

[21] Under the Criminal Code of Saint Lucia 2004, Section 85(a) provides:

“A person commits murder if he or she caused the death of another person

(a) intending to cause death...”

There can be no issue that section 85 creates the substantive offence of murder as it identified the actus reus and the requisite mens rea for the offence created.

[22] So far as relevant to this matter, section 86 enacts as follows:

(1) “Subject to subsection (2), murder committed in any of the following circumstances is capital murder –

(a) the murder of

(i) a member of the Police Force acting in the execution of his or her duties ...

(2) “(2)

(3) Where it is alleged that a person accused of murder is guilty of capital murder, the offence shall be charged as capital murder in the indictment.”

As I see it, section 86 creates a category of murder styled ‘Capital Murder’ and lists the factual circumstances under which a murder can be so classified. The section does not define the offence of murder nor does it particularize the requisite actus rea and mens rea, but rather, it must be read as adopting the definition set out in section 85.

[23] Learned Defence Counsel opened his submissions against the imposition of the death penalty by contending that the indictment as framed under section 85(a) does not allow for the application of the death penalty. This submission was based on the wording of section 86(4) which states:-

“A person convicted of capital murder under subsection (1) may on conviction, be sentenced to death”

[24] In anticipation of this argument, the learned Director of Public Prosecutions argued that section 86(1) provides the description and definition of capital murder whereas the substantive offence resides in section 85 which is the section under which the offence of

capital murder is to be laid in the indictment. It was said that section 86(4) sets out the penalty. Accordingly, by laying the charge under section 85(a), section 86 was brought into effect and therefore, the conviction was valid.

[25] Curiously, the Indictment charged the defendant for committing capital murder by causing the death of Lester Remy Police Constable 5 Contrary to Section 86(1) (a) (1) of the Criminal Code of Saint Lucia 2004. This renders nugatory the argument of learned Defence Counsel and places the learned Director of Public Prosecutions in the position of casting doubt upon an indictment laid by her.

[26] As I see it, section 86(1) creates, under the category of Capital Murder, sub-categories based on factual circumstances. It is open to the Director of Public Prosecutions to lay a charge specifying the sub-category being targeted, which represents the position in this matter. I therefore hold that the Indictment as laid operates to invoke the applicability of the death penalty.

PRE-SENTENCING REPORT

[27] The defendant is a 30-year old unemployed man resident at Ciceron. His mother resides at Ciceron and he has eight (8) siblings ranging in age between 39 and 18 years. He is the 5th child of his mother's nine children from eight separate unions. He has never known his father. He was born into the Ciceron Community before his mother left him with his aunt and cousins and went to reside in Barbados. The defendant was taken to Barbados by his mother at the age of four (4) years. The defendant told the Probation Officer that life in Barbados was difficult for him as he was neglected and often left hungry by his mother who was reputed to be prone to drink and multiple liaisons. He painted a picture of poverty and being resident in a community prone to crime and drug abuse. The defendant would frequent the streets to beg and steal.

[28] Being unable to attend school in Barbados, the defendant returned to Saint Lucia with his mother and siblings at the age of twelve (12) years. After being abused by his step-father he went to live with an uncle in the same community. At the age of fourteen (14) years, he

began to get into conflict with others and displayed early rebellious behaviour. The defendant's mother and his siblings do not consider him to be a bad person although he harbours anger towards his mother for the negative events in his upbringing.

[29] The defendant's son is now ten (10) years old and the defendant has hardly provided any maintenance. His son as previously indicated has issues of discipline and he says that he missed his father who telephones him every Tuesday. The defendant himself admits to being a failure as a role model to his son and he expressed to the Probation Officer concern as to his son's behaviour.

[30] After attending primary school in Barbados, the defendant was successful at the Common Entrance Examination at the age of eleven (11) years. Not being a citizen, he could not be enrolled in secondary school. On returning to Saint Lucia, he entered into Grade 6 at the Ciceron Combined School, wrote the Common Entrance Examination and was unsuccessful. He admitted not being attentive at school and dropped out at the age of fourteen (14) years. Since then he has not embarked on any further educational pursuit.

[31] The defendant first worked at the age of seventeen (17) years and he has had various jobs at a supermarket, a gas station and learning joinery. He admitted to engaging in selling marijuana and gambling in the Ciceron area.

[32] The Probation Officer reported that the defendant said that he was sorry about the death of the Police Officer, but asserted his innocence.

ANTECEDENTS

[33] The record disclosed to the Court indicates that the defendant has been convicted twice for escaping lawful custody in 2004 and 2006, for wounding in 2006, for the offence of grievous harm in 2004 and for using a firearm with intent in September 2006. The Crown has highlighted the fire-arm-related offence and the fact that this offence and the convictions for wounding and grievous harm show a pattern of violence. In addition, it was said that the escaping offences demonstrated disrespect and disregard for the law.

- [34] In reliance upon the advice of Sir John Dyson in Earlin White v The Queen [2010] UKPC 22, learned Defence Counsel contended that the Court ought not to take into account any of the previous convictions as a relevant factor towards the gravity of the present conviction, since none are for the same offence.

PSYCHIATRIC ASSESSMENT

- [35] In his report, the Consultant Psychiatrist, Dr. Elroy Azanza Castillo, stated that he had performed a psychiatric examination on the defendant on December 31, 2010. He wrote the following as his results:

“The client was fully aware and totally oriented, no delusions, no hallucination, emotionally congruent, behaviour highly organized during interview, clean and tidy, quiet and compliant. No major mental or psychiatric disorder at the moment of examination.”

- [36] Learned Defence Counsel submitted that there ought to have been a psychiatric evaluation of the defendant subsequent to the date of the offence to ascertain the mental status of the defendant. In support of this contention, reference was made to the case of Reyes v The Queen-Privy Council Appeal No. 64 of 2001.

- [37] Upon a perusal of paragraph 3 of the advice of Lord Brighan in Reyes, it appears to me that the learned Law Lord was merely recounting the events and imposed no such requirement. Indeed, the issue as to the mental condition of the defendant at the time of the offence is a matter to be resolved by the trial process itself as part of the defence. Accordingly, this defence contention is not supported by authority. Following the guidelines laid down by Byron, CJ in Evanson Mitchan et al v DPP – Criminal Appeal Nos. 10, 11 and 12 of 2002 (St. Christopher-Nevis), the trial judge ought to request that a social welfare report and a psychiatric report be prepared in relation to the convicted person for the purpose of the sentencing hearing.

- [38] Having said that, it must be stated that the rationale for the obtaining of a psychiatric report is grounded in the age-old principle that a person suffering from a mental disorder must not suffer the penalty of death (see Blackstone's Commentaries on the Law of England (1756) Book 4, Cap. 2, P. 24).

THE LAW

- [39] The starting point in cases involving the possibility of the death penalty being imposed can be found in the case of Peter Hughes and Newton Spence v R-Criminal Appeal No. 20 of 1998 and 14 of 1997. The Court of Appeal of the Eastern Caribbean Supreme Court there ruled that the mandatory imposition of the death penalty for the offence of murder was unconstitutional. Byron CJ had this to say (at paragraph 30): -

"The issue here is whether it is inhuman to impose a sentence of death without considering mitigating circumstances of the commission of the offence and the offender, whether the dignity of humanity is ignored if this final and irrevocable sentence is imposed without the individual having any chance to mitigate, whether the unlawful punishment of death should only be imposed after there is a judicial consideration of mitigating factors relative to the offence itself and the offender."

The learned Chief Justice concluded that not only is the automatic sentence of death upon conviction unconstitutional but also that the constitutional guarantee of protection against inhuman treatment required individualized sentencing. The matter was put thus:

"43. The experience in other domestic jurisdictions, and the international obligations of our states, therefore suggest that a Court must have the discretion to take into account the individual offender and the offence determining whether the death penalty can and should be imposed, if the sentencing is to be considered rational human and rendered in accordance with the requirements of due process.

44. In order to be exercised in a rational and non-arbitrary manner, the sentencing discretion should be guided by legislative or judicially prescribed principles and standards, and should be subject to effective judicial review, all with a view to ensuring that the death penalty is

imposed in only the most exceptional and appropriate circumstances”
(emphasis added)

[40] It is worthy of much note, that section 86(4) alluded to earlier is framed in subjunctive language and confers a discretion upon the Court with regard to the sentence of death. Further, section 86(5) confers upon the convicted person an opportunity to make a plea in mitigation of sentence. The Court is mandated to take into account certain listed factors as well as reports touching and concerning the offender and the offence. It is upon these factors that the Crown based its grounds and the Defence fashioned its response. The factors are:

- (a) the gravity and nature of the offence;
- (b) the character and record of the offender;
- (c) any subjunctive factors which may have influenced the conduct of the offender;
- (d) the design and manner of execution of offence; and
- (e) the possibility of reform and social re-adaptation of the offender.

This Court is content to approach the matter on the basis of these factors. However, before doing so, it is salutary to call to mind the principles enunciated with clarity by Rawlins, JA (as he then was) in Mervin Moise v R. Criminal Appeal No. 8 of 2003 (Saint Lucia) and restated in Wilson v R. – Criminal Appeal No. 15 of 2002 (Saint Vincent and the Grenadines). His Lordship stated:

“17. ... the first principle by which a sentencing Judge is to be guided in these cases is that there is a presumption in favour of an unqualified right to life. The second consideration is that the death penalty should be imposed only in the most exceptional and extreme cases of murder. At the hearing, the convicted person must raise mitigating factors by adducting evidence, unless the mitigating factors are obvious from the evidence given at the trial. The burden to rebut the presumption then shifts to the Crown. The Crown must negative the presence of mitigating circumstances beyond a reasonable doubt. The duty of the sentencing judge is to weigh the mitigating and aggravating circumstances that might

be present, in order to determine whether to impose a sentence of death or some lesser sentence.

18. It is a mandatory requirement in murder cases for a Judge to take into account the personal and individual circumstances of the convicted person. The Judge must also take into account the nature and gravity of the offence; the character and record of the convicted person; the factors that might have influenced the conduct that caused the murder; the design and execution of the offence, and the possibility of reform and social re-adaptation of the convicted person. The death sentence should only be imposed in those exceptional cases where there is no reasonable prospect of reform and the object of punishment would not be achieved by any other means. The sentencing Judge is fixed with a very onerous duty to pay due regard to all of these factors.

19. In summary, the sentencing Judge is required to consider, fully, two fundamental factors. On the one hand, the Judge must consider the facts and circumstances that surround the commission of the offence. On the other hand, the Judge must consider the character and record of the convicted person. The Judge may accord greater importance to the circumstances, which relate to the commission of the offence. However, the relative importance of these two factors may vary according to the overall circumstances of each case."

[41] A useful reminder of the Court's task is to be found in the dictum of Oia Mae Edwards, J. in R. v Mervin Moise – No. 1 of 2001 (Saint Lucia) Her Ladyship stated (at paragraph 18): -

"The value of life is immeasurable and through the willful taking of an innocent life calls for a severe penalty, the normal principle is that an accused convicted of an offence of murder should be liable to be punished with the sentence of life imprisonment. If the Court finds that the offence is of an exceptionally depraved and heinous character and that it constitutes on account of its design and the

manner of its execution, a source of grave danger to the society at large, the Court may impose the death sentence. The case must be found by the Court to merit the extreme penalty."

THE OFFENCE

- [42] The facts amply support the fact of the deceased embarking upon the apprehension of the defendant in the course of his duties as a Police Officer assigned to the Major Crime Unit of the Royal Saint Lucia Police Force. When accosted and alerted to stop by the deceased Police Officer, the defendant chose to ignore the lawful instruction and instead resorted to the use of a firearm which he had on his person and which was later found to have been licenced to one Dr. Winston Parris. Instead of surrendering peacefully, the defendant elected to discharge the said firearm. As a result, four (4) bullets were discharged into the body of the deceased.

THE NATURE AND GRAVITY OF THE OFFENCE

- [43] This offence is one involving a firearm and a Police Officer who identified himself. These matters by themselves elevate the offence to a high level of gravity. Nothing more need be said on this factor.

THE DESIGN AND MANNER OF EXECUTION OF THE OFFENCE

- [44] Over and above the use of a firearm, the defendant discharged several shots, four (4) in number, towards the deceased at close but not point blank range. All four (4) gunshots struck the deceased and two (2) of them were fatal in their effect as previously described from the testimony of the pathologist.
- [45] Inspector Husbands explained what was required to discharge four (4) shots in rapid succession and hinted that some dexterity and determination of purpose were required. This suggests that the aim of the defendant was to deliberately discharge as many gunshots at the deceased as possible with a view to thwarting his apprehension.

[46] It must be conceded that the incident could not have been the product of premeditation but arose ex improviso while the deceased was attempting to apprehend the defendant in his mother's yard. In addition, there was no torture, prolonged suffering or humiliation visited on the deceased whose death occurred in a short space of time after his injuries were sustained.

[47] When the defendant was told that the deceased Police Officer had been shot, the defendant expressed callous disregard for the result of his actions. Even in the absence of any personal grudge ill-will, the defendant nevertheless was more concerned as to his fate than with the well-being of the deceased. Later on, at the Hospital, he did express some measure of contrition to the deceased's girlfriend.

CHARACTER AND RECORD OF THE DEFENDANT

[47] The defendant is well-known to the law and has prior convictions none of which are for homicide, be it murder or manslaughter. There is evidence of the bad character of the defendant residing in the pre-sentence report. Be that as it may, the advice in Earlin White precludes the application of convictions for offences other than murder to be applied towards the gravity of the offence.

THE SUBJECTIVE FACTORS WHICH INFLUENCED THE CONDUCT OF THE DEFENDANT

[48] From the remarks of the defendant in referring to the deceased as 'Five' and calling Police Constable Phillip by name, there is clear suggestion that he knew whom the deceased was. Given that the presence of Police was announced, he obviously embarked on a course of action to avoid his arrest and detention.

[49] It is not without significance that the defendant continues to assert his innocence although he expressed that he was sorry about the death of the Police Officer.

[50] The defendant's conduct was undoubtedly influenced in large measure by his unfortunate childhood to which I have earlier alluded. However, there is no indication that he is willing to forgo his criminal behaviour in the future. This Court is not satisfied that the expressions of remorse signify a desire to renounce deviant conduct.

[51] The defendant acknowledges that he has not been a good example to his juvenile son but yet he has not taken the next step of verbalizing or even demonstrating a willingness to display wholesome conduct for the guidance of his offspring.

[52] **POSSIBILITY OF REFORM AND SOCIAL RE-ADAPTATION OF THE DEFENDANT**

I have already addressed these matters under the previous heading of subjective factors influencing the defendant. My considered view is that the defendant has not shown any indicia that invite rehabilitation and reform.

[53] **THE SENTENCE**

This Court considers this offence to be a heinous and grave nature that is an affront to authority and law and order. It is precisely this type of offence that is targeted by section 86 of the Criminal Code. The defendant acted callously and with total disregard for human life in pursuit of his narrow selfish objective – to evade capture.

[54] It falls to this Court to determine whether the crime is of such an extreme nature that it has outraged the public and offended normal human beings to the extent that it can be ranked among the worst if the worst. In my view, this was a crime of sufficient enormity to outweigh the qualified remorse shown by the defendant, his unhappy upbringing and the mitigating matters raised by learned Defence Counsel. It is unthinkable that a person should seek to avoid apprehension by employing a firearm with lethal consequences.

[55] The aggravating features of this case substantially outweigh the objective factors addressed by the Court and identified during the sentencing hearing. The Crown has discharged its burden of establishing beyond reasonable doubt that the death penalty is warranted.

[56] It is therefore ordered that the sentence of death be imposed on the defendant, Mitchel Joseph.



KENNETH BENJAMIN
HIGH COURT JUDGE