

**IN THE SUPREME COURT OF BELIZE, A.D. 2021
CRIMINAL JURISDICTION**

CENTRAL DISTRICT

Indictment No. C11 of 2019

THE QUEEN

v.

**SAUL CAMPOS
LYNDON LEWIS**

**FIRST ACCUSED
SECOND ACCUSED**

- **Murder**

BEFORE The Honourable Mr. Justice Francis Cumberbatch

APPEARANCES Mr. Cecil Ramirez, Snr. Crown Counsel appears for the Crown
Mrs. Michelle Trapp - Zuniga, Counsel for the First Accused; and,
Mr. Arthur Saldivar, Counsel for the Second Accused

DATES 4th, 5th, 6th, 7th, 11th, 12th, 15th, 20th, 21st, 25th, and 26th of November, 2019; 2nd, 4th, 9th, and 17th of December, 2019; 20th of January, 2020; 24th of February, 2020; 24th of November, 2020; 3rd of December, 2020.

JUDGMENT ON SENTENCING

{1} The convicted man and another were indicted by the Director of Public Prosecutions for the offense of murder. After a fully contested trial, the convicted man was found guilty of the offense of murder and this Court ordered a sentencing hearing be held to determine what would be an appropriate sentence. The Court ordered the production of a social inquiry

report, a psychiatric evaluation, and a report from the Belize Central prison on the convicted man's conduct whilst an inmate on remand at that institution.

The Facts

{2} On the 28th of September, 2017, one Luis Sierra ('the Deceased') and others were in the Valley Community area searching for cattle. Whilst there the convicted man emerged from the bushes armed with a firearm. He shot the Deceased twice and made his escape from the area. He was arrested by the police on the following day and took them to the place where he hid the firearm. He later gave a statement under caution to the police admitting his involvement in the murder of the Deceased.

The Hearing

{3} At the hearing the convicted man called character witnesses all of whom spoke positively about their knowledge of him prior to his conviction. It is common ground that the convicted man is a first offender. Against that background one of his witnesses testified that he was lawfully employed by him for about six to seven years as a truck driver and was also responsible for collecting money from customers. This witness stated that he never lost anything whilst the convicted man worked for him.

{4} The convicted man addressed the court and stated that he hails from the Orange Walk area. He comes from a very poor family hence he was unable

to complete schooling at the Orange Walk Technical High School as he was obliged to seek jobs to help his family. He considers himself to be a punctual and hardworking individual.

{5} Saul Campos, further stated that prior to his arrest he lived and cohabited with a young lady as her common-law-husband and that he is the father of a five-year-old daughter an issue of the said common-law union. He expressed remorse for what he has done and took responsibility for his actions. He also sought the Court's leniency.

{6} Counsel for the convicted man submitted that he cooperated fully with the police during the investigation. Counsel submits that her client was arrested at around 11:30 a.m. and gave a statement under caution to the police at 3:05 p.m. that same day. She reminded the Court that the convicted man has no previous convictions.

{7} Defence Counsel drew the Court's attention to the steps taken by the convicted man to rehabilitate himself so as to facilitate his reintegration into society. In this regard, the Court learned that the convicted man successfully participated in and completed the Cognitive Behavioral Therapy Program at the Remand Rehabilitation Centre at the Belize Central Prison. I will refer to this program later in this judgment. The convicted man's prison record whilst an inmate

on remand was also revealed to the Court the contents whereof I will address later in this judgement.

{8} Counsel submitted for the Court's consideration the *dictum* of Justice Graham-Perkins in the case of ***R v Cecil Gibson*** (1975) 13 JLR 207 to wit:

“...it should never at any time be thought that a convicted person standing in a dock is no more than an abstraction. He is what he is because of his antecedents and justice can only be done to him if proper and due regard is had to him as an individual, and a real attempt is made to deal with him with reference to the particular circumstances of his case. To ignore these is to ignore an essential consideration in the purpose of punishment, namely the rehabilitation of the offender.”

{9} In closing, the Defense Counsel referred the Court to sentences imposed by the Supreme Court in cases of persons convicted of murder.

The Social Inquiry Report

{10} This report contained statements from siblings and the common law wife of the convicted man. The general theme of the contents herein is that the convicted man was a hard-working person who was not known to be involved in criminal activities. Indeed one of his sisters stated that upon learning of her brother's involvement in this offense she was in a state of

disbelief and shock as he was not known as someone who would commit such an infraction.

{11} I must mention, however, that there were references made of the convicted man which were not similarly complimentary of him. His brother stated thus: *“he said like everyone he would hang out with questionable persons in Orange Walk but none to the point of being in a gang or violent”*. His sister stated, *“he was not a perfect person as he had picked up some bad friends in adulthood. She shared he was never arrested for something so serious and mentioned he was once arrested for marijuana but that was it.”*

{12} The convicted man’s family members have all pledged their support for him on his discharge from prison.

{13} The psychiatric report disclosed that no signs of the convicted man suffering from any type of psychosis were found during an examination by the psychiatrist. Moreover, there is no evidence of him having a history of mental illness.

The Law

{14} The principles of sentencing namely retribution, deterrence, prevention, and rehabilitation were laid down by Lawson LJ in the celebrated case of ***R v James Henry Sargeant*** 1974 60 Cr. App. R. 74. in that decision Lawson LJ stated that:

‘any judge who comes to sentence ought always to have those four classical principles in mind and to apply them to the facts of the case to see which of them has the greatest importance in the case with which he is dealing.’

{15} In *Desmond Baptiste v Regina* CJ Sir Dennis Byron embraced and applied these principles: Sir Dennis stated as follows:

Retribution

{16} Retribution at first glance tends to reflect the Old Testament biblical concept of an eye for an eye, which is not tenable in the law. It is rather a reflection of society’s intolerance for criminal conduct. Lawton LJ stated on page 77:

“... 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.”

{17} The facts of this case disclose that the Deceased who was a butcher along with his assistant and another were involved in a legitimate exercise that day. The Accused suddenly and without warning descended upon them and discharged two rounds at the Deceased whom he had apparently targeted for robbery. There was no retaliation by the Deceased and /or his assistant when the Accused appeared and he proceeded to commit an act of cold-blooded murder.

{18} For this the convicted man must be suitably punished by the imposition of an appropriate sentence. Society demands no less. Thus, in the words of Lawson LJ aforesaid, the Court must show its abhorrence of this crime by the sentence it imposes.

Deterrence

{19} 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 behaviour.

{20} The convicted man is a first offender who is well-spoken by his character witnesses. He is a family man who prior to this offense was lawfully employed. Thus, there is very little likelihood of him re-offending in like manner if at all and from all appearances, this principle would not be applicable to him. However, the principle is two-fold in nature, and whilst it may not be applicable to this convicted man the Court is well aware of the undesirable rate of homicide offenses within the jurisdiction more particularly those committed with the use of a firearm. Accordingly, the principle should be applied to dissuade others from offending in like manner by the sentence imposed by the Court.

Prevention

{20} In *Desmond Baptiste et al v Regina* Sir Dennis Byron CJ opined thus:

“...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.”

{21} The convicted man is by no means a repeat offender and is not hitherto known as a violent person prone to commit offenses or exhibit behaviour synonymous with the brutality exhibited on that fateful day. From all appearances, this ought to be a case where the shutting of the iron cell door ought to have the required deterrent effect on him.

{22} Thus, there is no need to impose either an inordinately lengthy or indeterminate period of incarceration on the convicted man herein.

Rehabilitation

{23} Sir Dennis Byron opined in this regard thus:

“... Here the objective is to engage the prisoner in activities that would assist him with reintegration into society after prison.”

{24} The report from the Remands Rehab Centre reveals that the convicted man voluntarily attended and participated in the Cognitive Behaviour Therapy

Program at the Prison whilst an inmate on remand. The Director of the program stated thus:

“...I must commend, Saul Campos, for his willingness to attend this program and make a step towards a better life for himself. Also, his willingness and dedication for the past seven months to share his experiences with the young interns who voluntarily attended this program.”

{25} I find the foregoing to be compelling evidence that the convicted man is meaningfully involved in the rehabilitation process to assist in his reintegration into society upon his release. Moreover, this process ensures is a step in the right direction for his betterment in life.

{26} The Court has also examined the report on the convicted man’s violations whilst an inmate in prison. This report discloses the commission of two minor infractions from the 3rd of October, 2017, to date. I do not consider these infractions to be a departure by the convicted man from his efforts to rehabilitate himself.

Aggravating and Mitigating Factors

{27} I find the following to be the aggravating and mitigating factors herein.

Aggravating Factors

1. The brutal taking of human life.

2. The use of a firearm against the unarmed and defenceless Deceased man.
3. This offense was planned and premeditated.
4. The prevalence of the use of firearms in cases of homicide.

Mitigating Factors

1. The convicted man co-operated with the police during their investigation;
2. The convicted man has taken full responsibility for his actions;
3. The remorse expressed to the family of the Deceased;
4. The convicted man is a first offender;
5. The favourable comments made of the character and personality of the convicted man in the social inquiry report;
6. The positive steps were taken by the convicted man to rehabilitate himself.

{28} Section 106 of the *Criminal Code* CAP 101 of the Revised Laws of Belize provides thus on the question of sentencing a person convicted of murder:

“106(1) Subject to subsection(2), a person who commits murder shall be liable, having regard to the circumstances of the case, to;

(a) Suffer death; or

(b) *Imprisonment for life.*

3. *Where a court sentences a person to imprisonment for life in accordance with subsection (1), the court shall specify a minimum term, that the offender shall serve before he can become eligible to be released on parole in accordance with the statutory provisions for parole.*

4. *In determining the appropriate minimum term under subsection (3), the court shall have regard to:*

- (a) *The circumstances of the offender and the offense;*
- (b) *Any aggravating or mitigating factors of the case;*
- (c) *Any period that the offender has spent on remand awaiting trial;*
- (d) *Any relevant sentencing guidelines issued by the Chief Justice; and*
- (e) *Any other factor the court considers relevant.”*

{29} In ***Harry Wilson v Regina*** Rawlins JA (as he then was) outlined the manner in which the Court should approach sentencing in capital cases. In that decision Rawlins JA stated thus:

“That 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 offense, and the possibility of reform and social re-adaptation of the convicted person.”

Rawlins, JA went on to state:

“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 offense. 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 offense. However, the relative importance of these two factors may vary according to the overall circumstances of each case.”

{30} The facts herein disclose that the accused committed this offense in a most heinous manner. He stepped out from the bush and fired a gun at the deceased. The acquisition of an illegal firearm and ammunition by the convicted man and his unrestrained use thereof makes this homicide that much more egregious. Moreover, the convicted man fired twice at the Deceased who at the time was unarmed. There was no chance for survival by the Deceased from this shooting which was planned and premeditated.

{31} The character and record of the convicted man are favourable. He is a first offender and prior to the commission of this offense could be considered to

be a person of good character. He is described by his former employer and family members to be hard-working, helpful, and honest. He has since his incarceration on remand taken positive steps to rehabilitate himself and other inmates in prison.

{32} I have balanced the aggravating and mitigating factors in light of the facts and circumstances of this case and find that the aggravating factors outweigh the mitigating ones. I have also considered the character and record of the convicted man.

{33} I will give some weight to the character and record of the convicted man and other mitigating factors stated aforesaid in the determination of an appropriate sentence herein. However, the facts and circumstances surrounding the commission of this offense are overwhelming thus the convicted man must be punished for the senseless taking of the life of another person in the manner in which it was done. As stated, aforesaid, the Court is not unaware of the prevalence of the use of illegal firearms to commit murder within this jurisdiction.

{34} Accordingly, this convicted man is sentenced to life imprisonment of which
twenty-five years must be served before he becomes eligible for parole.

Dated this **3rd day of December 2020**.

Honourable Justice Mr. F M Cumberbatch
Justice of the Supreme Court
Central Jurisdiction