

**IN THE SUPREME COURT OF BELIZE, A.D. 2022  
CRIMINAL JURISDICTION**

**CENTRAL DISTRICT**

**Indictment No.** C6 of 2018

**THE QUEEN**

v.

**JAIRD GUERRA**

- **Murder**

**BEFORE** Honourable Justice Mr. Francis Cumberbatch

**APPEARANCES** Ms. Natasha Mohamed – Counsel for the Crown  
Mr. Arthur Saldivar – Counsel for the Accused

**TRIAL DATES** 21<sup>st</sup>, 22<sup>nd</sup>, 23<sup>rd</sup>, 24<sup>th</sup>, 29<sup>th</sup>, and 30<sup>th</sup> of June 2021; 5<sup>th</sup> of July 2021; 27<sup>th</sup> of September 2021; 22<sup>nd</sup> of November 2021; 7<sup>th</sup> and 15<sup>th</sup> of February 2022; 15<sup>th</sup> and 31<sup>st</sup> of March 2022.

**DECISION**

{1} The Accused was indicted by the Director of Public Prosecutions for the offence of murder for that he on the 4<sup>th</sup> day of March 2016, at Belmopan City murdered Maria Reymundo (‘the Deceased’). To that indictment the Accused entered a plea of not guilty. Hence, a fully contested judge alone was held pursuant to the provisions of section 65A of the *Indictable Procedure Act*.

## The Facts

- {2} I will summarize the facts of the case as presented by the Crown and Defence witnesses. I must state, however, that in arriving at my verdict I have taken into consideration all the evidence adduced by the Crown and the Defence in their respective cases.
- {3} **REBECCA VENTURA** testified that in March 2016, she resided in a three-bedroom house on Panama Street, Belmopan. She lived there with her husband and children. One of those rooms at the back of her home was occupied by the Accused and the Deceased. She said she had known the Accused for some 4 ½ years and described him by his physical features. She also testified that during that time she had spoken with him on numerous occasions, hence, she was familiar with his voice.
- {4} The room rented by the witness to the Accused was next to the one occupied by her and her husband. On the morning of the 4<sup>th</sup> of March 2016, she woke at around 4:00 a.m., to prepare lunch for her husband and at that time she heard the voice of the Deceased saying “*Jaird go to sleep because she could not sleep that night*”. She did not hear Jaird respond to her. She had last seen the Accused about 6:00 p.m., the night before when he came to her to give her husband a cigarette. She took the cigarette from him and he returned to his room.

{5} Around 5:15 a.m., her husband left for work and she returned to her bedroom. She again heard the Deceased telling the Accused to go to sleep. She also heard the voice of the Accused talking but was unable to understand what he was saying. All of a sudden she heard loud bangs and the Deceased shouted “*no Jaïrd, no, Rebecca help me help me*”. The bangs she heard were very loud and she tried to break down the wall by kicking it. She also tried breaking down the bathroom door to the room of the Accused and the Deceased. That door is not usually locked. She kept shouting and asking what happened, let me in. Whilst shouting she heard the sound of a machete on the patio and the sound of someone running on the south side of the house by which time she had already called the police.

{6} When the police arrived she learned that Maria was dead. When the Accused was talking she knew it was him because she recognized his voice. She also heard Maria asking him who he was talking to because there was no one else in the room. Jaïrd did not respond.

{7} **UNDER CROSS-EXAMINATION** the witness said there is a door leading from the back room to the yard and it is possible for someone to go in and out of that room without her knowing. She did not see the Accused on the 4<sup>th</sup> of March she only heard his voice and it did not seem as if he was drunk. She thought he was drunk because she could not understand what he was

saying. Since she spoke to him the night before she knew it was him when she heard the voice. Maria was asking the Accused who he was talking to and there was no response. She said she could not see how many people were inside of the room and it is possible for someone else to be there unknown to her. She only heard when Maria said “*no Jaïrd, no*”.

{8} **WPC KIMBERLEY BURGESS** testified. She said that on Friday 4<sup>th</sup> of March 2016, she was on duty at the Belmopan Police Station from 1:00 a.m. to 7:00 a.m. At around 6:15 a.m., a Hispanic male entered the station with a machete in his hand. He approached the diarist desk and said in creole words to the effect that ‘*he was the man that chop the lady and he is handing in himself because they want to kill him back there*’. She said she immediately cautioned him and he remained silent. She then asked him to place the machete on the floor which he did. He was then escorted to the charge room where he was told of the reason for his detention and cautioned again this time in Spanish at his request. He was asked if he understood, and he replied, “yes”. He said nothing more. He was placed in custody and the machete was secured in the firearms locker.

{9} The witness said the man gave her his name as, Jaïrd Jeremias Guerra, 35 years old and his date of birth was the 5<sup>th</sup> of May 1980, and that he was a construction worker. She made an entry in the personnel diary at the station

of exactly what had happened, what Guerra said, and the actions taken by her.

{10} The witness stated that Guerra spoke to her immediately as he approached the diarist desk. She further stated that she did not use any force against him, made no promises to him, and made no threats to him. The entry was tendered into evidence. She identified the Accused as Jaird Guerra who she dealt with that morning.

{11} **UNDER CROSS-EXAMINATION** the witness said she was inside of the counter at the diarist desk which was about 2 to 3 feet behind the counter. The person walked in to the diarist desk with the machete in his hand. There was nothing unusual about his clothing and apart from the creole he spoke when he came in to the station everything else was in Spanish. She recognized Spanish to be his first language. She said the Accused did not tell her that he was not the man that chopped the Lady. The people at the desk had already left when the Accused finished speaking. Only PC Aleman was present behind the desk when everything was said and done.

{12} **WENCESLADO TEUL** a Crime Scene Technician testified that on Friday 4<sup>th</sup> of May 2016, at around 6:00 a.m., he visited a Panama street address. There he met CPL Warrior who led him to a house constructed on board and zinc and measuring 40 feet by 25 feet. He was taken to a room at the North

Eastern corner of the house where he saw the motionless body of a woman lying face down on a mattress on the floor of the room. He examined the body and observed several chop wounds to the upper part of the body. He carried out a detailed search for exhibits but found none. He took photographs of the body and collected swab samples of the suspected blood on the floor. Later that day he attended a post mortem examination conducted by Dr. Mario Estrada Bran at the Karl Huesner Memorial Hospital where he took photographs of the body. He also visited the Belmopan Police Station where he was shown a machete by CPL Warrior. He packaged and sealed it and tendered it for identification only. The photographs were tendered admitted and marked into evidence.

{13} **UNDER CROSS-EXAMINATION** he said he does not know the shoe size of the Deceased. The floor was Marley and the yard was a mixture of grass and dirt and that he did not observe any footprints either inside or outside of the house. The mattress was not taken to the lab.

{14} **UNDER RE-EXAMINATION** the witness stated that he observed that the cutlass was stained with what was suspected to be blood.

{15} **CPL 734 WARRIOR** testified. He said that on the 4<sup>th</sup> of March 2016, he was attached to the Belmopan Police Station. At around 5:50 a.m., that morning he received a report of a man beating a woman at 10 Panama Street,

Belmopan. He together with other police officers visited that location and on arriving at the house he entered a room where he observed a female person lying on her abdomen on a mattress on the floor. The left side of her face was exposed and her hair was scattered over her head. He also observed a large cut wound to the left side of her neck. There was red substance over her face and she appeared not to be breathing. He called an ambulance which took the body to the Western Regional Hospital where she was pronounced dead at around 8:00 a.m., by Dr. Rhonda Williams. On his return to the Belmopan Police Station he received from WPC Burgess a machete about 2 ½ feet long with dark spots which appeared to be blood. That machete was packaged by the Crime Scene Technician Teul. He was also shown an entry in the personnel diary made by WPC Burgess.

{16} This witness stated that he went to the cell block where he met the Accused. He informed him of the report made against him and cautioned him and informed him of his constitutional rights in English. He requested a urine or blood sample from the Accused and the Accused chose to give him a blood sample. He obtained a blood kit and duplicate consent forms which the Accused signed. He then escorted him to the Western Regional Hospital where the blood was extracted by a doctor who then filled two glass test tubes with same. The doctor sealed the test tubes in their presence and

handed them over to him. On their return to the Belmopan Police station he asked the Accused to pick one of the samples which he did. That sample was placed in a Ziploc bag and he told him that sample would be taken to a laboratory of his choice. The other sample was packaged and handed over to PC Martinez. Later that day he received the findings of Dr. Estrada Bran who conducted a post mortem examination on the body of the Deceased.

{17} On the 5<sup>th</sup> of March 2016, the witness said he took the Accused from the cell block to the computer room of the Belmopan Police Station and asked him if he was willing to be interviewed, and he replied, “no”. He also asked him if he was willing to provide a statement under caution, and he replied, “no”. Thereafter, he swore to an information and obtained a warrant in the First Instance and formally arrested and charged the Accused with murder. When asked if he had anything to say the Accused was crying with his head hanging down and said “*I sick and that make me do anything*”. He wrote what the Accused said in his police notebook. That was tendered into evidence as an exhibit. He said, at no time did he use force against the Accused nor did he make any threats or promises to him. He said, he communicated with the Accused in English.

{18} **UNDER CROSS-EXAMINATION** the witness denied that he placed a plastic bag over the face of the Accused to force him to provide an answer to



the charge and that the bag prevented him from breathing. He said at the scene he did not ask for footprints and agreed that three or more persons could have been in the room. From what he saw on the footpath outside he could not detect or tell about the activities on that footpath. The collection of the clothing of the Accused for DNA analysis is done by the Crime Scene Technician. He did not ask for it, nor did he receive any DNA report about the machete.

{19} **BY THE COURT**, the witness said he spoke to the Accused in English and he replied to him in English.

{20} **DR. MARIO ESTRADA BRAN** was deemed an expert by the Court in the field of forensic medicine. He stated that on the 4<sup>th</sup> of March 2016, he conducted a post mortem examination on the body of the Deceased.

{21} His findings were that there were four external injuries, three of which were to the head, neck, and scalp regions and one to the left arm. The doctor also found contusions and abrasions to the left anterior region of the left shoulder.

{22} The three wounds to the head, neck, and scalp regions could have been caused by a machete and the force used was heavy. The wound to the left arm was considered to be a defensive wound and moderate force was used.

- {23} The cause of death was found to be traumatic shock due to partial decapitation due to multiple chop wounds.
- {24} The witness was not cross-examined.
- {25} The court visited the *locus en quo*. At the scene, the following witnesses were called upon to point out and demonstrate the locations and occurrences of events of which they testified. These were Rebecca Ventura, CPL Warrior and the Crime Scene Technician Wenceslado Teul.
- {26} On the return to the courtroom they were all presented for further cross-examination and re-examination which was declined by, Defence and Crown Counsel.
- {27} That was the case for the Crown.
- {28} The Accused was given his three choices and chose to make an unsworn statement from the dock.
- {29} **ACCUSED UNSWORN** - I just want to say that on the 4<sup>th</sup> of March, I was not in that room because I went to a farm in Maya Mopan to cut plantains. When I returned in the morning, I entered the room and found Maria chopped up. I got frightened and grabbed the machete which was in her head and came running to the police station. When I arrived at the station there was this police woman and I tell her I am the man who his wife was just chopped up. I told her I got there because I was afraid I would be

chopped up as well. That was when she told me to bring the machete and she arrested me and told me I do not have to say anything that is why I stay quiet. Approximately around 7:00 p.m. on the 3<sup>rd</sup> of March, I went out with Maria to the store to purchase 8 gallons of gasoline, cooking oil, 123 Brand. We didn't have any argument that day. She invited both of her children so that we could cook together.

{30} **LLONA RICHARDS** was called as a witness. She said she was employed at the Western Regional Hospital as a nurse in the Mental Health Department since the year 2006. During that time, she worked with Dr. Richard Alovera as a Psychiatric Nurse Practitioner and was familiar with his signature. She identified and tendered into evidence a medical report signed by him in respect of the patient Jeremiah Guerra and dated 18<sup>th</sup> of April 2016. This was tendered, admitted, and marked as “**EXH. LR1**”.

{31} This witness was not cross-examined.

{32} **DR. TORRES MATUS** was called by the Defence. He was deemed an expert in the field of psychiatry. He was shown “**EXH. LR1**” aforesaid. The witness opined that the report was a diagnosis of Mental and Behavioural Disorder due to the use of alcohol and a psychotic disorder.

{33} Psychotic disorder means. “that the person has lost contact with reality and cannot act like a normal person. In most cases, the person cannot determine the difference between right from wrong”.

{34} **UNDER CROSS-EXAMINATION** the witness said people have hallucinations and delusions, erratic behavior, and hallucinatory attitude, they act as if they are persecuted or in fear such as fighting without any person being around.

{35} **BY THE COURT**, one of the symptoms would be talking to somebody who was not present.

{36} That was the case for the Defence.

## **SUBMISSIONS**

### **The Defence**

{37} Mr. Saldivar for the Accused, in his written submissions accepted the evidence of WPC Burgess who testified that the Accused entered the Belmopan Police Station on the 4<sup>th</sup> of March 2016, with a machete in his hand and admitted to chopping his wife that morning to wit:

1. Begrudgingly, it is accepted that the Accused entered the Belmopan. Police Station on his own volition and volunteered the information recorded by WPC Burgess without prompting. This fulfils the requirements of sections 90 and 91 the *Evidence Act* and

without more would render the Accused culpable for the charge brought against him.

2. For his part, the Accused in his statement from the dock, places himself on the scene, though after the fact. He places the machete that was lodged in the “head” of the Deceased in his hands and admits that he in fact went to the Police station voluntarily.

{38} Defence Counsel, however, misguidedly submits that his client should be found not guilty of murder by reason of diminished responsibility and concludes his submission thereat.

{39} Section 118(1) (3) of the *Criminal Code* CAP 101 of the Laws of Belize Revised Edition provides thus:

*“118. — (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omission in doing or being a party to the killing....*

*(3) A person who but for this section would be liable whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter”.*

## **The Crown**

{40} Crown Counsel in her written submissions, contends that the Crown’s witnesses are all credible and that they have presented sufficient evidence to prove beyond reasonable doubt that it was the Accused who inflicted the fatal injuries on the body of the Deceased. She further submits that, the location of the fatal wounds and the force used to inflict them proves that when the Accused inflicted those injuries he intended to kill the Deceased.

{41} The Crown contends that there is no evidence of provocation or self-defense and as such is asking the Court to find that the killing was unlawful. Crown Counsel has urged the Court to reject the defence raised in the unsworn statement of the Accused and accept the evidence of WPC Burgess to whom the Accused made an oral confession and uttered words in similar vein to CPL Warrior on the following day when he was formally charged with the offence of murder.

{42} On the question of diminished responsibility Crown Counsel submits as follows:

The Defence must prove that:

(a) at the time of the killing the Accused was suffering from an abnormality of mind;

(b) the abnormality of the mind arose from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury;

(c) To the extent that it substantially impaired his mental responsibility for his acts.

{43} Crown Counsel relies on the *dictum* of Lord Parker CJ in the case of **R v Byrne**. I shall address her submissions on this subject in more detail later on in this decision.

### **The Law**

{44} As stated aforesaid, the Accused is indicted for the offence of murder contrary to section 106 (1) of the **Criminal Code**. That section provides thus:

“106 (1) - *Every person who commits murder shall suffer death*”.

{45} Section 117 of the **Criminal Code** provides:

“117 - *Every person who intentionally causes the death of another person by any unlawful harm is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of partial excuse as in the next following sections mentioned*”.

{46} The Crown must prove the following beyond reasonable doubt:

1. That the Deceased is dead;
2. That she died from unlawful harm;
3. That the unlawful harm was inflicted by the Accused;
4. That the Accused intended to kill the Deceased when he unlawfully caused harm to her.

### **Analysis and Verdict**

{47} It is common ground that the Deceased is dead and that she died from unlawful harm. Indeed, the opinion of Dr. Estrada Bran as to her cause of death was not challenged by the Defence. The defence of justification was not canvassed nor does it appear in the evidence. Similarly, the partial defence of provocation has not been addressed by Counsel for the Defence and there is no evidence on the record from which this partial defence could be upheld.

{48} The defence raised in the unsworn statement of the Accused and foreshadowed during cross-examination is that the Accused was not the person who inflicted the fatal wounds to the Deceased. Indeed, the Accused stated that he was someplace else during the commission of this offence and arrived at the scene after its completion. Hence, he is relying on the defence of an alibi. He further denies making the oral admission to WPC Burgess as



alleged by the Crown. Thus, the first issue to be determined is that of identification.

## **Identification**

{49} There is no direct evidence arising from the Crown's case that the Accused was seen inflicting the fatal injuries to the Deceased. There is, however, circumstantial evidence arising from the evidence of the witness, Rebecca Ventura. She has stated that she heard loud banging sounds which she demonstrated in Court and the Deceased saying "*no Jaïrd, no*" followed by a sound of a machete striking the patio. This witness also testified hearing the voice of the Accused speaking in the room occupied by him and the Deceased at or around the time of the commission of this offence.

{50} It is trite law that the evidence of voice identification is considered to be much more complicated than visual identification. However, that is not the only string to the Crown's bow. The Crown is also relying on the oral admissions allegedly made by the Accused to WPC Burgess and CPL Warrior.

{51} The Accused in his unsworn statement aforesaid denied making the admission as stated by WPC Burgess and instead stated that he told her he was the man whose wife got chopped and not that he had chopped his wife.

{52} I have carefully considered the evidence of WPC Burgess in this regard and noted that she adhered to the required procedure by cautioning the Accused at

the first available opportunity to do so in both English and Spanish which he admitted to and thereafter made an entry in the personnel diary of what was said and what took place. I have observed the demeanour of this witness and the manner in which she answered questions both in-chief and under cross-examination and am satisfied to the extent that I feel sure that the Accused did utter the words of admission and that was done freely and voluntarily bereft of force, violence, threats, or promises.

### **Alibi**

{53} It is common ground that the Accused in his unsworn statement is claiming that he was somewhere else when this offence was committed. However, it remains the burden of the Crown to prove to the satisfaction of the Court that notwithstanding the defence of alibi raised that it was the Accused who inflicted the fatal injuries to the Deceased and caused her death.

{54} As mentioned aforesaid, I have carefully considered the evidence of, WPC Burgess and CPL Warrior, and I believe and accept their testimony as to the oral admissions of the Accused. Thus in the circumstances, the defence of alibi is rejected. I therefore find, that it was the Accused who inflicted the fatal injuries to the body of the Deceased and for the reasons hereinbefore set out I further find that the Deceased died from unlawful harm.

## Diminished Responsibility

{55} Section 118 of the *Criminal Code* provides thus:

*“118. — (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omission in doing or being a party to the killing”.*

*(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.*

*(3) A person who but for this section would be liable whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.*

*(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it”.*

{56} The Defence is contending that the Accused should not be found guilty of murder because he suffered from an abnormality of the mind at the time of the commission of this offence. In this regard, the Defence relies on the medical report of Dr. Alovera and the evidence of Rebecca Ventura.

{57} Defence Counsel in his written submissions submits:

“1. In 2016, Dr. Richard Alovera conducted a Psychiatric evaluation and submitted his report for the benefit of the Court. Dr. Alovera concluded that the Accused suffered a mental abnormality called *MENTAL AND BEHAVIOURAL DISORDER DUE TO USE OF ALCOHOL, PSYCHOTIC DISORDER*. This condition is characterized as “prominent hallucinations and delusions occurring in a variety of alcohol-related conditions. ... .. Psychosis can occur during phases of acute intoxication or withdrawal.”

2. Rebecca Ventura testified that the Accused was drunk, she stated that Maria was asking him who he was talking to as if there was someone else in the room. She also stated that she could not understand anything the Accused was saying at the time.

3. It is submitted that what Ms. Ventura describes, is consistent with the symptoms outline by Dr. Alovera in his report. The Accused at that time would have been in the throes of a psychotic disorder brought about by alcohol use and as Dr. Torres Matus affirmed, may not have been capable of distinguishing between right and wrong”.

{58} In his sworn testimony, Dr. Matus who was deemed an expert in the field of psychiatry testified as follows about the contents of the medical report of Dr. Alovera:

“.....the report was a diagnosis of mental and behavioural disorder due to the use of alcohol and a psychotic disorder.”

{59} Psychotic disorder means that the person has lost contact with reality and cannot act like a normal person. In most cases, the person cannot determine the difference between right from wrong and would have hallucinations, delusions, erratic behaviours, and a hallucinatory attitude. They act as if they are persecuted or in fear. At times they indulge in fighting without any person being around. One of the symptoms would be talking to somebody who was not present.

{60} Crown Counsel in her written submissions helpfully provided the Court with the *dictum* of Lord Parker CJ on *R v Byrne* to wit:

“In *Byrne* (1960) 3 WLR 440 page 443 Lord Parker CJ explained that abnormality of the mind “... .. *means a state of mind so different from that of ordinary human beings that the reasonable man would term it abnormal. It appears to us to be wide enough to cover the mind's activities in all its aspects, not only the perception of physical acts and matters and the ability to form a rational judgment as to whether an act is right or wrong, but also the ability to exercise will power to control physical acts in accordance with that rational judgment*”.

{61} I believe and accept the evidence of Rebecca Ventura that she heard a voice which she believed to be that of the Accused speaking words which were unrecognizable during the course of the night whilst he was together with the Deceased in their room. I also believe that the Deceased was trying to get the Accused to sleep that night without success.

{62} I find that notwithstanding the Deceased’s efforts to pacify the Accused, matters reached alarming heights causing her to utter the words ‘*no Jaird, no*’ immediately prior to his attack on her. I believe and accept the evidence

of Rebecca Ventura that after the Deceased said, “No Jaïrd. no” she heard the sound of a machete striking the ground and loud bangs which she demonstrated in court.

{63} The onus of proving that the Accused’s mental condition at the time of the commission of this act ‘*substantially impaired his mental responsibility for his acts ... in doing the killing*’ rests with the Defence. Thus, the Defence must establish that not only was the Accused suffering from an abnormality of mind but that that abnormality substantially impaired his mental responsibility for his acts. Indeed, in the *Byrne* decision Lord Parker CJ said that it was not enough that there was an impairment, it had to be *substantial... ..* and that this is a question of degree for the jury to determine and they could legitimately differ from doctors on that question.

{64} In this regard, the Defence relies on the evidence in the contents and opinions in the psychiatric report of Dr. Alovera, a Psychiatrist, which has been tendered into evidence. The Defence also relies on the opinions of Dr. Matus on the findings of Dr. Alovera. However, neither of the two experts expressed an opinion as to whether or not the psychotic abnormalities substantially impaired his mental responsibility for his acts.

{65} It is common ground that Dr. Alovera’s findings aforesaid were made when he examined the Accused on the 15<sup>th</sup> of April 2016, whilst this incident

occurred on the 4<sup>th</sup> of March 2016. Thus, the issues to be determined are whether the Accused was suffering from the psychotic abnormalities described by Dr. Alovera at the time of the commission of this offence and if so, did that substantially impair his mental responsibility for his acts in the killing of the Deceased?

{66} The evidence of the conduct of the Accused at or around the time of the killing discloses that he was speaking in an incoherent manner to a person or persons who were not present in the room at that time. Dr. Matus, in his testimony identified that type of behaviour to be symptomatic of someone suffering from a psychotic disorder.

{67} The meaning of the word ‘substantial used in section 118 (1) of the *Criminal Code* must be determined especially in light of the absence of a definition by Parliament in the *Criminal Code* of its meaning in this context.

{68} In *R v. Golds* 2014 EWCA (Crim) 748 the Court considered the meaning of the word ‘substantially in the pre-2009 UK legislation which was similarly worded to section 118 (1) of the *Criminal Code*.

{69} At paragraph 58 the Court opined thus:

1. **In *R v Simcox*, Times, 25<sup>th</sup> February 1964, four experts said that the appellant suffered from an abnormality of mind but they did not say the impairment was substantial; on the**



contrary, they used words such as “moderate”. The trial Judge directed the jury in these words:

**“Do we think, looking at it broadly as common-sense people, there was a substantial impairment of his mental responsibility in what he did?’ If the answer is ‘no’, there may be some impairment, but we do not think it was substantial, we do not think it was something that really made any great difference, although it may have made it harder to control himself, to refrain from crime, then you would find him guilty ...”**

{70} That summing up was approved by the Court of Criminal Appeal presided over by Lord Parker CJ.

{71} I have carefully considered the evidence relied on by the Defence of the question of diminished responsibility. I have also considered the provisions of section 118 of the *Criminal Code* and applied the law as stated in the *dictum* of Parker CJ in *R v Byrne* and the Court of Appeal in *Golds* aforesaid. Having done so, I find that the Defence has satisfied me to the extent that I feel sure

that the Accused was at the time when he inflicted the fatal injuries to the Deceased suffering from such abnormality of mind as substantially impaired his mental responsibility for his acts and omission in the killing of the Deceased.

**Verdict**

{72} Accordingly, the Accused is found not guilty of murder but guilty of manslaughter by reason of diminished responsibility.

Dated this **15<sup>th</sup> day of March 2021.**

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