

IN THE SENIOR COURTS OF BELIZE

CENTRAL SESSION-BELIZE DISTRICT

IN THE HIGH COURT OF JUSTICE

RE20190030C

BETWEEN

THE KING

and

DARREL GRANT

Prisoner

**Before:**

The Honourable Mr. Justice Nigel Pilgrim

**Appearances:**

Ms. Sheiniza Smith, Senior Crown Counsel for the Crown.

Mr. Norman Rodriguez for the Prisoner.

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2024: February 29<sup>th</sup>; and  
April 18<sup>th</sup>.  
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## MURDER-RE-SENTENCING

[1] Darrell Grant (“the prisoner”) was convicted after trial by judge and jury on 12<sup>th</sup> November 2010 of the 2008 murder of Sandra Ruiz (“the deceased”), contrary to section 106 read along with section 117 of the then **Criminal Code**<sup>1</sup> (“the Code”). The offending, in brief, is that on 10<sup>th</sup> August 2008 the prisoner broke into the home of the deceased and intentionally,

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<sup>1</sup> Chapter 101 of the Substantive Laws of Belize, Revised Edition 2000.

unlawfully and without justification beat her to death with a hammer during the course of a burglary<sup>2</sup>.

- [2] The prisoner was sentenced to life imprisonment by the trial judge which was upheld by the Court of Appeal on 28<sup>th</sup> June 2013. No minimum term of that life sentence was set by the trial judge acting in accordance with section 106(1) of the Code as then drafted. Subsequently, the National Assembly intervened and passed the **Criminal Code Amendment Act 2017** which provided as follows:

*“106A(1):... every person who has been previously convicted of murder and is, at the time of the coming into force of the Criminal Code (Amendment) Act, 2017, serving a sentence of imprisonment for life, shall be taken before the Supreme Court for the fixing of a minimum term of imprisonment, which he shall serve before becoming eligible for parole, or for a consideration of whether he has become eligible to be considered for parole.”*

- [3] The Caribbean Court of Justice (“the CCJ”), our apex court, considered the position of the imposition of life sentences in Belize in the context of that section in **August et al v R**<sup>3</sup>, per Byron P and Rajnauth Lee JCCJ:

*“[125] In light of the findings above, it becomes necessary to address the fate of those persons currently incarcerated who were sentenced to life imprisonment for murder, under a now declared unconstitutional mandatory life imprisonment penal provision. In the exercise of our jurisdiction under s 20 of the Constitution, we must order that notwithstanding the provisions of s 106(A)(1), these offenders must be individually re-sentenced by a trial judge. Bearing in mind the utter abhorrence of society towards the crime of murder, the sentencing judge may well take the view that the fit sentence is one of life imprisonment unless, having regard to mitigating factors, a lesser sentence is deserved.*

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<sup>2</sup> See **Darrel Grant v R**, Criminal Appeal No. 21 of 2010 at para 17.

<sup>3</sup> [2018] 3 LRC 552.

*[126] Since the sentences of these persons have been vacated by this judgment, as a practical interim measure, we order that all such persons must remain incarcerated until, in relation to his or her case, respectively, a sentencing hearing is completed. In the event that the sentencing judge should decide that a fit sentence is one of life imprisonment, then the judge shall stipulate a minimum period which the offender shall serve before becoming eligible for parole, or for a consideration of whether the prisoner has become eligible for parole. We would not expect that exercise to be rushed, but the entire exercise should be completed within a reasonable time. For the avoidance of doubt, a similar reasoning is to be applied to any person sentenced under the new regime to a mandatory life sentence for murder.*

...

*[127]... We further order that the sentences of those persons convicted of murder and imprisoned pursuant to the now repealed s 106 of the Criminal Code are vacated. Section 106A notwithstanding, these persons must be re-sentenced and must remain incarcerated until the conclusion of their respective re-sentencing hearings”*

[4] This re-sentencing exercise is made pursuant to this order of the CCJ on 29<sup>th</sup> March 2018.

### **The Legal Framework**

[5] The Court of Appeal has comprehensively considered sentencing for murder in Belize in **Michael Faux et al v R**<sup>4</sup> and made the following observations, per Hafiz Bertram P:

**“[15] ...The statistics show the sentencing trend for murder is life imprisonment with a minimum term before being eligible for release on parole. The table also shows a few instances of the imposition of a fixed term sentence....The Court notes that these fixed term**

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<sup>4</sup> Criminal Appeal Nos. 24-26 Of 2019.

**sentences have only been imposed where there have been mitigating circumstances warranting a lesser sentence. It is at the discretion of the trial judge to determine whether to impose a sentence of life imprisonment or a fixed term sentence upon a conviction of murder.**

**[16] For a conviction of murder a custodial sentence is warranted as shown by the imposition of past sentences. The sentencing trend for murder since the amended section 106 and the case of August has been the imposition of a life sentence with a minimum term of 25 – 37 years after which the convicted person becomes eligible to be released on parole.**

**[17] Where a sentence of fixed term is imposed, the range is 25 – 35 years unless there are circumstances, when individualising a sentence, which warrants a lesser sentence.** (emphasis added).

- [6] The Court considers the guidance of the CCJ in the Barbadian case of **Teerath Persaud v R**<sup>5</sup> on the issue of the formulation of a just sentence, per Anderson JCCJ:

**“[46] Fixing the starting point is not a mathematical exercise; it is rather an exercise aimed at seeking consistency in sentencing and avoidance of the imposition of arbitrary sentences. Arbitrary sentences undermine the integrity of the justice system. In striving for consistency, there is much merit in determining the starting point with reference to the particular offence which is under consideration, bearing in mind the comparison with other types of offending, taking into account the mitigating and aggravating factors that are relevant to the offence but excluding the mitigating and aggravating factors that relate to the offender. Instead of considering all possible aggravating and mitigating factors only those concerned with the objective seriousness and characteristics of the offence are factored into calculating the starting point. Once the starting point has been so**

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<sup>5</sup> (2018) 93 WIR 132.

**identified the principle of individualized sentencing and proportionality as reflected in the Penal System Reform Act is upheld by taking into account the aggravating and mitigating circumstances particular (or peculiar) to the offender and the appropriate adjustment upwards or downwards can thus be made to the starting point. Where appropriate there should then be a discount for a guilty plea. In accordance with the decision of this court in R v da Costa Hall full credit for the period spent in pre-trial custody is then to be made and the resulting sentence imposed.**” (emphasis added)

[7] The Court is also guided by the decision of the CCJ in **Calvin Ramcharran v DPP**<sup>6</sup> on this issue, per Barrow JCCJ:

“[15] In affirming the deference an appellate court must give to sentencing judges, Jamadar JCCJ observed that **sentencing is quintessentially contextual, geographic, cultural, empirical, and pragmatic. Caribbean courts should therefore be wary about importing sentencing outcomes from other jurisdictions whose socio-legal and penal systems and cultures are quite distinct and differently developed and organised from those in the Caribbean.**

[16] Jamadar JCCJ noted that in 2014 this Court explained the multiple ideological aims of sentencing. **These objectives may be summarised as being: (i) the public interest, in not only punishing, but also in preventing crime (‘as first and foremost’ and as overarching), (ii) the retributive or denunciatory (punitive), (iii) the deterrent, in relation to both potential offenders and the particular offender being sentenced, (iv) the preventative, aimed at the particular offender, and (v) the rehabilitative, aimed at rehabilitation of the particular offender with a view to re-integration as a law abiding member of society.**

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<sup>6</sup> [2022] CCJ 4 (AJ) GY.

**[18]... to find the appropriate starting point in the sentencing exercise one needed to look to the body of relevant precedents, and to any guideline cases (usually from the territorial court of appeal)."**  
*(emphasis added)*

### **Factual basis of sentence<sup>7</sup>**

- [8] The evidence adduced by the Crown at trial indicated that the deceased died of injuries brutally and savagely inflicted on her whilst in the supposed sanctity of her home at the King's Park Area of Belize City on the night of Sunday 10<sup>th</sup> August 2008. Dr. Mario Estrada Bran, who performed a post-mortem examination upon her body on 11 August 2008, testified that, in his opinion, the cause of her death was "trauma shock due to blunt force injuries to the head".
- [9] The prisoner gave a statement under caution. In that statement was an admission by the prisoner that he had not only entered the home of the deceased on the night before but also held her from behind whilst (as it was claimed in the statement) another intruder struck her on the head with a hammer causing her to fall. And the statement went on to say that a chain and 'medal' (an obvious reference to a pendant) found in his possession by the police had been amongst the contents of a box found by him in the house and handed over to his supposed fellow intruder. There was, moreover, in the statement a disclosure to the effect that the prisoner had, on the next morning, after bathing, placed his clothes behind his house. Despite the reference to a fellow intruder supposedly surnamed Saragosa in the statement, it was not in fact the Crown case that the prisoner had been part of a joint enterprise. Consistently with this, the Crown called as one of its witnesses a certain Dale Saragosa who testified that he was an acquaintance of the prisoner but had had nothing to do with the murder of the deceased on the night in question, which night he had spent at his home in Ladyville.

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<sup>7</sup> Taken from the judgment of the Court of Appeal.

[10] There was also undisputed evidence from several Crown witnesses that, on the morning next following the slaying, the prisoner was in possession of a chain and 'medal' identified through other evidence as the property of the deceased. Derek Sánchez gave evidence that, on the morning of 11<sup>th</sup> August 2008 in Ladyville, the prisoner offered to sell him certain items of jewellery, including a chain. The prisoner was later arrested wearing what was established as the deceased's chain.

[11] The prisoner who called no witnesses but gave evidence on oath on his own behalf, raised the defence of alibi which was rejected by the jury. The Court of Appeal found in relation to the basis of the conviction in this case, "This Court formed the opinion that, having due regard to the totality of the evidence at trial, as summarised above, a reasonable jury could properly feel sure at the end of the day that the appellant invaded the home of Ms Ruiz on the night of Sunday 10 August 2008 and there, using a hammer, inflicted injuries to different parts of her body, including her head, with the intention to kill her, and that those head injuries in fact caused her death later that same night."

### Analysis

[12] The Court begins, following *Persaud* by considering the aggravating features of the offending. The Trinidadian Court of Appeal decision of **Aguilera et al v The State**<sup>8</sup> is helpful in the identification of those features in the case of murder. Those are, in the Court's mind, in this case as follows:

- i. The offence occurred at the home of the deceased- A person's home is their castle. The deceased had a right to feel safe and protected there. The sentence of the Court must reflect that significant aggravating factor.
- ii. There was the use of a weapon, namely a hammer.
- iii. There were attacks to the head.
- iv. The injuries were described by the Court of Appeal as brutal and savage.
- v. An underlying offence for gain, namely burglary.

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<sup>8</sup> 89 WIR 451 at para 19.

- vi. This is a serious and prevalent offence in Belize which needs to be deterred. The daughter of the deceased, Ms. Nadia Prado, in her victim impact statement indicated that the murder of her mother had a profound effect on her and her family. She said her mother was the breadwinner for her and her sister, and delayed her dream of becoming an industrial engineer to take care of her children. Ms. Prado's statement is harrowing and merits extensive quotation:

*"3. It has been 15 years since then but to this day I can recall the smell of iron from my mother's blood mixing with purple Fabuloso cleaner after my family was tasked with cleaning up after Mr. Grant's savage actions. I can recall hiding in the laundry hamper in the bathroom as I realized there was an intruder in our home that night. I can recall the dull banging of my mother's head and body into the concrete kitchen floor as Mr. Grant used his bare hands to beat my mother until she was unresponsive...*

*4. Imagining the unparalleled agony and suffering that were present in my mother's last moments is an injustice that can never be righted and will forever bring me and my family grief. The nature of my mother's murder will forever be a source of rage and pain as those images will be with me for as long as I live. Her body mangled and broken at the hands of this menacing man. Due to the inhumane nature of my mother's murder, I did not eat for days after the event. I was in shock, my entire world, had been shattered and spit on...*

*5. At 13 years of age, for some pieces of jewellery I was robbed of a mother. I was robbed of sharing with her my most important moments, I was robbed of saying goodbye to her, I was robbed of any sense of safety, I was robbed of my ability to trust in those around me, because every single day the thought comes into my mind, what if I am destined to live the same fate as my mother?...*

*...*

*7. After the incident me and my sister were relocated, we started to live with my father, with whom, at the time, I had a difficult relationship. I had to leave*

*behind, my city, my country, being separated from my grandparents, my aunts and uncles, my cousins, my friends, my teachers, even my pets.*

*8. Despite this testimony I do not harbour hate towards Mr. Grant, there is only space in my mind and heart for the indescribable pain he inflicted.*

*...*

*9. Since 2008, I have had to undergo extensive psychological therapy, the impact of the trauma inflicted on me by Mr. Grant is not measurable. I continue to manage symptoms of depression, anxiety and post-traumatic stress disorder. I constantly have flashbacks and nightmares...*

*10. For 15 years, there has not been a single day that I have not thought of Mr. Grant's dangerous actions, this has caused me to have consistent suicidal ideation. I often think that a reality where my mother was murdered in such a way is not a reality in which I would like to live. I frequently contemplated ending my life before I can be brought to suffer what I can only imagine my mother suffered in those last moments of consciousness.*

*11. Lastly, I wish to say that I miss my mother. I miss her every minute of every day. I miss her determination and drive. And now as I get older, I am beginning to miss the opportunities she will never have. I will miss her at my 30th birthday, I will miss her on my wedding day, I will miss her in every single milestone I cross. I will forever miss my mom."*

Miguel Ruiz, the brother of the deceased, in his victim impact statement said:

*"I will never forget my sister as she was a very happy person and whenever she laughed it was a contagious laugh. I have so much to say about my sister because she was such a sweet person, she was a very determined person that I wouldn't believe in a split second that her life would be taken away in such a manner...With all the time this person that did this to my sister gets in jail I could never get back my sister because he decided to take her away from all of us ...I want for him to be conscious that he took away someone that we loved and still love and I miss her so much."*

[13] There are no mitigating features in relation to this offending. It has been submitted that the prisoner co-operated by giving his statement to the police admitting involvement. The Court does not view that as mitigating as the admission was retracted at trial and the prisoner lied in the admission falsely identifying another party, Saragosa, as committing the actus reus, whom suspicion unjustifiably fell upon. This was not a case where the prisoner “pleaded guilty from the police station” and adopted his statement and decided to forego a trial. He vigorously contested it indicating that he was induced by the police to do so.

[14] The Court must now consider a starting point. The range of sentence for murder as noted in *Faux* is a life sentence with a minimum term of between 25-37 years unless there are ameliorating factors which necessitate a fixed term sentence. In this case there is no basis for a fixed term sentence. The prisoner was not an immature youngster, he was 22 years old at the time of this offence. The mental evaluation of the prisoner by Dr. Alejandro Matus-Torres demonstrates no mental abnormalities or history of mental illness. The Court can hardly differ from the Court of Appeal’s description of this killing as brutal and savage and in that regard along with the aggravating factors above, particularly the home invasion aspect, finds a starting point of a life sentence with a minimum term of 33 years imprisonment appropriate. The Court notes that, though a fixed term sentence was eventually given for mitigating features in that case, 33 years imprisonment was considered an appropriate starting point for a “home killing” in the case of the appellant *Ramirez*<sup>9</sup> in the case of *Faux*.

[15] The Court would now individualize the sentence.

[16] The aggravating factors in relation to the offender are his previous convictions for drug possession and drug trafficking in 2005 and 2006, a few years before committing this murder. The Court notes that these are old convictions but cannot consider them irrelevant because the prisoner was incarcerated since 2008 and the passage of time

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<sup>9</sup> Para 74.

from those convictions with no re-offending may not be a function of his rehabilitating but due to the restriction of his liberty. Indeed, the Court also considers the 9 breaches of prison discipline from 2009-2019. This will cause the Court to uplift the minimum term of imprisonment by 1 year to 34 years imprisonment.

**[17]** The mitigating factors in relation to the offender are as follows:

- i. Positive activities in the prison- The prisoner has completed several courses from 2018 onward in usable skills like carpentry and masonry. He has seemingly sought to get better mental clarity by participating in substance abuse courses and learning about the religion of peace, Rastafarianism. The Court sees this as efforts by the prisoner at rehabilitation.
- ii. A positive social inquiry report- The prisoner over 2019 and 2023 has positive findings in his social enquiry report. They describe him as hardworking, industrious, and coming from a good family but fell in with a bad crowd. His presence is missed by his family and he has to come to terms that because of his cruel and selfish actions he robbed himself of forming a bond with his daughter as he was incarcerated when she was 8 months old. He appears to be genuinely remorseful, and it is frequently said about him that he has changed. He has a strong family support system it appears. However, in the public interest, which Barrow JCCJ noted in *Ramcharran*, was overarching the prisoner must pay the reasonable cost of what he has done.

**[18]** With a view to the prisoner's arc towards rehabilitation the Court will reduce the minimum term by 3 years to 31 years imprisonment.

**[19]** The Court would also vindicate the right of the prisoner to a fair hearing within a reasonable time under section 6(2) of the **Constitution**, the order for re-sentencing by the CCJ being made over 6 years ago, by a reduction of 1 year from the sentence. This power is exercised pursuant to the guidance from the CCJ in **Solomon Marin Jr. v R**<sup>10</sup>.

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<sup>10</sup> [2021] CCJ 6 (AJ) BZ at paras 104-112.

[20] This would leave a final sentence of life imprisonment with a minimum period of 30 years imprisonment before becoming eligible for parole.

[21] Pursuant to the Court's powers under section 162 of the **Indictable Procedure Act**<sup>11</sup> as considered in **R v Pedro Moran**<sup>12</sup> the Court would order the sentence to run from 12<sup>th</sup> August 2008.

### **DISPOSITION**

[22] The Court sentences the prisoner for the crime of the murder of Ms. Sandra Ruiz on 10<sup>th</sup> August 2008 to life imprisonment with a minimum term of 30 years imprisonment before becoming eligible for parole with effect from 12<sup>th</sup> August 2008.

**Nigel Pilgrim**

High Court Judge

Dated 18<sup>th</sup> April 2024

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<sup>11</sup> Chapter 96 of the Substantive Laws of Belize, Revised Edition 2020.

<sup>12</sup> Criminal Application No. 1 of 2017 at para. 38.