

IN THE SENIOR COURTS OF BELIZE

CENTRAL SESSION-BELIZE DISTRICT

IN THE HIGH COURT OF JUSTICE

INDICTMENT NO.: C27/2025

BETWEEN

THE KING

and

KRISMAR ESPINOZA

Prisoner

Before:

The Honourable Mr. Justice Nigel C. Pilgrim

Appearances:

Ms. Maria Nembhard-Santana and Mr. Joseph Perez, Crown Counsels, for the Crown.

Mr. Michael Peryfitte for the Prisoner.

2026: July 1st, 16th and 31st;
September 7th;
October 2nd and 13th.

SENTENCING-MURDER

JUDGMENT

- [1] **PILGRIM, J.:** Krismar Espinoza ('the prisoner') was indicted for murder, contrary to section 117 of the **Criminal Code**¹ ('the Code'). The allegation, in summary, is that on 5th April 2024 the prisoner, through the coerced participation of Jenella Armstrong, lured Wilbert Banks Jr. ('the deceased') to a spot in Ladyville where he shot the deceased to death.
- [2] The prisoner was convicted on 31st July 2026 of murder and the Court scheduled a separate sentencing hearing as recommended by our apex court, the Caribbean Court of Justice ('CCJ') in **Linton Pompey v DPP**². The prisoner was offered the opportunity to call evidence in mitigation and refused. He expressly relied on the contents of the Social Inquiry Report ('SIR') to provide mitigation. The Court heard submissions on sentence from both sides.
- [3] It is now the Court's duty to construct a just and proportionate sentence. The Court would begin by looking at the legal framework of the issues arising in sentencing in this case.

The Legal Framework

- [4] The sentencing regime for murder is set out at section 106 of the Code which provides, where relevant:

"106.-(1) Subject to sub-section (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 sub-section (1), the court shall specify a minimum term, which the offender shall serve before he can become eligible to be released on parole in accordance with the statutory provisions for parole.

¹ Chapter 101 of the Substantive Laws of Belize, Revised Edition 2020.

² [2020] CCJ 7 (AJ) GY at para 32.

(4) *In determining the appropriate minimum term under sub-section (3), the court shall have regard to–*

- (a) the circumstances of the offender and the offence;*
- (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 that the court considers to be relevant.”*

[5] The CCJ in **August et al v R**³ considered section 106 of the Code, per Byron PCCJ and Rajnauth-Lee JCCJ:

“[82] We have concluded that under the amended s 106, where a person is convicted of murder, that person can be sentenced to death or to a maximum term of imprisonment for life. Accordingly, any life sentence imposed following a conviction for the offence of murder will be discretionary and not mandatory. Wherever on the scale the term is fixed, the term of imprisonment must necessarily be such that it is befitting of the circumstances of the offence and the offender.

[83] Where a term of life imprisonment is imposed by the sentencing judge, the judicial tailoring function is preserved by sub-ss (3) and (4) which allow for the prescription of a minimum term that must be served by the offender before being eligible for release on parole. In individualizing that minimum period, the judge’s exercise of his or her sentencing discretion is guided by the consideration of the key factors set out in sub-s (4).” (emphasis added).

[6] The Privy Council has opined in the Belizean case of **White v R**⁴ that the death penalty is only appropriate in cases that were “‘the worst of the worst’ or ‘the rarest of the rare’; **and** that there must be no reasonable prospect of reform of the offender and that the object of punishment could not be achieved by any means other than the ultimate sentence of death.” There are also procedural requirements for the imposition of the death penalty set out in **R v Reyes**⁵.

³ [2018] 3 LRC 552.

⁴ 77 WIR 165 at paras 12-14.

⁵ [2003] 2 LRC 688 at para 26.

[7] The Court of Appeal has comprehensively considered sentencing for murder in Belize in **Michael Faux et al v R**⁶ 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 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).

[8] The Court of Appeal has restated its position on the issue of fixed and life sentences for murder in Belize in **Chadwick Debride et al v R**⁷ emphasizing that fixed terms sentences ought only, as a matter of discretion, to be imposed if there are sufficient mitigating circumstances justifying it.

[9] The Court now looks to the guidance of the CCJ in the Barbadian case of **Teerath Persaud v R**⁸ on the issue of the formulation of a just sentence, per Anderson JCCJ, as he then was:

“[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

⁶ Criminal Appeal Nos. 24-26 of 2019.

⁷ Criminal Appeals Nos. 11 and 19 of 2019 at para 58.

⁸ (2018) 93 WIR 132.

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 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)

[10] The Court is happily guided by the **Sentencing Guidelines of the Senior Courts of Belize**⁹ ('the Belize Sentencing Guidelines or BSG') in the exercise of its sentencing discretion. It is a valuable repository of carefully considered legislative and judicial guidance on sentencing and provides ranges of sentence to appropriately tailor that discretion. However, as the BSG itself notes¹⁰, and the CCJ has opined in **Burton et al v R**¹¹ that the sentencing guidelines are not a strait-jacket, but its ranges should not be departed from without sufficient justification. The Court also notes that section 106(4)(d) of the Code requires it to have regard to the sentencing guidelines in sentencing for murder.

⁹ Statutory Instrument No. 1 of 2025, gazetted on 8th January 2025.

¹⁰ **General Sentencing Guidelines of the Senior Courts of Belize** at PD 1.4.: "Importantly, however, these Sentencing Guidelines are not intended to–

(a) achieve exact uniformity in sentences; or

(b) restrict the courts' discretion to determine the appropriate sentence to be passed in individual cases."

¹¹ (2014) 84 WIR 84 at para 13.

[11]The general principles of sentencing are helpfully captured in the **General Sentencing Guidelines of the Senior Courts of Belize**¹², ('GSG') as relevant to this case:

“ 3.3. The classic and primary objectives of sentencing which require consideration in conducting the sentencing process are–

(a) the retribution (otherwise referred to as “denunciation”);

(b) deterrence (vis-à-vis both potential offenders and the particular offender then being sentenced);

(c) prevention; and

(d) rehabilitation.

3.4. The ‘first and foremost’ principle of sentencing is the public interest in punishing and preventing crime. The public interest provides an overarching framework in which the specific aims operate

3.5. Ultimately, the sentencing process will require balancing both the public interest and the interests of the individual offender.” (emphasis added)

The facts

[12]The prisoner was in a relationship with Jenella Armstrong and moved in with her in September 2023. By April 2024 they were living in an apartment behind the Ladyville Fire Station with, among others, Armstrong’s six-year-old son. Armstrong had previously dated the deceased, also known as “Yellow”, for several months in 2020, but their relationship had ended. Armstrong said that in about November 2023 the prisoner confronted her about a passport-sized photograph of the deceased in a bin containing her purses. The prisoner accused her of still being involved with the deceased, threatened and assaulted her and her son, and said that he would kill the deceased.

[13]On Friday 5th April 2024 the prisoner demanded her cellular phone. When she refused, they fought and he took the phone. That evening the prisoner used a phone to contact the deceased while pretending to be her and directed her to send messages saying that she missed the deceased, wanted to have sex with him and wished to meet him. The prisoner then walked with her towards the Lake Garden area,

¹² Practice Direction No. 4 of 2025.

pointed out the place to which she was to bring the deceased, and later told her to wait behind the fire station.

[14]Armstrong waited for approximately 15 to 20 minutes and had begun walking home, the prisoner collected her in a black vehicle. The prisoner drove towards Belize City, displayed a firearm on his lap, pointed it at her head, and threatened to kill her and her son if the deceased was not killed that night. The prisoner left her on Amara Avenue with his phone and instructed her to find the deceased or otherwise he would kill her. The deceased encountered her there, observed that she was crying, and insisted on taking her home. The deceased tried talking to Armstrong. She did not respond because, she testified, “I didn’t know what to say to him.” The deceased tried kissing her on the cheek, but she moved. Armstrong said she did not alert the deceased because, “I never have (sic) a choice”.

[15]The deceased drove into Lake Garden and turned his vehicle to face back towards the exit. As she opened the passenger door, the prisoner appeared at very close range on the passenger side with a firearm. The prisoner fired towards the deceased. The deceased drove off and the prisoner ran alongside the vehicle and continued firing. The deceased later died. An autopsy was later performed on the deceased which determined that he died from multiple gunshot wounds. The deceased was shot 7 times.

[16]The matter was later reported to the police, and an investigation was conducted and the prisoner charged for murder.

[17]The prisoner was 34 years old at the time of the offence and has a previous conviction in 2015 for manslaughter which occurred in 2007.

Analysis

[18]The Court will be guided by the **Sentencing Guidelines of the Senior Courts of Belize for Homicide and Murder**¹³ (‘the Belize Murder Guidelines of BMG’), as well as section 106(4)(a) and (b) of the Code and *Persaud* and start the process by trying to gauge the seriousness of the offence by examining the

¹³ Practice Direction No. 12 of 2025 at p 2.

harm caused and then the seriousness of the offence by examining aggravating and mitigating factors of the offending only.

A. Harm and seriousness

[19] The harm caused by this offence would be the death of the deceased and the serious psychological harm that was caused to his family and friends. The effect of the prisoner's murder of the deceased was catalogued in the Victim Impact Statements ('VIS's') filed by the deceased's father, employer and daughter. In the father's VIS he described his son, and the family's loss, thusly:

"Yellow was quiet, humble, unproblematic, and full of laughter. He didn't drink, and he didn't stay out on the streets. He was a dedicated young man. As a child, he fell in love with cycling after hanging out with Mr. Ordonez. He pursued it with incredible discipline, waking up at 4:00 AM to train every morning before going straight to work.

His younger brother, Kadeem, looked up to him in everything. Inspired by Yellow, Kadeem also took up cycling and began racing. When Yellow eventually stopped competitive racing, he transitioned into covering the races on his motorcycle, and Kadeem followed right in his footsteps.

Our family has suffered unimaginable pain. On April 10, 2022, while covering the Women's Cross Country race on his motorcycle, Kadeem's bike exploded in a fatal accident. Yellow was utterly devastated. He carried a heavy burden of grief and guilt because he knew he was the one who had brought Kadeem into the cycling world.

For the past twenty-five years, I have been a paraplegic, confined to a wheelchair following an accident of my own. My wife has also been battling cancer. Through all of this, my sons were my strength and support. Whenever I needed help, whether at home or after I finished DJing, I could call either of my boys, and they would be there immediately. When Kadeem died, I was deeply broken, but I found comfort in knowing I still had Yellow.

A few days before the two-year anniversary of Kadeem's passing, just as Yellow was starting to heal and return to covering races, I received the worst news imaginable. I could not believe the call. I was already in a wheelchair, my wife was fighting cancer, and now my only remaining son was gone.

...

I used to love DJing, but now even that brings pain because my boys aren't here to pick me up when I finish. The weight of losing both of my sons and being in a wheelchair pushed me to a point where I wanted to end my life; I felt I couldn't bear any more pain. The only thing that keeps me fighting every day is knowing that I have two grandchildren who need me.

...

...a parent is supposed to be buried by his children, yet I have had to bury both of mine. Many nights, I sit in the dark and just cry. When people ask me how I keep going, I tell them I live for my grandchildren.

I ask this Court to remember who my son was: he was a loving father, a devoted son, and a peaceful, innocent man who was senselessly chanced (sic) out of his life."

[20] The deceased's former employer described him as a deeply humble person and a "gentle giant". He said the deceased was exceptionally hardworking, helpful and a "jack-of-all trades." He described himself as devastated by the loss of the deceased and that he is still spoken about today fondly in his beloved bike shop 2 years after his death.

[21] The daughter of the deceased stated in her VIS:

"Before April 2024, my dad was a big part of my life. On Sundays, he would come to my house and spend time with me. We would barbecue or roast marshmallows outside, and he would pick me up from school. After school, I would ask him to buy me coffee, food or snacks, and most of the time he would say yes. Almost all the time. Every year for Valentine's Day, he would make me baskets. He would want to take them to me at school, but the school would not allow it, so when he picked me up after school, he would have the basket waiting for me in the back of the car.

I was a shy child, but I always felt safe with my dad. I was never afraid to go anywhere with him...My dad made me feel safe.

When my mom told me what had happened to my dad, everything changed. I was in Standard 5 at the time. I did not go back to school for a week... Even though I was having a hard time, I still did my schoolwork because I did not want to fall behind...

The things that used to be normal for me were no longer normal.

Christmas was also different because my dad did not come around. I was not used to him not being there, and I was sad. He was also not there to see me graduate. That was an important part of my life, and I wish he had been there to see it.

...

I especially do not like seeing Father's Day things anymore because they remind me of my dad.

I worry about my mom a lot too. I do not want the same thing to happen to her. When she goes out, I worry about her and wonder if something might happen to her. I also avoid going to my grandpa's house sometimes because they talk about my dad a lot, and it makes me think about him and everything that happened.

I get angry about what happened. I believe in God, and I know that everything happens for a reason, but I am still searching for the reason why this happened.

I have always had anxiety, but now it is worse. When I go into crowded places, I can become overstimulated. When I go anywhere with my mom, I will clutch her tightly. I do not like strangers who look scary. I am more afraid now that something bad could happen to me. Before, I was scared of certain things, but now I think about what if the same thing happens to me.

Trying to live normally has been the hardest part for me. So many things changed after I lost my dad. I feel like I am missing a part of myself and learning how to live without him has been very hard for me.

I miss my dad. I miss the things we used to do together, and I wish he could have been there for the important moments in my life. I am trying to continue living my life, but I will always feel the absence of my dad."

[22] These VIS's underline the loss of a man who was a productive citizen, who was loved and took his responsibility as a father with the utmost seriousness. The death of the deceased had a profound damaging effect on those who loved him and robbed Belize of a pillar of the community.

[23] The aggravating factors of the offending in this case, in the Court's view, are as follows:

- i. **The offence involved a significant degree of premeditation and planning:** The prisoner's nefarious and murderous intent was not formed on the spot or the product of a lightning bolt from the blue. The prisoner devised a plan, coerced Ms. Armstrong through violence to lure the deceased to a pre-designated spot and executed him. This conduct speaks to an individual of wicked mind with no regard for precious human life. This is a very serious aggravating factor.
- ii. **There was the use of a weapon, namely, a firearm:** The prisoner killed the deceased with a firearm. The Belizean society is plagued by firearm involved homicides, as is the rest of the Caribbean. The Court must send a strong message by its sentence that firearm involved murders will be met with serious consequences. This is a very serious aggravating factor.
- iii. **The murder is associated with a series of serious criminal acts:** The murder of the deceased was preceded by the commission of a common assault on Jenella Armstrong, namely, the pointing of a gun to her head. It was also preceded by the Armstrong's kidnapping as she was taken without consent by threat of force from the prisoner to carry out his dreadful murderous plan to kill the deceased.
- iv. **There was extreme violence:** The prisoner shot the deceased 7 times which was, in the Court's view, overkill in the context of this case.

[24] There are no mitigating factors of this offending.

B. The Starting Point

[25] The Court would not impose a death sentence since though the alleged offending is indeed heinous, it is neither, sadly, a case of "the worst of the worst" and there is no evidence that the prisoner is irredeemable and without any prospect of rehabilitation, as is the test set out by the Privy Council in *White*. The Crown has also not followed the procedural steps as required in *Reyes* to activate a consideration of the death sentence.

[26] The Court notes the range of sentence for murder in Belize, noted in *Faux*, is generally one of life imprisonment with a minimum term of between 25-37 years' imprisonment before the convicted person is eligible for parole.

[27] The Court does not believe that it should exercise its discretion to impose a determinate sentence. There are simply no mitigating factors of either the offence or offender which justify one. The prisoner has not advanced any at the sentencing hearing.

[28] The Court will choose a starting point of a life sentence with a minimum term of 30 years imprisonment. This sentence is similar to the appellant in *Debride* where there were similar aggravating factors such as (i) the use of a firearm; (ii) that it was a premeditated and savage murder¹⁴ and there is the added element of the other criminal acts by the prisoner including the threatening and taking away Jenella Armstrong's liberty by force. The Court must by its sentence send the message that gun violence will be severely punished, pre-mediated murder will meet grim consequences as would indulging in a slew of criminality. This was a heinous and devious killing. In this case the sentencing aim of deterrence looms large and the Court must demonstrate that the institutions of state are not impotent in the face of the wanton murders bedevilling Belize. This starting point appropriately reflects that in the Court's view.

C. Individualizing the sentence

[29] The Court would now consider the aggravating and mitigating factors in relation to the offender.

[30] In terms of the aggravating factors of the offending the Court would consider the prisoner's antecedents. The prisoner has one previous conviction for a similar offence, namely manslaughter for which he had been sentenced to 16 years imprisonment¹⁵. In that offence a jury accepted that the prisoner beat a woman he met in a bar to death with a brick¹⁶. This is a particularly serious aggravating factor. This demonstrates a seeming lack of regard by the prisoner for human life. Also, the relative recency of this offending after his release from prison on the manslaughter conviction is extremely troubling. His release from prison on the manslaughter charge would have been in July 2023, according to the SIR, and this offence occurred in April 2024. This demonstrates to the Court a callous disregard for the law and raises the question, alongside how this offence was committed, whether the prisoner is a person the public should be protected from. The Court recalls as was noted in the GSG that the "first and foremost"

¹⁴ Para 18.

¹⁵ **Krismar Espinosa v R**, Criminal Appeal No. 8 of 2015.

¹⁶ Para 54.

principle of sentencing is the public interest in punishing and preventing crime. The public interest provides an overarching framework in which the specific aims operate.”

[31] The Court will uplift the minimum sentence by 5 years because of this aggravating factor as the previous conviction demonstrates the prisoner’s dangerousness to the public and may be a sign that he is not properly rehabilitating. This would increase the sentence to one of life imprisonment with a minimum term of 35 years’ imprisonment.

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

- i. **Lack of violent infractions whilst on remand**: The prisoner has been incarcerated for this offence since 9th April 2024 and has not committed any violent offences whilst on remand.
- ii. **Positive character**: The Court notes in the SIR that the prisoner’s common law partner has described him as intelligent, sweet and observant. She spoke to his love for his children. Friends of the prisoner described him in that report as cool, level headed, and a good advisor. The prisoner was employed when not incarcerated and maintained a relationship with his children.
- iii. **Time spent productively on remand**: The prisoner has completed rehabilitative courses at the prison for which he must be credited.

[33] The Court would deduct 3 years from that minimum sentence for those mitigating factors and with a view to his rehabilitation. Though the prisoner has taken some steps to rehabilitation and has a family support system, the aggravating factors in this case are very strong and as the CCJ noted in **Alleyne v R**¹⁷, per Anderson JCCJ, as he then was:

*“[45] ...Rehabilitation is one of the aims of sentencing and a very important aim, but not the only one **and in some circumstances, not the overriding one**. The classical principles of sentencing reference three others: retribution, punishment, deterrence; a more modern formulation would be content only to reference punishment, deterrence and rehabilitation. Further, the Penal System Reform Act [our Alternative Sentencing Act] **does not state the weight to be accorded by the sentencing judge to any of the proper objectives of sentencing**.”(emphasis added)*

¹⁷ (2019) 95 WIR 126 at para 49.

[34] This would reduce the pre-parole minimum term to 32 years' imprisonment for the murder count. The Court appreciates that this sentence means that the prisoner will be in prison until he is 66 years old, if released on parole at all, but this is a necessary sentence for a heinous well-planned execution of a model citizen by a repeat violent offender. The public interest in deterrence and public safety make this an appropriate sentence in the Court's mind.

[35] The Court will backdate the sentence pursuant to its powers under section 162 of the Indictable Procedure Act¹⁸ as considered in R v Pedro Moran¹⁹ to the period of his first remand, namely 9th April 2024.

Disposition

[36] The Court sentences Krismar Espinoza for the murder of Wilbert Banks Jr. to life imprisonment with a minimum term of 32 years imprisonment before becoming eligible for parole with effect from 9th April 2024.

Nigel C. Pilgrim
High Court Judge
Criminal Division
Central District
Dated 13th October 2026

¹⁸ Chapter 96 of the Substantive Laws of Belize, Revised Edition 2020.

¹⁹ Criminal Application No. 1 of 2017 at para. 38.