

**COMMONWEALTH OF THE BAHAMAS**

**IN THE SUPREME COURT  
(CRIMINAL SIDE)**

**Information No. 87A/3/2013**

**BETWEEN:**

**REGINA**

**-v-**

**(1) ERROL KNOWLES  
(2) RASHAD MCPHEE**

**Before:** The Hon. Madam Justice Indra H. Charles

**Appearances:** Mr. Eucal Bonaby and Ms. Viola Barnett of the Attorney General's  
Chambers for the Prosecution  
Ms. Sonia Timothy for the defendant Errol Knowles  
Mr. Ian Cargill for the defendant Rashad McPhee

**Hearing Date:** September 30, 2016

**Murder arising out of armed robbery – Armed Robbery 0 Attempted Armed  
Robbery -**

**JUDGMENT ON SENTENCING**

[1] **CHARLES J:** The defendants, Errol Knowles and Rashad McPhee are before the court for sentencing. They were both convicted on 15 February 2016. The facts are set out in the Crown's bundle of submissions on sentencing and for brevity, I adopt them. They are not in dispute. The Crown has outlined the aggravating as well as the mitigating factors. Again for brevity, I will not rehash them.

[2] Probation Officers reports were obtained in respect of both defendants which form part of the Court's Record.

**Rashad McPhee: Armed robbery/ Attempted Armed Robbery**

[3] I will focus on Rashad McPhee first as he was found guilty of armed robbery and attempted armed robbery by a unanimous jury. He was found guilty of murder by a majority jury: 11: 1. In my opinion, this is not an acceptable verdict so he will be retried on the count of murder.

[4] With respect to armed robbery, Ms. Barnett for the Crown has provided a substantial amount of judicial authorities to assist the court to impose an appropriate sentence on this count of armed robbery as well as attempted armed robbery.

[5] Both counts attract custodial sentences. The maximum sentences of life imprisonment – section 339(2) and 83(2) of the Penal Code.

[6] Punishment is always a matter for the court's discretion having regard to the particular circumstances of the case. Undoubtedly, the main objective of a criminal sanction is for the protection of the public. But, deeply rooted in this overarching purpose are the concepts of deterrence, retribution, prevention and rehabilitation.

[7] Ms. Barnett referred to the following local authorities on armed robbery to assist the court with sentencing.

- i. **Raymond Darling v Regina** is instructive as it relates to a murder that was committed during the course of an attempted armed robbery that involved the use of the firearm. Darling and Francis were sentenced to 40 years for murder, 15 years for attempted armed robbery.

- ii. In **McQuay v Regina** [2002] BHS J No. 16 unreported, Mr. McQuay was indicted on a two count indictment for murder and attempted armed robbery. He was sentenced to death on the count of murder and life imprisonment on the count of attempted armed robbery. On appeal, the Court of Appeal affirmed the convictions and sentences imposed by the trial judge.

[8] Besides the authorities referred to by Ms. Barnett, I would like to refer to **Regina v Jameson Jacques a.k.a. Jacques Stuart**, Supreme Court of the Bahamas Judgment Information No. 235/9/2011- Written Judgment delivered on 22 February 2012 [unreported]: see paras. 14 and 14. The Court of Appeal affirmed a 12 years sentence for armed robbery. True, this case has nothing to do with murder.

[9] In the present case, both offences –armed robbery and attempted armed robbery- are serious offences and under normal circumstances, would attract custodial sentences. In addition, the length of sentence is heavily dependent on the aggravating and mitigating features and, usually to a lesser extent, the personal circumstances of the offender. The aggravating and mitigating features of this case have already been identified.

[10] The Probation Report of Rashad McPhee is taken into consideration. I also heard submissions from Mr. Cargill who is seeking a leniency in sentence because of his youth. He has a criminal antecedent – summary offences in the Magistrate Court – 4 in total – born on 23 February 1995 so he was a juvenile with he was convicted of assault with a dangerous weapon and sent to Simpson Penn Center for Boys. He also has a conviction for housebreaking and stealing and on 9 June 2011, he was sentenced to 6 months and sent to Simpson Penn. On 11 July 2013, he was convicted of stealing and disorderly behaviour and sentenced to prison.

[11] The Court also takes into consideration the disgust with which the public regard those who use firearms to commit crimes and that violent and serious crimes involving young men who are armed particularly with unlicensed firearms seem to be plaguing this once peaceful nation. Society continues to show its revulsion for these crimes.

[12] The Court has to send out the strong message that criminality has no place in this society. I believe that the only way it can do so is by the sentences which are passed which are aimed at ensuring that the wrongdoer does not repeat the offence and that potential criminals get the message that society will not countenance such criminality.

[13] Having considered all the circumstances of the case, paying particular regard to the mitigating and aggravating circumstances, the circumstances in which the offences were committed together with Mr. McPhee's culpability, I am constrained to impose custodial sentences. No doubt, these sentences would dissuade would-be criminals.

[14] Taking all matters into consideration, I hereby sentence you, **RASHAD MCPHEE** to twelve years imprisonment for armed robbery and ten years for attempted armed robbery; the sentences are to run concurrently. Time spent on remand was taken into consideration in computing the sentence: from May 2012 to February 2016 – 3 years 9 months.

#### **The sentence of Rashad McPhee**

[15] You are hereby sentenced to 8 years 3 months from the date of conviction: 15 February 2016.

#### **Errol Knowles**

[16] The defendant Errol Knowles was found guilty of murder, armed robbery and attempted armed robbery. He will face the same sentences as Rashad McPhee for armed robbery and attempted armed robbery: that is, 8 years 3 months from the date of conviction on 15 February 2016.

[17] It appears from the evidence adduced by the Prosecution that Mr. Knowles was the mastermind between the armed robbery and eventual murder of Heuton Lloyd. A precious life was senselessly snatched away and grieving families are left behind. The deceased' mother, Mrs. Bessimae Lloyd and his father, Mr. Heuton Lloyd Sr. spoke to the Probation Officer on their son's death and the impact it has had on the family and the two young sons that the deceased left behind: see page 6 of the Probation Officer's Report.

[18] Mr. Knowles, though a juvenile, is not of unblemished record. He has had infractions at the Prison as stipulated in the Probation Officer's Report at page 7. Ms. Timothy who appeared for Mr. Knowles questioned the accuracy of the Report. That said, the antecedents of Stealing and Threats of harm were committed when he was a juvenile and he was sent to Simpson Penn.

[19] With respect to the count of murder, for which Mr. Knowles was unanimously convicted, the law with respect to the sentencing of a juvenile seems not to give any discretion to the Judge. The law states that a convicted juvenile shall be sentenced to be detained during the Court's pleasure with his detention reviewed after 20 years.

#### **The sentence for Errol Knowles**

[20] In the circumstances, I will sentence **ERROL KNOWLES** to be detained during the Court's pleasure with his detention reviewed after 20 years.

[21] In addition, both defendants will receive counselling on such terms and conditions as the clinical psychologist deems fit during their respective period of incarceration.

**Dated this 30<sup>th</sup> day of September, A.D. 2016**

**Indra H. Charles  
Justice**