

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
(CRIMINAL DIVISION)**

INFORMATION NO.

BETWEEN:

REGINA

-v-

**(1) METEOR BODIE
(2) DARIUS WILLIAMS**

Before: The Hon. Madam Justice Indra H. Charles

Appearances: Mr. Terry Archer Counsel of the Attorney-General's Chambers for the Crown
Mr. Emmanuel for the Defendant Meteor Bodie
Mr. Jairam Mangra for the Defendant Darius Williams

Hearing Dates: 3, 11 February 2016

JUDGMENT ON SENTENCING

[Criminal Law – Murder – Denial - Rejection of both defences by jury - Conviction of murder – Sentencing Guidelines]

Introduction:

[1] **CHARLES J:** The defendants. Meteor Bodie, aged 36 and Darius Williams, aged 23 are before the court for sentenced for the murder of Ricardo Johnson.

The facts

[2] I don't need to go into the facts. It is helpfully distilled in the submissions of the Crown.

The legislative framework

[3] Section 291(1)(b) of the Penal Code (Amendment) Act, 2011, No. 34 of 2011 ("the Act") states as follows:

“Notwithstanding any other law to the contrary-

(b) every person convicted of murder to whom paragraph (a) does not apply –

(i) shall be sentenced to imprisonment for life; or

(ii) shall be sentenced to such other term given the circumstances of the offence or the offender as the court considers appropriate being within the range of thirty to sixty years imprisonment....” (Emphasis added)

[4] There are judicial authorities in The Bahamas which extrapolate the identical sentencing range of thirty to sixty years. In **Attorney General v. Larry Raymond Jones et al** (SCCr App. Nos. 12, 13 and 14 of 2007) [unreported], the Court of Appeal set guidelines in order to assist trial judges to arrive at some uniformity in sentencing. At paragraph 17 of the judgment, the Court of Appeal stated as follows:

“In our judgment, where, for one reason or another, a sentencing judge is called upon to sentence a person convicted of a depraved/heinous crime of murder and the death penalty is considered inappropriate or not open to the sentencing judge and where none of the partial excuses or other relevant factors are considered weighty enough to call for any great degree of mercy, then the range of sentences of imprisonment should be from thirty years to 60 years, bearing in mind whether the convicted person is considered to be a danger to the public or not, the likelihood of the convict being reformed as well as his mental condition. Such a range of sentences would maintain the proportionality of the sentences for murder when compared with sentences for manslaughter.

[5] In the present case, the Crown seeks a sentence pursuant to section 291(1) (b) of the Act. They have indicated that a sentence of life is appropriate or in the alternative – 50 to 60 years. I need to clearly state that sentencing is always within the purview of the judge.

Aggravating and mitigating factors

[6] The Crown has helpfully identified the aggravating as well as the mitigating factors in this case. These are:

1. **Lack of remorse:** Notwithstanding the unanimous finding of guilt by the jury, Mr. Bodie has not given responsibility for his actions. In his evidence on oath, in a seemingly “last ditch effort”. After denying involvement, he admitted to going into the deceased’ apartment with him but not partaking in the murder of the deceased. He deposed that Mr. Williams stabbed and killed the deceased. To date, Mr. Williams denied his involvement. He has expressed no remorse and maintained his innocence. He has shown humanity in expressing compassion for someone who has died.
2. **Premeditation and some degree of planning:** In his attestation Williams said that when he arrived at the deceased’ home he was sleeping. He waited at the residence until Bodie went to get a sharp object to gain entry. He stated that he saw Bodie stabbed the deceased many times. Meteor Bodie admitted that he went to the house to rob and the deceased was sleeping. It is sad to know that an innocent man who did nothing was fatally killed in his sleep. This in itself, is aggravating.
3. **Previous convictions – Bodie – Defendant convicted in the Magistrate Court on 29 June 1994 for unlawfully carrying arms; on 22 March 2001 for possession of dangerous drugs with intent to supply – I should say both are spent and should be expunged from the record. On 7 February 2003, the defendant’s appeal for murder –a re-trial ordered so that matter is still pending.**
4. **Darius Williams – Convicted in the Magistrate Court in 2008 for possession of an unlicensed firearm. He had two prior convictions for being an uncontrollable child but should be expunged because it was in 2007. He has one infraction since his incarceration.**

[7] **The Crown has identified three mitigating factors namely:**

1. Bodie – none but I would say that he is still a young man. He is 36 years of age.
2. Williams – young age.

Analysis

- [8] Murder is a very serious offence. Its gravity is reflected by the sentence which it carries. However, the court has a discretion in sentencing pursuant to section 291(1)(b) of the Act to enable the court to do justice having regard to the particular facts of each case.
- [9] In sentencing, the judge is obligated to do a balancing exercise, that is, to weigh the mitigating factors against the aggravating factors and to determine which is in the preponderance. There is no doubt that in the case of each defendant, the aggravating features outweigh the mitigating features.
- [10] In sentencing, I take into consideration, the four classical principles of sentencing and to apply them to the facts of the case to see which of them has the greatest importance in the present case. These principles could be summed up in four words “retribution, deterrence, prevention and rehabilitation.”
- [11] I have considered each of these principles as it relates to Mr. Bodie and Mr. Williams.
- [12] Additionally, there are two levels at which deterrence surfaces i.e. general and specific. I do not believe that there is need for specific deterrence. General deterrence is necessary on order to deter others like both defendants from following suit. In **Romain Bend and Rodney Murray v The Queen Criminal Appeals Nos. 19 and 20 of 2001, Court of Appeal, Barbados (at para. 25), per Simmons CJ** said:

“...Civil society must be protected and sentences by way of general deterrence must be used in appropriate cases to mark down our disapproval of behaviour such as was witnessed in this case. Courts must do all in their power to deter such behaviour. And we should also observe that the fact that

Murray had no previous criminal record does not avail him when this Court is dealing with a case of this gravity....”

- [13] In addition, the court takes judicial notice of the fact that there is an upsurge of violent crimes involving firearms. The Court must continue to sound out that message that crimes and violent crimes in particular, will not be tolerated. The court must show its repugnance by handing down appropriate sentences.
- [14] Retribution, in the sense of showing society's aversion of this killing seems to be the only meaningful element that can go into punishing both defendants. The community must be fair-minded and therefore, must appreciate that there are degrees of culpability in criminal wrongs.
- [15] Rehabilitation is to ensure that an offender is provided with facilities or services aimed at improving her behavior. I believe that both defendants will do well with some counseling during his incarceration which I would recommend.
- [16] This was a cold-blooded murder where an innocent man was killed in his sleep in his sanctuary. His apartment was secured and these two defendants still chose to go and kill a resting man. Some degree of planning and premeditation was involved.
- [17] Taking all matters into consideration, and taking all of the mitigating factors and weighing them against the aggravating factors, a sentence as shown below is justified in the circumstances.

The sentence

- [18] In accordance with the recent decision of the Court of Appeal in Simeon Bain, the Court will sentence to a determinate term. Mr. Bodie is sentenced to fifty (50) years imprisonment. He has been on remand since 24 March 2014. Accordingly, I will deduct 1 year 4 months years from the sentence.

[19] In the case of Darius Williams, he appeared to be a follower and must follow good people, not criminals. He is sentenced to 45 years in prison less 1 year and 4 months from the date of conviction i.e. July 24, 2015.

[20] I will order counselling in anger management. Such counseling is to be determined by a qualified counselor.

Dated this 11th day of February 2016

**Indra H. Charles
Supreme Court Judge**