

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

(Criminal Division)

Cri/vbi/366/12/2015

Between:

REGINA

Vs.

KIKO HANNA

Before: The Hon. Mr. Justice Gregory Hilton

Appearances: Raquel Whymms for the Crown

Convict – Pro Se

Hearing Dates: 14th and 21st June 2018

Ruling on Sentencing

HILTON, J.,

1. By an Information filed 22nd December 2015 the (now) convict Kiko Hanna was charged with Robbery with Violence contrary to section 339 (2) of the Penal Code; The Particulars alleging:

“Kiko Hanna, on Tuesday, the 3rd day of November 2015, at New Providence, having made preparation for using force or causing harm, did not rob Janeth Evans of her handbag valued at \$37.00, containing one manicure kit valued at \$10.00, one make up kit valued at \$50.00, cash in the amount of \$41.00 and a black purse valued at \$25.00.”
2. His trial commenced on the 14th March 2018 and at that time his then counsel Allan Emmanuel requested leave of the court to withdraw as the Accused no longer wished for him to represent him. I acceded to counsel’s request after hearing from the accused and the trial was adjourned to 19th March 2018 to allow the Accused to seek alternate counsel if he wished.
3. On 19th March 2018 the Accused advised the court that he wished to represent himself and the trial commenced thereafter.
4. At the close of the Crown’s case on 21st March 2018 after review of the evidence I ruled that the charge of Robbery with violence under section 339 (2) of the Penal Code was not made out; but that there was a case made out on the charge of Robbery contrary to section 339 (1).
5. The Accused was told his rights and elected to remain silent and called no witnesses, and the jury returned a verdict of guilty of Robbery by a count of 6-3.
6. The court requested a probation report prior to sentence being passed which was provided on 14th June 2018 and tendered in the sentencing hearing.

7. The evidence in this matter is that on the morning of 3rd November 2015 the convict approached the victim through a track road and grabbed her hand bag from her and fled into the bush and was shortly thereafter arrested by an off duty police officer who lived in the area and had heard the screams of the victim and her granddaughter who was accompanying her and on looking out the window of his home had seen the convict run out of the bush past his house. The bag was recovered from the area of the bush the convict ran from. The convict in his interview with the police denied he had robbed the lady of her hand bag and maintained that this was a case of mistaken identity.

Probation Report

8. The Probation Report notes that the convict is 20 years old and a Bahamian. He was 17 years old at the time of the offence. He has a previous conviction for possession of an unlicensed firearm for which he is presently serving a sentence.
9. The persons interviewed by the probation officer were the convict's mother Marieann Hanna; his friend Kristoff Edgecombe and a family friend Mrs. Harley Forbes. The Probation Officers Summation is outlined below:

PROBATION OFFICER'S SUMMATION:

"The Concerned was reared a single parent household, and reportedly shares an amicable relationship with his mother and siblings. His rapport with his father was described as distant. He did not complete high school but was able to work consistently after terminating his education.

The Concerned is single and the father of one (1) minor daughter. Reportedly, he no longer shares an intimate relationship with his child's mother, Kiesha Rolle.

The Concerned was generally described as being a hardworking, mannerly person, with “good inside him”. Despite the same his teen years reflected ongoing delinquent behaviour that was addressed but resulted in no apparent change. This is evident given that he is presently before the Court, serving time for a previous conviction and now faced with the present conviction. He maintains his innocence in the previous and present offences. He was forthcoming in admitting that he frequently smoked marijuana, Black and Mild and occasionally consumed alcoholic beverages but since his incarceration he smokes cigarettes only. However, persons interviewed stated that he did not display such behaviour in their presence. The Convict stated that he does not belong to a gang.

The general consensus of persons interviewed was that the Convict is capable of good and they hope leniency is shown when sentencing is passed. It is evident that he has the potential of choosing better for himself.

In view of the above information, the Court must now determine an appropriate sentence for the Convict, Kiko Hanna.

**Carmetia Mackey-Christie (Mrs.) B.A.
Probation Officer**

**Janice Nairn – Mckenzie (Mrs.)
Senior Probation Officer**

June 13, 2018

/cmc

10. The convict at the sentencing hearing requested lenience and for the court to take account of the fact he was a juvenile when the offence was committed and that he has a young child.
11. In exercising my discretion in sentencing I must consider those factors which are both mitigating about the offence and the offender.
12. With respect to the convict I have considered as mitigating, the fact that he was 17 years old at the time of the incident. Despite the fact that he had not completed high school he was gainfully employed prior to his incarceration on his conviction for possession of an unlicensed firearm.

The fact that he had never had a meaningful relationship with his father may have played a role in his delinquency as a juvenile and the probation officer is of the view that once he accepts his responsibility, his prospects for rehabilitation are good.
13. The aggravating factors I find relevant is that the convict has in the past displayed anti-social behaviour and squandered the opportunities provided to him to reform.

The offence of robbery is a serious offence which caused anguish to not only the victim but also to her young grandchild.

Disposition

14. Applying the principles of sentencing to the facts of this case, I have taken into consideration the age of the convict at the time of the offence.

I, however, must pass a sentence which is able to act as a deterrent to the convict specifically and to other persons who are minded to act in a similar fashion.

As previously stated the convict is a very young man now (20 years) and must after an appropriate sentence have an opportunity to be rehabilitated and eventually returned to society.

15. With regard to all the circumstances of case I find that an appropriate sentence for Kiko Hanna would be five years with effect from the date of conviction on the 22nd March 2018.

Dated this 27th day of June 2018, A.D.,

The Hon. Mr. Justice Gregory Hilton