

COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT  
Criminal Division

2018  
CRI/VBI/68/3

BETWEEN:

**ZARIA BURROWS**

**1<sup>st</sup> Convict**

**And**

**DERVINIQUE EDWARDS**

**2<sup>nd</sup> Convict**

**And**

**THE DIRECTOR OF PUBLIC PROSECUTIONS**

**Respondents**

**Before: The Honourable Mrs. Justice Cheryl Grant-Thompson**

**Appearances: Ms. Cassie Bethel along with Mr. Mark Penn, Counsel for  
the Director of Public Prosecutions**

**Mr. Devard Francis- Counsel for 1<sup>st</sup> Convict Zaria Burrows  
Mrs. Eleanor Albury- Counsel for 2<sup>nd</sup> Convict Dervinique  
Edwards**

**Hearing Dates: 8<sup>th</sup> December, 2020; 19<sup>th</sup> January, 2021; 26<sup>th</sup> February, 2021,  
Delivered on the 22<sup>nd</sup> June, 2021.**

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## **SENTENCING JUDGMENT**

*Secondary Parties Convicted of Murder, Is their role relevant to sentence, Sentencing Guidelines contained in Larry Raymond Jones, Patrick Alexis Jervis, Chad Goodman SCCrApp. No. 183 of 2015; Lathario Miller SCCrApp. No 183 of 2015; Kervin Neeley SCCrApp No. 266 of 2016; R v Jogee; R v Spraggett Crim LR*

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## **GRANT-THOMPSON, J.**

### **Introduction**

1. The trial against 1<sup>st</sup> Convict Ms. Zaria Burrows and the 2<sup>nd</sup> Convict Ms. Dervinique Edwards commenced on the 17<sup>th</sup> October, 2019 when the jury was empaneled and sworn. The taking of evidence commenced on the 21<sup>st</sup> October, 2019 for the offence of Murder. The trial ended on the 11<sup>th</sup> February, 2020, when the 12 member jury returned a unanimous Guilty verdict of Murder in relation to both Defendants (now Convicts), contrary to section 291(1)(b) of the Penal Code, Ch. 84.
2. Thereafter the country and indeed the world was plunged into a global pandemic (“COVID-19”). One of the effects of which was that the prison was put on “lockdown”. In the result, the Probation Reports could not be prepared as there was no access to the correctional facility until the 28<sup>th</sup> October, 2020 and the 3<sup>rd</sup> November, 2020 respectively. With the resumption of some trials in December, we eventually heard evidence from the Probation Officer, Mrs. Matrena Carey on behalf of the 1<sup>st</sup> Convict, Ms. Zaria Burrows. Mrs. Kalesa Simmons gave evidence on behalf of the 2<sup>nd</sup> Convict Ms. Dervinique Edwards on the 8<sup>th</sup> December, 2020. I then heard pleas in Mitigation and Sentencing Submissions by all parties on the 19<sup>th</sup> January, 2021.
3. These Convicts are alleged to be secondary parties. They had different roles. Whilst some of the law was similar, I considered the case of each Convict separately. Zaria Burrows was said to be the driver of the vehicle which took the Convicts to the scene of the Murder. Dervinique Edwards is said to have engaged in the fight which led to the death of young Breanna Mackey.
4. The Convicts are youthful, both aged twenty (20) at the time of the commission of this serious unlawful offence. They are now both twenty-four (24) years of age. They have clean records- no previous convictions. The family members of the

deceased specifically her sister Ms. Nafatera Brown came and gave eyewitness testimony during the trial. Additionally, a young ten (10) year old student Mr. Gordonal McKenzie had to leave school to testify during the course of the trial.

### **Previous Co-Accused**

5. Counsel for Ms. Dervinique Edwards Ms. Albury raised the issue of the sentences attributed to the previous co-accused, which Counsel deemed highly relevant. This trial was set against the backdrop of the previous co-accused of the Convicts deciding to spare the family, jurors, and the Court a trial, and to take responsibility for their respective roles in this terrible ordeal that ended in the loss of the life of young Breanna Mackey a.k.a “Bree” on the 25<sup>th</sup> January, 2018 on Key West Street. "Bree" was nineteen (19) years old at the time of her death. The loss of her life was due apparently over a cell phone, which one of these parties said Breanna had.
6. However, "Bree" too had a young child at the time of her death which someone else, must now raise and tell this young lady who her mother was. Whatever contribution Breanna would have made to our society and to her family; the world will never know. That was a deliberate decision taken by all of these Convicts to end her life. These two (2) Convicts are also young, they had their bright futures ahead of them and in Zaria's case she has a young son. The script is eerily similar. So between these parties there can be no sympathy, only the law, in this sentencing process.
7. In my view, the sentences received by the previous co-accused which included the alleged principal, Thea Williams, are irrelevant to this sentencing process. By Plea Agreements, the co-accused sentences were as follows:
  - i. **Thea Williams-** Convicted by Plea Agreement of Murder and was sentenced by this Court to Twenty-Five (25) years imprisonment; One (1) year probation and One (1) year counseling;

- ii. **Matia Sylverian**- Convicted by Plea Agreement of Manslaughter and was sentenced by this Court to Twelve (12) years imprisonment and One (1) year probation;
  - iii. **Dawanya Lawes a.k.a Vonya**- Convicted by Plea Agreement of Causing Grievous Harm and was sentenced by this Court to Two (2) years imprisonment, One (1) year community service and One (1) year counseling; and
  - iv. **Yolika Dumosle a.k.a Gabby**- Convicted by Plea Agreement of Causing Grievous Harm and was sentenced by this Court to two years imprisonment and also to give evidence at trial and Three (3) years' probation, One (1) year community service and One (1) year counseling.
8. In my view, the rather imaginative and well thought out sentences now recommended by the Counsel for the present Convicts were in keeping with the range originally offered to both Zaria Burrows and Dervinique Edwards prior to trial. Therefore, I reject those proposed sentences. They were sentences that would have been available prior to a four month trial and their subsequent conviction for Murder. The range in my view of sentence for Murder in this case is now 30-60 years and these guidelines were established with just cause in the celebrated Privy Council decision of **Larry Raymond Jones and Others v The Queen** [1995] 1 WLR 891.
9. In the case of **The Attorney General v Larry Raymond Jones and others** SCCrApp Nos. 12, 18 and 19 of 2007 the Court of Appeal at paragraph 17 stated:

*“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 to sixty 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.”*

10. The facts as posited by the Crown and accepted by the members of the Jury can be summarized as follows:

- i. During the evening hours of Thursday, 25<sup>th</sup> January, 2018, **Zaria Burrows** and **Dervinique Edwards** were along with other females in a Honda Vehicle driven by Burrows, when they observed Breanna Mackey a.k.a. “Bree” (herein after referred to as “the deceased”). She was walking with her sister, Nafatera Brown, in the area of Key West Street. Burrows, on seeing the deceased, sped up chasing her. In doing so, Burrows almost hit the witness young Godnal McKenzie as she continued to speed behind the deceased. Burrows slammed brakes, parking across the area where the deceased ran in efforts to block the deceased from escaping.
- ii. The chase caused the deceased to slip down and the occupants of Burrows’ car exited (including Edwards) and they all attacked the deceased. During this attack, the deceased was stabbed by a former co-accused, Thea Williams, before Williams subsequently ran back to Burrows’ vehicle with the bloody knife. The other assailants including Dervinique Edwards continued to attack the deceased and then ran back to the vehicle as well. Burrows then sped off with these females effectively removing them from the scene. The deceased got up and attempted to run, but collapsed a short time later and eventually died, the pathologist found as a result of her injuries. Dr. Caryn Sands found the anatomical cause of death to be “stab wound to the back”.

- iii. Following the attack, the assailants went to the Gambier Village for drinks. The fact that they were engaging in this type of activity in my view displays a further casual disregard for human life. Burrows left the others in Gambier. Edwards and the other former co-accused eventually made their way to a motel where they were found clutched together tightly in a bathroom tub, and then arrested. After learning of the death of the deceased, Burrows turned herself in to the police.
- iv. The evidence further showed that deceased and both Convicts were known to each other. That these young ladies had been friends and that they had prior history. On at least two occasions, mere weeks before the fatal incident, Burrows and Edwards the 1<sup>st</sup> and 2<sup>nd</sup> Convicts along with their former co-defendants, visited the residence of the deceased in efforts to recover money for a broken cellular phone owned by one of the former co-defendants. On both occasions words were exchanged and on at least one occasion, the assailants produced knives and screwdrivers. However, the deceased's family members intervened and ask the assailants to leave.
- v. On Thursday, 25<sup>th</sup> January, 2018, sometime around 9:30 pm, the 1<sup>st</sup> Convict **Ms. Zaria Burrows** was arrested by DC 2898 Trevor Pinder, in the area of 45c Watling Street, at which time she said ***“Officer it was Tia who “jook” that girl. She asked me to take her to get some money, that’s all”***. Burrows was identified by witnesses as being the driver of the vehicle that chased down the deceased, whose passengers exited and beat the deceased in a fight which resulted in the deceased's death. The Convict Burrows waited in the vehicle, on the passengers to return,

before speeding off. She sped off with Williams who had the bloody knife and the others. Burrows maintained, through cross examination and the unchallenged Record of Interview that she was in fact the driver of that Honda vehicle at all material times. She was later charged with being concerned together in the Murder of the deceased.

- vi. On the above mentioned date, sometime around 8:40 pm, PC 3353 Brown, while at Morris Guest House, arrested **Dervinique Edwards**, who was found along with her former co-accused. This was done by breaching a bathroom door (kicking it down) where he discovered all of them (except Burrows) standing in the tub tightly clutched together. Edwards was identified by Ms. Nafatera Brown as being one of the persons involved in the attack on her deceased sister which resulted in the death of the deceased. Edwards maintained, through cross examination and the unchallenged Record of Interview, that she was present in the vehicle driven by Burrows, along with her former co-accuser's, on the scene. She however, denied direct involvement in the altercation. Even on her account she never left the scene. However, the evidence of Godnal McKenzie was that her involvement was beyond "mere presence" and his evidence was that only the driver of the vehicle remained in the car and that all of the occupants exited except the driver. He recounts that they approached the deceased fighting her, at which time Thea produced a knife, stabbed the deceased and the others continued to fight the deceased. Thea ran back to the car first and the other assailants followed shortly thereafter. Dervinique was later charged with being concerned together in the Murder of the deceased.

## The Law

11. The Convicts were charged with Murder contrary to sections 291 (1) (b) of the Penal Code, Ch. 84. This section states:

*“290(1) 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:*

*provided that where a person under eighteen years of age is convicted of murder he shall not be sentenced in accordance with this subsection but instead subsection (4) shall apply to the sentencing of such person.”*

## Disparity in Sentence with those that Plead Guilty and those who Did Not

12. The case of **Vilner Desir v ReginaSCCrApp & CAIS No. 88 of 2017** is instructive on this issue. One of the grounds of appeal by the Applicant was that the sentence handed down to him by the Learned Trial Judge after **Desir** was convicted by a jury was more excessive than that of his co-accused Delano Taylor who had received a Ten (10) year sentence through plea agreement. In giving the Oral Judgment of the Court of Appeal, Madam Justice of Appeal Crane-Scott JA stated that:

*“The next intended ground is that the sentence is unduly harsh and severe and that the judge failed to reflect the doctrine of parity of the Intended Appellant's youth in her sentence.*



*We went into a discussion during the course of this ground on whether or not there had been a plea agreement having regard to the fact that the co-accused Delano Taylor had entered into a plea agreement and had gotten 10 years. The Intended Appellant having gotten 16 years felt that his sentence was somehow harsh and severe, notwithstanding the fact that he did not sign a plea agreement, and, therefore unlike Delano Taylor, there would have been no agreement before the court in relation to him. Therefore, the sentence of Delano Taylor had to be looked at completely differently from his because the basis were different. There was no merit in that ground and it therefore would not provide him with good prospects of success. Ground 4 was withdrawn and dismissed.*

*In the result, we did not find that the Intended Appellant had any prospects of success; and, having exercised our undoubted discretion in the matter, we consider that the application should be dismissed. The sentence that was imposed by the learned judge in the court below is therefore affirmed.”*

13. Sections 3(2) & 9 of the **Child Protection Act, Chapter 132** does not afford the Convicts any protection in that a child is defined in the Act as a person under the age of 18 years. Clearly, these Convicts (like Vilner Desir in the decision above who was also 22 years old) are not children within the meaning of the Act. Nonetheless, I did request Social Enquiry Reports for them to help me understand how they came to be in this position on the day in question. Counsel for the Convicts made their submissions to me in January, 2021. The night prior to their submissions in this matter a young lady of 19 had been found with her head bludgeoned in the Marshall Road area. The person alleged to have committed this crime and charged before

the court is 23 years old. Serious offences involving young persons have become more commonplace. I intend for my sentence to discourage like-minded young persons from taking the law into their own hands as a mechanism to resolve disputes, even to the point of death.

### **The Responsibility of the Secondary Party**

14. The case of **Regina v Bryce** [2004] EWCA Criminal 1231 is instructive on this principle. Potter LJ reading the judgment of the Court at paragraphs 47, 56, and 58-61 stated as follows:

*“47. Sir Robert Lowry CJ in Maxwell (supra) at 140-141 stated:*

*“[The secondary party's] guilt springs from the fact that he contemplates the commission of one (or more) of a number of crimes by the principal and he intentionally lends his assistance in order that such a crime shall be committed. In other words, he knows that the principal is committing or about to commit one of a number of specified illegal acts and with that knowledge helps him to do so.”*

*56. Lord Scarman, in the House of Lords, approved Lowry LCJ's formulation ([1978] 1 WLR 1350 at 1362–1363):*

*‘The principle thus formulated has great merit. It directs attention to the state of mind of the accused: not what he ought to have in contemplation, but what he did have. It avoids definition and classification, while ensuring that a man will not be convicted of aiding and abetting any offence his*

*principal may commit, but only one which is within his contemplation’.*

*58. Rook is, in our view, authority for the proposition that it is not necessary to show that the secondary party intended the commission of the principal offence and that it is sufficient if the secondary party at the time of his actions relied on as lending assistance or encouragement contemplates the commission of the offence, that is knows that it will be committed or realizes that it is a real possibility that it will be committed.*

*59. The issue in the present case is whether, in addition to proving that the act of assistance relied on was deliberate and that the secondary party contemplated the commission of the offence, the prosecution must prove an intention to assist. It was the defendant's case through his counsel that his intention was not to assist, but to hinder, the plan which was apparently in existence between Black and X.*

*60. We have already seen that Devlin J, in National Coal Board v Gamble referred to an intent to aid and that in Maxwell, Sir Robert Lowry CJ referred to intentionally lending his assistance in order that the crime shall be committed, in a passage cited with approval by Lloyd LJ in Rook. Although in Rook the endorsement of the passage from Smith and Hogan and of the written direction includes no reference to intent to assist, the Court had earlier approved the direction that the appellant must have done the various things ‘intending to assist Armstrong and Leivers to commit a murder.’*

61. *In Criminal Law Theory and Doctrine, Semester and Sullivan, 2000 the authors state that a secondary party must intend 'that his conduct will help or encourage P's actions' (page 198). 'It is the assistance, not the ultimate crime, that must be intended by the secondary party'.*”

15.I found the dicta from Lord Devlin J in **National Coal Board v Gamble** [1959] 1 Q.B. 11 which was cited in the Bahamas Court of Appeal decision of **Kervin Neeley and Regina SCCrApp No. 266 of 2016** to also be useful. The Court at paragraph 27 and 28 stated this:

*“27. There is no direct evidence that the Applicant knew that Lockhart had a knife or had any clear indication as to the fact that Lockhart intended to kill the deceased. However, the evidence is clear that he drove Lockhart to the scene and that when Lockhart came back to the car with a knife in his hand that the Applicant knew at that stage what had taken place. In fact on one view of the evidence the Applicant had gone to the back of the building after Lockhart where the deceased was stabbed to death. The Applicant then being fully aware of what has taken place took Lockhart back into his vehicle and sped off with him dropping him off at his house. He made no report to the police or to anyone else.*

*28. In our view the conduct of the Applicant before and after the incident when viewed as a whole gave rise to a reasonable inference that he had lent himself to the enterprise and was guilty of abetting the murder of the deceased. All the elements were there. There was evidence that he facilitated Lockhart by driving the vehicle in pursuit of the deceased. After the event it is evident that he knew that Lockhart*

*had committed Murder yet he took a deliberate decision to assist Lockhart with leaving the scene with the intent to help Lockhart avoid arrest or punishment. In those circumstances if the jury properly directed accepted that evidence they could properly convict. It followed that it was incumbent on the trial judge to leave that determination to them.”*

In my view notwithstanding that Zaria Burrows was “the driver” she can be and the jury found she was in fact as responsible in this criminal enterprise as the others, notwithstanding as a secondary party. She never left. She was parked close enough to view the criminal events being carried out in front of her. She never went to the police nor the hospital which was strictly necessary.

### **Lack of Remorse**

Notwithstanding the evidence adduced at trial, both Burrows and Edwards have continued to maintain their innocence. In my view, this is indicative of a lack of remorse on their behalf.

### **Purpose of Sentencing**

16. Sentencing must always be proportionate to the gravity of the offence and should promote a sense of responsibility in the offender for the offence committed. The object of sentencing is to promote a respect for the law, maintain order, maintain a peaceful and safe society, and discourage criminal activity by the imposition of sanctions. Sentencing should also be aimed at rehabilitating the offender so that he may reform his ways to

become a contributing member of society. Such sanctions for breach of the law are provided by law by means of sentencing. This is my intention here.

### **The Crown's Submissions**

17. The Crown submitted to the Court that:

- i.** The commission of this offence on the day in question was unprovoked. They submitted that although there is evidence of a motive and a build-up of tension which occurred a few weeks prior to the incident. The death itself was senseless in that it was alleged to have occurred over a broken cell phone. The fight which led to the death of the deceased was initiated by Burrows and ended at the hands of Edwards and her former co-accused they submitted to this Honourable Court.
- ii.** In my view Convicts have exhibited violent behavior since their earlier years. In relation to Edwards, this behavior continued even after her remand. This offence is very serious, the deceased was attempting to get away even after the attack. These Convicts offered no assistance to the deceased nor did they attempt to call for help. I noted that they did not take the deceased to the Hospital. Zaria had a vehicle. The Convicts instead continued on with their evening, and were apparently unbothered by the events that had just transpired.
- iii.** I placed emphasis on the sentencing objective of deterrence so as to discourage this type of behavior both in these Convicts and other like-minded young ladies in the community.
- iv.** In relation to deterrence for potential offenders, it was my view that the offender must be punished appropriately to deter other like-

mindful offenders from engaging in that form of behavior, even when it is that there is apparent “bad blood”.

- v. It was submitted to me that since convicted Convict Burrows attempted to take her own life. Having regard to Burrow’s attempt on her own life, the Crown respectfully requested that she receive counseling to help her cope with her depression issues, in the hope that she be rehabilitated on her release from incarceration. Also, in relation to Edwards, along with the sentence imposed, the Crown requested that she receives anger management counselling. I agree with both of these helpful suggestions.
- vi. The appropriate sentence in these circumstances they submitted was within the range of Thirty (30) to Thirty-Five (35) years imprisonment.

### **Probation Report- Zaria Burrows**

18. The Report of Probation Officer Mrs. Matrena Carey (dated November 3<sup>rd</sup>, 2020) revealed the following:-

*“By all accounts, the Concerned was initially reared in a two (2) parent home until her father’s death when she was fifteen (15) years old, as her parents cohabitated. It appears her parents attempted to provide a stable upbringing, but were unsuccessful as her school report indicated she lacked proper supervision. She was frequently absent, her attendance was inconsistent and her academic performance was poor. Moreover, she displayed behavioral problems and eventually discontinued school in grade twelve (12). Despite the aforementioned, she was able to secure a stable employment as a Janitress at Clifton Heritage Authority.*

*The Concerned is a single mother of a toddler. She was pregnant at the time the offence occurred and subsequently gave birth after she was released on bail. Family member, friends and colleagues interviewed described her as a good mother who is a nice, loving, good hearted individual and added she is not known to be violent. They are adamant in their belief of her complete lack of involvement in the present offence and continue to offer their full support.*

*Family members of the deceased continue to grieve and are unforgiving and angry over the circumstances that led to their loved ones demise. They want the Concerned to be punished for her role in this offence.*

*The Concerned has not been convicted of a very serious offence whereby a life was violently taken.”*

19.I was inspired that she sought to turn her abysmal academic career around during her adult working life. She had a good reputation on the job at Clifton Heritage. She also seems to have done a good job as a young mother.

### **Probation Report-Dervinique Edwards**

20.The Report of Probation Officer Mrs. Kalesa Simmons (dated October 28<sup>th</sup>, 2020) revealed the following:-

*“The Concerned was raised in a single matriarchal structured home with her mother and maternal grandmother. She is the second of four maternal siblings and the eldest of two (2) paternal siblings. Despite his past indiscretions, it was reported that she and her father shared a close bond.*



*The Concerned completed her primary and junior high school education successfully. She advanced to her secondary education which she completed up to twelfth (12<sup>th</sup>) grade, but did not make the required GPA to graduate. Information from her academic file revealed that she started to present behavioral problems from her first few months at the institution. As a result, she was referred to an alternate school for a short period of time.*

*Since leaving school, the Concerned was able to find gainful employment, which she maintained up to the time of her arrest for this present offence.*

*Persons interviewed expressed shock at the Concerned's involvement in this offence. She was described as humble, nice, mannerly, helpful, respectful, loving, quiet and gentle. However, her school report revealed different characteristics, which involved being disrespectful, insubordinate to authority and disruptive behavior. Additionally she showed similar behavior during her Remand at BDOCS, where she incurred two (2) infractions that resulted in disciplinary measures.*

*The Concerned maintained her innocence in this matter, but expressed remorse for Breanna's death. Nevertheless, she is still of the opinion that her co-defendant, Thea, who actually stabbed Breanna, did not intend to cause her death. However, this thought process appears to be naïve and lacks empathy.*

*This is the Concerned's first conviction and is unfortunate that she finds herself in this predicament. Thus, it is humbly recommended that all of the above mentioned be taken into consideration, when sentenced is passed."*

21. I am impressed that the Convict Burrows had gainful employment although her academic career was not exemplary. She is respected among the persons interviewed, but I note she was disrespectful in school and disruptive. She behaved similarly at the "BDOCS", which does not bode well. Even as she awaited sentence she behaved badly. This is not a factor in her favour.

### **Mitigation Factors- Zaria Burrows**

22. The mitigating factors in favor of this Convict, are as follows:

- (a) Youthfulness – She was twenty (20) at the time of the commission of this offence;
- (b) Previous Good Character – She had no previous convictions as evidenced by the Criminal Records Antecedent Form for Zaria Burrows attached to the Probation Report; and
- (c) She was gainfully employed prior to her arrest for the commission of this offence.

### **Aggravating Factors- Zaria Burrows**

23. The Crown submitted to me that there are four (4) aggravating factors against the Convict with which I agreed. They are as follows:

- i. The seriousness of the offence;**
- ii. The use of a deadly weapon** – It should be noted they submitted that Burrows used the vehicle she drove as a deadly weapon to chase the deceased in an attempt to knock her down and/or make it easier for her co-defendants to access the deceased, thereby initiating the joint/common design. She also operated as the getaway driver, to ensure that her co-defendants made good their escape;

- iii. **The prevalence of these types of offences;** and
- iv. **Unprovoked** – The deceased was killed in circumstances where this aggression was unprovoked, in that the deceased was walking along with her sister during day light hours, when she was chased and ambushed, which led to her death.

### **Mitigating Factors-Dervinique Edwards**

24. In respect of the Convict Dervinique Edwards, there are three (3) mitigating factors in favour of the Convict, which are as follows:

- (a) Youthfulness – She was twenty (20) at the time of the commission of this offence;
- (b) Previous Good Character – She had no previous convictions as evidenced by the Criminal Records Antecedent Form for Dervinique Edwards attached to the Probation Report; and
- (c) She was gainfully employed prior to her arrest for the commission of this offence.

25. These are all factors which I took into consideration.

### **Aggravating Factors-Dervinique Edwards**

26. The Crown submitted to me that there were four (4) aggravating factors against the Convict, they were factors with which I agreed. They are as follows:

- i. **The seriousness of the offence;**
- ii. **The use of a deadly weapon** – While, there is no allegation that Edwards was personally armed with the knife that was used to stab the deceased, as she is charged with being concerned together in the Murder,

the evidence is that after the deceased was stabbed, the other persons involved in the fight continued to beat her, which included Convict Edwards;

**iii. The prevalence of these types of offences;** and

**iv. Unprovoked** – While there is evidence of “bad blood” between the deceased and her attackers over the cellular phone, the attack on the day of the incident was unprovoked as the deceased was walking along with her sister during day light hours, when she was chased and ambushed, which led to her death.

### **Recommendation for Sentence**

27. The Crown submitted to me that taking into consideration the Case Law cited above the range of sentences imposed and upheld by the Court, the maximum sentence of life imprisonment in this jurisdiction for the offence to which these Convicts were found guilty, that the appropriate sentence in these circumstances was within the range of Thirty (30) to Thirty-Five (35) years imprisonment.

28. On the other hand, Counsel for the Convict Zaria Burrows submitted that when comparing this present case of the Convict Zaria Burrows to that of **R v Jogee [2016] UKSC 8** which was also concerned with principles of joint enterprise, and also taking into consideration the mitigating circumstance, a sentence of between two (2) to seven (7) years should be imposed.

### **Decision of the Court**

29. As noted the victim was run down by a vehicle driven by the 1<sup>st</sup> Convict and killed by a group which included the 2<sup>nd</sup> Convict. The allegations accepted by the jury was that the involvement of the 2<sup>nd</sup> Convict was to apply blows

to the victim whilst their former co-accused stabbed the victim in broad daylight, in the residential area of Key West Street, whilst her sister and the neighborhood children looked on. These premeditated fatal actions were taken by young ladies who used to be the victim's friends, her life was taken by them, senselessly, over a cell phone. This type of behavior is inexcusable in our society. It should not be considered commonplace. In **Clayton Cox v R SCCrApp 46 of 2010**, President Allen at paragraph 42 said this,

*"As noted, the victim was a mere 10 years old. He was bludgeoned to death by a man nearly twenty years his senior for no known reason and abandoned in a church yard. In the absence of any matters of partial excuse, the circumstances of this offence must no doubt be weighed heavily against the appellant and puts the case at the high end of the scale enunciated by the case of Larry Raymond Jones."*

30. Applying the principles above to the facts of this case, taking the lack of criminal history of both Convicts into account, their age and the facts of this case. I decided it was necessary to give a sentence designed to send a strong message to the society at large that this type of reprehensible behavior is unacceptable. They are not remorseful and I do not find them capable of rehabilitation.

31. Ms. Zaria Burrows 1<sup>st</sup> Convict and Ms. Dervinique Edwards 2<sup>nd</sup> Convict you are both hereby sentenced to a term of imprisonment of Twenty-Eight years (28). This Honourable Court considers this sentence to be extremely lenient as is much lower than the penalty of Thirty-Five (35) years, which is proposed in **Larry Raymond Jones** as the guidance for the Courts in cases

of this nature and indeed as recommended by the Crown. I will deduct the period of time spent on remand awaiting sentence for both Convicts.

32. According to records obtained from The Bahamas Department of Correctional Services, Ms. Zaria Burrows 1<sup>st</sup> Convict herein was admitted into the “BDOCS” on the 31<sup>st</sup> January, 2018 on a Warrant of Remand and was released on the 25<sup>th</sup> June, 2018 via a Release Order from the Supreme Court (Bail Granted). On the 12<sup>th</sup> February, 2020 the 1<sup>st</sup> Convict was re-admitted into the Bahamas Department of Correctional Services after being found guilty of Murder serving a total of twenty-one (21) months to date. As a result, you are hereby sentenced to serve an additional **Twenty-six (26) years and Three (3) months.**

33. According to records obtained from The Bahamas Department of Corrections, Ms. Dervinique Edwards 2<sup>nd</sup> Convict was admitted into the “BDOCS” on the 31<sup>st</sup> January, 2018 on a Warrant of Remand and was released on the 4<sup>th</sup> July, 2019 via a Release Order from the Supreme Court (Bail Granted). On the 12<sup>th</sup> February, 2020 the 2<sup>nd</sup> Convict was re-admitted into The Bahamas Department of Correctional Services after being found guilty of Murder serving a total of Thirty-four (34) months to date. As a result, you are hereby sentenced to serve **Twenty-five (25) years and Two (2) months.** I also Order that both Convicts receive anger management counseling. This sentence will commence from today's date.

**The Honourable Mrs. Justice Cheryl Grant-Thompson**

**22<sup>nd</sup> June 2021**