

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Criminal Division

2016
CRI/vbi/186/8

BETWEEN

THE DIRECTOR OF PUBLIC PROSECUTIONS

V

RICHARD BEVANS

First 1st Convict

RAQUEL JOHNSON

Second 2nd Convict

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

Appearances: Mr. Terry Archer, Chief Counsel for the Director of Public Prosecutions along with Ms. Jacklyn Burrows
Mr. Roberto Reckley, Counsel for the Convict Richard Bevans
Mr. Nathan Smith, Counsel for the Convict Raquel Johnson

Hearing Dates: 7 December, 2022 & 3 February, 2023.

SENTENCING JUDGMENT-MURDER CONVICTION

The Attorney General v Larry Raymond Jones et al. SCCR App Nos. 12, 18 & 19 of 2007; Andy Francis v Regina SCCR App No. 133 of 2009; Lorenzo Pritchard v Regina, SCCR App No. 130 of 2020; Kevin Smith v Regina SCCR App No. 261 of 2012.

GRANT-THOMPSON, J

BACKGROUND

1. The Convicts, Richard Bevans and Raquel Johnson were jointly charged with the offenses of Armed Robbery, contrary to sections 339(2) of the Penal Code and Murder, contrary to Section 291(1)(b) respectively of the Penal Code, Chapter 84, The trial commenced on the 8th November, 2021. Trial ended on 7th July, 2022. After deliberation the nine (9) member jury found both of the Defendants Guilty. One of the Probation reports were received 16 November, 2022, as was the second. However, an addendum report was requested of Ms. Carey after the sentencing hearing on 7 December, 2022 which necessitated the adjournment to 2023.

Ms. Carey gave evidence on Friday 3 February, 2023. Senior Counsel submitted 3rd February, 2023. The Court adjourned to the 7th February, 2023.

The verdicts are as follow:

- **Mr. Bevans was convicted of Armed Robbery – 8 to 1, and Murder – 9 to 0.**
- **Ms. Johnson was convicted of both the Armed Robbery and Murder counts 9 to 0.**

THE FACTS

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

According to the evidence, the body of the Deceased, Scott Richards was found at the Bonefish Pond, which is located at the Southwestern end of New

Providence on the morning of the 26 May, 2016. A silver 2011 Dodge Durango Jeep, license plate No. 293996, registered in the name of the Deceased was found parked a short distance from his body. The vehicle appeared to have been searched. Just outside the vehicle, on the pavement were coins, bank cards, identifications cards bearing the name of the Deceased. At the entrance of the boardwalk, Officers found a towel and baby wipes near a garbage bin. Also on the boardwalk, Officers discovered a condom wrapper, a pair of slippers, near an entrance road leading into the park. Officers also found a female skirt on the side of the road.

THE LAW

3. The Convicts were charged with Murder, contrary to Section 291(i)(b) of the Penal Code, Chapter 84 which provides as follows:

“290. Whoever intentionally causes the death of another person by any unlawful harm is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of partial excuse, as in this Title hereafter mentioned.”

Sections 339(2) of the Penal Code, Chapter 84 provided as follows:

“Whoever commits robbery, being armed with any offensive instrument, or having made any preparation for using force or causing harm, shall be liable to imprisonment for twenty years.”

PURPOSE OF SENTENCING

4. Sentencing must always be proportionate to the gravity of the offence and promote a sense of accountability, responsibility in the offender for the offence he has committed. The object of sentencing is to promote a respect for the law, maintain order, a peaceful, 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.

5. In **Desmond Baptiste v The Queen (Criminal Appeal No. 8 of 2003- Saint Vincent and the Grenadines)**, Sir Dennis Byron CJ (as he then was) reminded us that the principles of sentencing are one governed by four (4) principles, which are:

Retribution

“Retribution at first glance tends to reflect the Old Testament biblical concept of an eye for an eye, which is no longer tenable in the law. It is rather a reflection of society’s intolerance for criminal conduct. Lawton LJ stated at page 77 that: “...society through the courts, must show its abhorrence of particular types of crimes, and the only way the courts can show this is by the sentences they pass.”

Deterrence

Deterrence is general as well as specific in nature. The former is intended to be a restraint against potential criminal activity by others whereas the latter is a restraint against the particular criminal relapsing into recidivist behavior. Of what value however are sentences that are grounded in deterrence? Specific deterrence may be an ineffective tool to combat criminal behavior that is spontaneous or spawned by circumstances such as addictions

or necessity. Drug and alcohol addiction as well as need may trigger high rates of recidivism. Experience shows that general deterrence too is of limited effect. These sentences tend to lose their potency with the passage of time.

Prevention

The goal here is to protect society from those who persist in high rates of criminality. For some offenders, the sound of the shutting iron cell door may have a deterrent effect. Some however never learn lessons from their incarcerations and the only way of curbing their criminality is through protracted sentences whose objective is to keep them away from society. Such sentences are more suitable for repeat offenders.

Rehabilitation

Here the objective is to engage the prisoner in activities that would assist him with reintegration into society after prison. However, the success of this aspect of sentencing is influenced by executive policy. Furthermore, rehabilitation has in the past borne mixed results. Of course sentencing ought not to be influenced by executive policy such as the availability of structured activities to facilitate reform.”

6. The Crown submitted to me that in this case the predominant object of sentencing should be retribution, deterrence and rehabilitation. What is predominant will vary from case to case.

(i) In **Edwin Farfin v the State Criminal Appeal No. 34 of 1980** (unreported) 7 May, 1984. In that case the Court felt that the objects of sentencing (as declared by Benjamin v R 1964 7 WLR should not be

strained. Each case must depend on its own circumstances and various factors must be considered by the Court in deciding which principle of sentencing should predominate.

MITIGATION FACTORS

7. The Crown proffered no mitigating factors in relation to this matter. In fact the Crown submitted that the aggravating factors outweighed the mitigating factors.

AGGRAVATING FACTORS

8. The Crown submitted to the Court that there are several aggravating factors against these Convicts which are as follows:

Ms. Raquel Johnson:

- i. Murder, involved a planned Armed Robbery;
- ii. The seriousness of the offence;
- iii. The use of a firearm; and
- iv. During the Murder she attempted to frame her ex-boyfriend Mr. Ramon Gibson.

Mr. Richard Bevans:

- i. The Murder was the result of a planned ambush to rob;
- ii. The seriousness of the offence;
- iii. The use of a firearm; and
- iv. Richard Bevans has previous convictions for nine (9) other Armed Robberies which are similar matters; he is currently serving sentences for those matters. Therefore, he was not a man of good character.

Unfortunately, under all of the circumstances I agree. I found very little matters of mitigation in respect of Mr. Bevans. In respect of Ms. Johnson, the jury having rejected the explanation, proffered by Ms. Raquel Johnson for her presence at the scene, she has a good character, notwithstanding her accepted marijuana smoking. In this, in paragraph 8 I have highlighted all of the factors which I approved as aggravating.

SENTENCE OF THE OFFENDER

9. In determining the seriousness of the offence, the Crown submitted to me that the range of sentence should be as follows:

- I. the most serious of offences are those in which a weapon is used, resulting in serious injury;
- II. the offences which are of medium seriousness are those in which a weapon is used, however, there is either no injury or very minor injury; and
- III. the least serious of offences are those in which no weapon is used, or despite there being a weapon, mere threat or minimal force is used.

This case clearly is the most serious of offences. The Convict Richard Bevans is alleged to have inflicted serious injuries on the virtual complainant, which resulted in his death. The jury found that Raquel Johnson was concerned together in those offences. In the circumstances given the gravity of the offences, having regard to the extenuating factors detailed below, it was respectfully submitted that this is an offence which falls within the upper spectrum of the sentencing scale- the most serious. The Crown pointed out that Bevans is a convicted Armed Robber, offences committed with the use of a firearm. Mr. Archer, Chief Counsel drew **SCCrApp**

No. 87 of 2019 to my attention. This case reveals that this Defendant has an additional Armed Robbery conviction not counted in his original antecedents. The facts were these:

“Mr. Richard Bevans (“the intended appellant”) was tried in the Supreme Court on 24 July 2017 before Bethel, J. and a jury for the offence of armed robbery contrary to section 339, subsection (2) of the Penal Code. He was convicted and sentenced on 15 August 2018 to a term of nine (9) years and nine (9) months at The Bahamas Department of Correctional Services, having regard to the twenty-seven (27) months he spent on remand. The prosecution’s case against the intended appellant was that he, while armed with an offensive instrument, robbed Christine Stubbs (“Ms. Stubbs”) of a LG cellular phone valued at \$700.00, one Bahamian driver’s license valued at \$20.00, a Royal Bank debit card and \$200.00, the property of Ms. Stubbs. On the other hand, the intended appellant denied any involvement in the armed robbery of Ms. Stubbs and put forward an alibi.”

10. The Court considered any factors which could be mitigating, but was hard pressed to find any. Regard was paid to any mitigation or aggravating factors found to arise. Section 185 of the Criminal Procedure Code, Chapter 91 (“the CPC”), provides as follows:

“The court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed and may hear counsel on any mitigating or other circumstances which may be relevant.”

11. The Crown submitted that when the relevant factors are weighed in the balance, the circumstances surrounding this offence provide insufficient reasons for imposing a low sentence of imprisonment. Rather, they submitted that the said factors provide sufficient incentive to impose a sentence falling within the higher end of the sentencing range.

AUTHORITIES

12. The relevant authorities on Murder and Armed Robbery are as follow:

R v. Larry Raymond Jones et al SCCrApp Nos. 12, 18 & 19 of 2007

The Court at page 4-5 of its judgment articulated the following:

“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 excuse 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.”

I find similar issues to the facts here. The Appellants are relatively young in the instant case. The deceased was blameless. The deceased was caught up in an Armed

Robbery criminal enterprise which escalated to Murder for which the jury found Bevans and Johnson culpable.

In R v Ball 35 Cr. App. Rep. 154, Hilbert, J said at page 165:

"In the first place, this Court does not alter a sentence which is the subject of an appeal merely because members of the Court might have passed a different sentence. The trial judge has seen the prisoner and heard his history and any witnesses as to character he may have chosen to call. It is only where a sentence appears to err in principle that this Court will alter it. If a sentence is excessive or inadequate to such an extent as to satisfy this Court that when it was passed there was a failure to apply the right principles, then this court will intervene. In deciding the appropriate sentence a Court should always be guided by certain considerations. The first and foremost is the public interest. The criminal law is publicly enforced, not only with the interest of punishing crime, but also in the hope of preventing it. A proper sentence, passed in public, serves the public interest in two ways: It might deter others who might be tempted to try crime as seeming to offer easy money on the supposition that if the offender is caught and brought to justice, the punishment will be negligible. Such a sentence may also deter the particular criminal from committing a crime again, or induce him to turn from criminal ways to honest living. Our law does not, therefore, fix the sentence for a particular crime, but fixes a maximum sentence and leaves it to the Court to decide what is, within that maximum, the appropriate sentence for each criminal in the particular circumstances of each case. Not only in regard to each crime, but in regard to each criminal, the Court has the right and the duty to decide whether to be lenient or severe."

The Judge noted Counsel's representations but observed as follows at page 445 of the transcript dated 3 September 2014:

“The convict has, in my view, not shown any remorse at all for the offences for which he has been convicted. He maintains his innocence even after conviction in the trial. On the other hand, he has no previous convictions for any offence and a positive probation report. The Court takes the view it has no alternative but to commit the convict to prison as it is of the opinion that there is no other method of dealing with him that is appropriate having regard to the seriousness of the offence and the need for deterrence of this type of crime in the community.”

The Judge having thus identified for himself one of the five purposes for punishment – deterrence – being called for in this case (the others being incapacitation, retribution and restitution) continued:

“The question of rehabilitation in my view affects how long the sentence should be. The sentence should clearly not be too long as the convict has a chance at rehabilitation. He is a young man and when he comes from prison I hope he would have had time to reflect and see the error of his ways and seek ways to make himself a productive member of society, and clearly from the report he has the family support to make this happen.”

While the Judge recognized that the offence for which the appellant was convicted attracted the sugary remedy of deterrence, he appears to have elevated rehabilitation above deterrence one paragraph later. There is nothing wrong with seasoning justice with mercy as Lord Lane stated but there must be a certain consistency disclosed in

a judge's sentencing remarks for an appellate Court to satisfy itself that the judge did not fall into error. I am so guided.

I hold the view that although the prospect of rehabilitation is important, deterrence weighs more heavily in the balance between these two not wholly incompatible aims in the circumstances of this case.

The offence of armed robbery is laid pursuant to section 339(2) of the Penal Code. It says as follows:

“Whoever commits robbery, being armed with any offensive instrument, or having made any preparation for using force or causing harm, shall be liable to imprisonment for twenty years: Provided that whoever commits robbery, being armed with any offensive instrument shall, where the offensive instrument is a firearm, be liable to imprisonment for life.”

The range of sentences which Parliament imposed provides an insight into their intent when this provision was enacted, to wit, persons who commit armed robbery while armed with a firearm should receive at the maximum, the most condign punishment a court can impose short of the death penalty. In other words, Parliament has determined firearm related robberies pose a serious threat to the peace and order of the country.

The Judge did not consider the maximum penalty of life appropriate in view of the appellant's mitigating circumstances, for example, his youth, previously unblemished record and capacity for rehabilitation. However, there were aggravating circumstances revealed by the evidence in the trial, **for example, there was a**

calculated plan to rob the deceased, the appellant acted in combination with another and a life was lost in the course of the enterprise. Regard must be had also to the fact that this is not a case where the defendant pleaded guilty so as to receive a lighter sentence than on a conviction following a plea of not guilty.

In this case the defendant Bevan is 34, Johnson is age 36 years. They can no longer be considered young. They are middle aged adults who should know the difference between right and wrong. In Bevan's case his record is much blemished. He has been convicted of 9 Armed Robberies. He has shown no remorse in this matter. He did not plead guilty in order to serve a lighter sentence. The killing occurred in broad daylight at a family-oriented nature trail. The Convict used a gun. The body of the deceased was left on the ground. In my view there is no hope of rehabilitation for Bevan. Deterrence is required to prevent other like-minded persons committing this type of offence.

Angelo Potier v. Regina

13. The above stated case affirms the principles enunciated by the Court of Appeal in its earlier decision in **The Attorney-General v. Larry Raymond Jones et al.** However, in spite of the listed authorities it was submitted, that the starting point for this case is life in respect of both Convicts, as it was a planned Robbery which went bad resulting in Murder.

14. In the decided case of **Pachano Lundy v. Regina SCCrApp & CAIS No.20 of 2013** (handed down in the Court of Appeal on Friday 18th September, 2015), the Court upheld the life sentence of Appellant Pachano Lundy convicted of Murder, sentenced to life imprisonment on 19th October, 2012. The Court, at paragraph 23 quoted from the case of **Keith Jones v. R SCCrApp No.11 of 2007** where it was

similarly described by the trial judge that the offense in that case was:

“...a cold-blooded execution....demonstrating a callous indifference to human life....moreover, he (the convict) was not of good character having been previously convicted of an offence of violence in 2004”.

(Previously Appellant Lundy had been convicted of Assault with a deadly weapon.)

Again these facts are similar to the facts in this case. I did find the offence heinous in the sense that it was unprovoked, cold-blooded, committed in a public place in broad daylight. Lovers, family members go to the Bonefish Pond to enjoy nature walks and these events seek to sully such a picturesque location.

15. In the present case, it was submitted, that the Murder of the Deceased was cold-blooded. It demonstrated a callous indifference for human life. In this case, the aggravating factors lean heavily against both Convicts. Taking into consideration the circumstances of the commission of these offenses, how the unarmed defenseless Deceased was, *“lined up”* to be robbed, then brutally shot. The prevalence of these types of offenses within The Bahamas, the unanimous verdicts of guilt in relation to both Convicts, the criminal history of Mr. Richard Bevans; a sentence of life imprisonment appears highly appropriate for the Convict Richard Bevans. However, I will grant leniency to Richard Bevans. The Court will impose a sentence of (50) Fifty years imprisonment which I consider to be more appropriate for Mr. Richard Bevans for Murder and a sentence of Twenty Five years (25) for the Armed Robbery count relative to Bevans, both sentences to run concurrently. (One year one month will be deducted from his sentence for his time spent on remand).

16. In the case of Ms. Raquel Johnson, the Court will impose a sentence of Thirty years (30) for Murder. A sentence of Ten (10) years for Armed Robbery, both sentences are to run concurrently. I consider her culpability to be in the lower to mid-range scale. I will deduct the one ½ years from her proposed sentence for the time she spent on Remand awaiting trial, prior to being granted bail by this court, (a period accepted to be 31 May, 2016 to 11 December, 2018).

17. PROBATION REPORT- MR. RICHARD BEVANS

The Senior Probation Officer Ms. Marena Carey prepared a report dated November 16th, 2022 relative to thirty-four (34) years old Richard Bevans. She concluded as follows:

“Mr. Bevans is of the Rastafarian faith; however, he is not affiliated with any congregation. He reportedly commenced smoking marijuana, on a daily basis, at age nineteen (19) years and occasionally consumed alcoholic beverages, mainly Kalik beer. He claimed that he was not affiliated with any gang or involved in any gang-related activity.

Ms. Carmetta Canter, mother of the Concerned, described him as her “best son,” loving, hardworking, and helpful. She disclosed that her other sons are ill-mannered, but the Concerned has never disrespected her. She opined that “company” caused him to be where he is today. Reportedly, she counseled him about being a leader and not a follower, but to no avail. She revealed that when he was initially arrested in 2017 for Armed Robbery, the Police brought him to her home and indicated that he was compliant. At that time, she did not believe he was guilty of the other criminal matters that he was implicated in, including the present offence; especially as his co-defendant is unknown to

her. However, he reportedly admitted to her that he was responsible for the murder of a Pastor at an ATM machine that occurred a few years ago.

Ms. Canter indicated that she did not learn that her children had been abused by her mother until after they relocated to New Providence as adults. Reminiscing on her circumstances at the time, she stated that she felt compelled to make that decision as she was a single mother and unable to cope with the combined responsibilities of her job and motherhood. She did not disbelieve them because her mother had also ill-treated her during her formative years; still, she had hoped that her mother would not have done the same to her children. Ms. Canter is of the opinion that her mother's mistreatment has affected the Concerned, as she sometimes queried his mental stability. Therefore, she believes that he should receive a psychiatric evaluation. Nevertheless, in reference to the present offence, Ms. Canter stated since he was found guilty, "he has to spend the time".

Mr. Bevans also expressed that he does not believe that his son is guilty of all of the offences that he has pending before the Courts. He does, however, believe that he is responsible for the murder at the ATM because he admitted the same to him.

Notwithstanding the aforementioned, Mr. Bevans continued to support his son by visiting him and placing monies on his account at the prison.

Ms. Tasha Leslie, sister of the Concerned, stated that they have a good relationship and described him as a sweet and loving individual. She thinks he is innocent of the present offence, as it is out of character. However, upon inquiry, she admitted that he had informed her that he was responsible for the

murder that occurred at the ATM a few years ago. Nevertheless, she continues to support him by placing monies on his prison account.”

The Convict Bevans has not to my knowledge been tried or convicted for a Murder involving a Pastor at an ATM. These words were said to the Senior Probation Officer in the interview therefore, she was duty bound to report them. I did not however, take these factors into consideration in sentencing. That matter is to before me (other than anecdotally). Mr. Reckley challenged the Senior Probations Officer credibility. In response she confirmed that Mr. Bevans personally conferred to her relative to the alleged killing at the ATM. I repeat, notwithstanding this was highlighted by defence Counsel when he challenged the officers credibility it was of no moment to me and the sentencing exercise, I must undertake here.

PROBATION OFFICER’S SUMMATION

The witness continues as follows:

“The Concerned, Mr. Richard Bevans, was initially reared in a single-parent family structure. However, during his formative years, he and his siblings relocated to Andros to reside with their maternal grandparents. Regrettably, it appears that this was an unhealthy home environment as, according to the Concerned, his grandmother was abusive and prevented attempts by his father to communicate with him and his sibling.

Hence, they were unable to establish a bond until he attained adulthood. Additionally, his grandmother reportedly forced him to discontinue his high school education and obtain employment. Therefore, he was robbed of the opportunity to complete a basic education.

While an adolescent, the Concerned was able to secure steady employment and has a varied work history. He commenced smoking marijuana daily as a young adult but denied involvement in any gang-related activity. Throughout adulthood, he was able to establish intimate relationships, which resulted in the births of four (4) children. Prior to his incarceration, he, reportedly, played a prominent role in all of their lives.

Mr. Bevans was steadily employed at the time of this offence; therefore, there was no apparent need for him to go to such lengths to acquire money. Persons interviewed unanimously described him as a non-violent, loving, and family-oriented individual.

Hence, they are puzzled about his implication in the present offence and other matters pending before the Court, which they consider to be out of character for him. Ironically, he admitted to a few family members that he committed another murder, yet they have remained supportive. Both of his parents opined that he may have been psychologically impacted by his negative upbringing; hence, they believe he should be evaluated to determine the same.

Family members of the deceased, Mr. Scott Richards, who were interviewed, are still experiencing emotional turmoil over his untimely death. They desire for the Concerned and his co-defendant to be punished according to the role they played in his death.

The Concerned was convicted of a serious offence whereby the life of a man was taken in a callous and senseless manner. This speaks to a disregard for human life. Moreover, the deceased's family was robbed of the opportunity to continue to interrelate and see him accomplish further milestones.

The Concerned has denied that he committed the present offence; thus, he has not expressed remorse, which is the first step towards rehabilitation. Furthermore, he claims to not know his co-defendant.

It is, therefore, respectfully recommended that all of the above, along with his time spent on remand and sentenced, be taken into consideration before passing sentence.”

18. PROBATION REPORT- MS. RAQUEL JOHNSON

The Senior Probation Officer Ms. Andrea Saunders prepared a report dated November 16th, 2022 relative to Thirty-six (36) years old Raquel Johnson. She opined as follows:

“Ms. Fritzgerald began her formal education at North Andros Primary School from grades one and two (1-2). She relocated to New Providence, where she attended Sandilands Primary School from grades three to six (3-6). She advanced to L. W. Young Junior High School from grades seven to eight (7-8) and participated in track and field events. Thereafter, she returned to Nicholls Town and enrolled in North Andros High School from grades nine to eleven (9-11). She discontinued her education due to financial challenges and her mother’s poor health.

Prior to the Concerned’s incarceration, she reportedly completed chores (house/yard cleaning) for senior citizens in the community of East Street. She claimed to have done this for approximately six (6) years but most of the seniors are now passed. During her childhood, she attended St. Paul’s Baptist Church with her mother and as an adult, has had regular attendance at

Centreville Seventh-day Adventist Church for approximately five (5) years. Admittedly, she was introduced to smoking cigarettes and marijuana at age fifteen (15) years. Prior to her incarceration in August 2022, she smoked ten (10) or (11) joints of marijuana daily and drank Bud Light Beers, occasionally.

Approximately two (2) years ago in January (exact date unknown), the Concerned married Mr. George Deveaux and the union produced no children, thus far. She described the marriage as awesome and expressed genuine love for him. Reportedly, they enjoyed a very quiet life, as most of their time was spent at home.

She noted that they experienced no financial problems before she was incarcerated and each week, he puts personal items and money on her Commissary prison account.

The Concerned's husband, Mr. Gregory Deveaux, has been employed with Big Boys Café as a Maintenance Worker for twenty (20) years. Reportedly, he and the Concerned dated approximately seven (7) months before they were married in January 2022 (exact date unknown). She was described by him as sociable and normal, but can "get cranky during menstruation". He reportedly loves, believes in her innocence and prays for her every day. Mr. Deveaux stated that there are "hard days" as he struggles to be strong for his wife and offered condolences to the victim's family. He shared that "God will never put more on you than you can bear" and is hoping that the Court will be lenient on her. Mr. Deveaux noted that he takes a hamburger and French fries for her on Sundays and puts money on her Commissary and phone

accounts.

Mrs. Alison Brown, sister of the victim, stated that from childhood to adulthood, her brother was a quiet, generous, trusting, very nice, well-loved individual and they shared a good relationship. Reportedly, he often visited her home to clean the boxing overhang on her house and wash her car. She emotionally stated that it is unbelievable, hard and she is still shocked and affected by his death. Further, she informed that her family received countless telephone calls offering sympathy and the amount of people at his funeral mimicked a state funeral. Mrs. Brown stated that, "if they robbed him, they didn't have to kill him." Reportedly, "she is in constant prayer to God to forgive them but it is hard." She believes that the Concerned and her Co-Accused should be punished; especially the Concerned because she knew him.

In reference to the offences, the Concerned denied guilt. She shared that the victim, Mr. Scott Richards, referred to as "Scottie", was a family friend and she knew him since her childhood. Reportedly, their friendship became romantic while she was in the twelfth (12th) grade of senior high school and lasted until he passed away in 2016. The Concerned stated that she loved "Scottie" dearly and recalled that it was their normal routine to drive to nice areas to become intimate. She described him as very generous and freely gave her whatever she wanted.

In regard to the Armed Robbery and Murder, the Concerned stated that "Scottie" collected her from her residence around 6:00/7:00 am and purchased breakfast for her and a snack for himself. They traveled to Bonefish Pond off Cowpen Road, where they ate and became intimate. Reportedly, she

observed a man dressed in a white shirt approaching them and quickly got dressed. The unknown male approached them and said something to "Scottie", who started to run away. She stated that she quickly collected some items and also ran. She heard a gunshot and saw that "Scottie" had been shot. Allegedly, the man then held her at gun point, took the keys for the jeep, their cellular phones and ordered her to search the jeep.

She reportedly complied and moments later he fired a few gun shots which frightened her. She then noticed "Scottie's" lifeless body and managed to walk to Cowpen Road. She reportedly begged the Bus Driver for a ride home because she did not have money and became concerned after observing a car traveling behind them. After arriving home, she prepared herself for work and went to work at the Vote Yes Campaign. She claimed that later that evening, a sibling informed her of "Scottie's" death. She visited her mother's house later, but did not tell her or anyone else about the incident.

After learning that she was wanted for questioning and before arriving at the Criminal Detective Unit (CDU), the Concerned stopped at a local bar to smoke a cigarette. After arriving at CDU, she was handcuffed and placed in a cell for approximately an hour. She was then taken to the interview room, where she was allegedly beaten but pled not guilty, because she is not responsible for "Scottie's" death. The Concerned claimed that her Co-accused is not known to her and believes that she was not given a fair trial. She offered condolences to the victim's family, via this Officer and wants them to know that she is also hurting, because "he was her bread and butter." She added that, "he is not resting in his grave knowing that she was charged for his murder."

According to the Concerned's file at the BDOCS, she has not broken any rules thus far. Reportedly, she shares a cell with twelve (12) other individuals and described the conditions as terrible. However, she believes that she will make it and is reportedly constantly reading her bible. Further, her Criminal Records Antecedent Form revealed that she has no previous conviction."

I noted with approval her lack of previous convictions, her kind and gentle demeanor. However, both Convicts are old enough to know and distinguish that robbing and killing someone is not morally or legally right.

PROBATION OFFICER'S SUMMATION

"The Concerned was reared primarily by her mother, in a single-parent home. Her mother is of a low socioeconomic standing but struggled to provide the basic needs of her family. Her father was physically involved in her life until she left her mother's home, at age nineteen (19) years. The Concerned continues to share a healthy relationship with most of her family.

The Concerned completed her primary and junior high school education successfully. However, during her last year of senior high school, prior to completing the twelfth (12th) grade, her education was discontinued, as a result of teenage pregnancy. She left school without attaining any educational certificates or qualifications, but was able to find gainful employment, which she maintained up to the time of her arrest for these present offences. Admittedly, since age fifteen (15) years, she commenced smoking marijuana and prior to her remand, smoked approximately eleven (11) joints daily.

The Concerned is a young, married woman who parented two (2) children, but they were raised by others. The general consensus of persons interviewed is that the Concerned is nice, sociable, supportive, respectful and generous. Some family members interviewed were surprised that she was involved in these type of offences, especially knowing that she and the victim were friends and they believe in her innocence.

Family members of the deceased, Mr. Scott “Scottie” Richards, remain emotionally devastated as a result of his untimely death. He was described as a loving, quiet, generous, trusting, family oriented, hardworking and well-loved individual who was a contributing member of society. To date, it is incomprehensible to them why his life was taken in such a manner. Further, they are hoping for the Concerned and her Co-Accused to receive a custodial life sentence.

The Concerned did not express any remorse regarding the incident and maintained her innocence. She insisted that she was in love with the victim and did not participate in his murder.

The Concerned has been found guilty of very serious offences and in the aftermath, the life of a young man was taken. The manner in which he was murdered was insensitive and speaks to a disregard for human life. His family members and friends have been deprived of a reportedly meek individual and continue to grieve his death. Therefore, it is respectfully recommended that all of the above mentioned information be taken into account when sentence is passed.”

The fact that the Convict Johnson and the deceased used to be friends is aggravating. Scott was described as a trusting, hardworking, and a family man.

In my view, his life was taken callously. The Convict was involved in helping him meet his demise- indeed on the facts she enticed him to his death by luring him to the Bonefish Pond on the fateful day.

Andy Francis v Regina, SCCrApp No. 133 of 2009

19. In this decision, Dame Anita Allen President (as she then was) imposed a sentence of Twenty-five (25) years for the substituted offence of Manslaughter, finding the offence to be within the midrange of the sentencing scale for Manslaughter.

Lorenzo Pritchard v Regina, SCCrApp No. 130 of 2020

20. In this decision, The Hon. Mr. Justice of Appeal Jon Isaacs dismissed the appeal against the Appellant and affirmed the Appellant's conviction and sentence; namely, the Twenty-two (22) years and five (5) months imposed by the Learned Trial Judge.

Kevin Smith v Regina, SCCrApp No. 261 of 2012

21. In the decision, the Honourable Justice Mr. Bernard Turner deviated from sentencing guidelines when he imposed an Eighteen (18) year jail sentence for the now Convict Kevin Smith for the stabbing death of Garnell Clarke with a screwdriver during an argument at the Magic Kingdom Tire shop in Nassau Village in August 2010. Justice Bernard Turner said he believed Smith was capable of reform as he was young and had no previous convictions. He also told Smith to "consider the pain you have caused the family for the loss of their son and loved one."

These cases are distinguishable here. This offence in my view is extremely serious and at the top end of the sentencing range. In Bevan's case I do not consider him capable of reform- having regard to his accepted criminal history. This does not attract a lower sentence in my view. The sentence of Johnson will be less to reflect her lack of previous convictions and lesser culpability in the offences. The sentences proposed in these cases, I find a useful guideline in sentencing Raquel Johnson. Her sentence should be in the mid-range.

DEFENCE SUBMISSION FOR RICHARD BEVANS

22. The Convict Bevans along with his co-accused were both found guilty of one count of Murder and one count of Armed Robbery, each on the 7th July, 2022.

The particulars being that on the 26th May, 2016 the two, concerned together murdered Scott Richards, robbed him of his cell phone and money whilst armed with a firearm.

Counsel for both Convicts requested that a Probation Report be prepared for their respective clients with a view to assisting the Court in determining an appropriate sentence as a result of the convictions. A Probation Report was produced for each Convict and the matter was adjourned for a sentencing exercise.

ISSUES THAT ARISE

23. The Court, having been assisted by the Probation Reports, having heard the evidence and accepted the Jury's verdict as true, is seized with the task of passing an appropriate sentence on the Convict.

Issues that arise with regard to the convict Bevans are as follows:

- (i) the Probation Report;
- (ii) the previous convictions of Bevans should the Court be minded to consider them in this exercise;
- (iii) the Laws and guidelines relative to sentencing;
- (iv) the evidence that was led with regard to the offences that were committed;
- (v) any time spent on remand; and
- (vi) the aggravating and mitigating factors that arise when all of the above issues are considered.

THE LAW

24. Defence Counsel submitted to the Court that the law relative to this sentencing exercise and any decision that the Court is minded to make can be found in the authorities of:

- (i) Maxo Tido and The Attorney General SCCrApp 296 of 2013; and*
- (ii) The Attorney-General v Larry Raymond et al SCCrApp & CAIS Nos 12, 18, and 19 of 2007.*

Chief Counsel Mr. Archer submitted to the Honourable Court that these authorities should be distinguished on the ground that they addressed necessary resentencing after all Death sentences were commuted to life by Her Majesty's Privy Council.

SUBMITTED TO THE COURT

25. Defence Counsel Mr. Reckley submitted that the Murder in the instant case does not fall within that category that is considered the “worst of the worst” or rarest of

the rare” neither does it come within the “wholly exceptional category”. The death penalty, which was never sought in this case is not a factor, neither is life imprisonment. The Court should then move to consider an actual range of years for the offences in the instant case relative to Bevens. I agree the no death penalty or life imprisonment arise, that I will impose a term of years. However, I cannot accept that this particular offence does not fall within the “worst” category.

26. Should I start at the higher end or lower end of the sentencing spectrum for Murder the range of 30 – 60 years as per the cases of *Larry Raymond Jones*, affirmed in *Maxo Tido*. Based on Maxo Tido, given the age of Bevens, 38, a range closer to the higher end of the spectrum is akin to life imprisonment as per (paragraphs 25 and 26 Maxo Tido respectively). Counsel submitted that it is not appropriate in the circumstances of this case given that there was no evidence led of depravity or unusual violence to sentence at the higher end of the scale. Again, Counsel for the DPP asked me to distinguish this authority as being relevant to the death penalty cases appropriate at the time.

27. Given the guidance provided at Paragraph 21 of Maxo Tido it was submitted that there is no reason why the Court would start at the higher range of the sentencing spectrum. The Court was referred to *paragraph 8 of Larry Raymond Jones*, which echoes the need for the Court to be mindful of approaching the sentencing exercise from the higher end of the spectrum at the outset.

“And the maximum penalty is usually reserved for the “worst” cases, so, for example, where the Penal Code prescribes a penalty of 14 years for housebreaking, a convicted person without any previous record for such an offence would not normally be sentenced to the maximum of 14 years.” This was the submission and recommendation of Counsel for Mr. Bevens.

28. Mr. Bevans has no previous convictions for Murder. I was invited and I did so disregard any and all prejudicial or irrelevant information contained in the Probation Report relative to an alleged ATM Murder. I had regard to the guidance provided in the case of **Maxo Tido** as per paragraphs 29 through 39, where the practice of presenting the sentencing Judge with what Counsel described as highly charged and emotive opinions on sentencing of the deceased family members is frowned upon, defective and to be reprimanded. In this case, the prejudicial information did not come from the deceased family members, but rather from the Convict and his family. However, notwithstanding that factor I did not take that information into consideration as far as I am aware the alleged ATM Murder matter has not been charged, tried nor convicted. So therefore then it is irrelevant for me, other than to say if that was said to his family by the Convict then they cannot claim to be surprised that he is currently accused of involvement in a violent act as if for the first time, such an act was admitted to them.

29. It is trite law that opinions on sentencing from the deceased family member and information with regard to admissions to other offences by Convict Bevans to persons interviewed could be considered extremely prejudicial. The focus of this report as in Maxo Tido included the Convict's progress since incarceration, any prospects of rehabilitation. Counsel for the Convict asked the Court to take into consideration the troubled childhood of Convict Bevans, as the Probation Report revealed that he was physically and emotionally abused as a child, by his maternal grandmother. I did take this into consideration and found it to be a factor in mitigation, it helped me to understand some of the events which may have shaped by character.

30. The probation report also discerned his depravation of a relationship with his father, who may have provided much needed guidance. Mr. Bevans was allegedly forced to quit high school by his maternal grandmother. This affected his educational path. The Court noted with approval that most individuals interviewed thought of the Convict as a well-mannered person, quiet, hardworking.

31. The Convict eventually gained lawful employment and became a father of four children. He plays a prominent role in their life. The Convict has been in custody since 2016. He has not contravened any of the Prison Regulations; this was a factor in his favour. Counsel submitted that notwithstanding the report only makes one reference to rehabilitation which is that he has denied the offence which is the first step towards rehabilitation.

32. Defence Counsel submitted that a factor to accept the offence is not an accurate marker of remorse. He described it as “a loaded opinion.” He submitted that Bevans is capable of reform. That based on his employment history, accounts of parenting and general mannerisms, he is in fact worthy of rehabilitation. Counsel accepted that Bevans has previous convictions, but none for Murder. Accepting there is a charge of Armed Robbery before the Court, the sentence that the Court should pass, it was submitted with regard to Armed Robbery should not outweigh that of Murder, given that Bevans does have convictions for Armed Robbery.

33. Convict Bevans spent one year one month on Remand before he was convicted in 2018. This is a factor I take into account. I have deducted one year one month from his sentence. The Court, in their submission was also at liberty to take all the time Bevans has spent incarcerated to date into consideration when sentencing which would be six years to and five months (June 2016 – September 2018).

I did not agree with Defence Counsel in this regard. They submitted that when looking at the evidence it not easy to conclusively discern what evidence the Jury relied on to arrive at their decision. Both Convicts gave completely different accounts of the events. Both deny knowing each other, (the investigating officer and his superior gave evidence that there was no evidence which suggested that the two Convicts knew each other or that there was any phone calls between the two on the relevant date).

34. Counsel asked me to therefore find no evidence of a plan between the two Convicts to commit a Murder or even an Armed Robbery. On one account Mr. Bevans arrived at the scene first. The deceased and a female arrived later. Another account speaks of a man, (who was not Mr. Bevans), calling the co accused Bevans to arrive at the location she was at with the deceased, according to police witnesses.

DEFENCE RECOMMENDATION TO THE COURT

35. Defence Counsel humbly submitted to the Court that in all the circumstances that the Court should pass a sentence of Twenty-eight (28) years, less any time spent on remand as it relates to the Murder and Twelve (12) years as it relates to the Armed Robbery. I found those recommendations unduly lenient under all of these circumstances for Mr. Richard Bevans.

DEFENCE SUBMISSIONS FOR CONVICT RAQUEL JOHNSON

36. Ms. Raquel Johnson has been demonstrated to be an upstanding citizen. Her family members according to her Counsel spoke glowingly of her as per the probation report. Ms. Johnson it was submitted has always been trustworthy, affectionate, jovial, sociable, ambitious and non-combative. Ms. Johnson has the

overwhelming support of her family. Her family has despite economic challenges, instilled strong moral values in Ms. Johnson as she reflects the same values as exuded by her parents. She has always been a hardworking and contributing member of the community. It is apparent that the transgression to a crime as serious as the one for which she is convicted here is not consistent with her character, that it departs from her normal disposition.

37. The Convict is female aged 36 years, an individual of previous impeccable character. It would appear that her normal disposition is contrary to the offence for which she was convicted. In sentencing, the Court was asked to consider Ms. Johnson as a prime candidate for rehabilitation.

38. Convict Ms. Johnson does not accept her conviction. She maintains her innocence; her position is consistent with the belief that she had no involvement with the offence. Nonetheless, Counsel asked me to observe that Ms. Johnson expresses empathy towards the victim and his family. I am concerned that she has shown no real remorse, I consider that factor aggravating, it militates against rehabilitation.

39. Having due regard to the judicial process, the jury's verdict must be accepted. Counsel submitted that considering the facts, evidence in the present case, it would be hard pressed to be less involved in a Murder as was Ms. Johnson in the present circumstances. The evidence upon which the jury convicted according to her Counsel was ultimately, due to Ms. Johnson's failure to retreat upon the introduction of a firearm by her co-accused. Consequently, based on the evidence adduced, her involvement would not sink to the level of depravity in its commission, nor was it planned it was submitted. I did not consider her conduct depraved. The lighter sentence reflects this factor.

40. Counsel accepted that there was evidence the Armed Robbery was accompanied by violence, but submitted that no violence could be attributed to Ms. Johnson. I accepted that the violence could not be directly attributed to Convict Johnson. However, by its unanimous verdict, the jury accepted that Ms. Johnson was concerned with another in the commission of this offence. As per paragraph 23, page 6; *Maxo Tido v The Attorney General, SCCrApp & CAIS No.296 of 2013*, I did not consider any unduly prejudicial irrelevant statements relative to this sentencing process. (See. Paragraphs 38, 39 page 7 and 8; *Maxo Tido v The Attorney General, SCCrApp & CAIS No.296 of 2013*).

41. Ms. Johnson was previously of good character, middle aged, has overwhelming familial support and apparent minimal involvement in the offences. It was therefore submitted to the Court that her case falls within lowest range of the sentencing guidelines that the starting point for the sentencing of Convict Johnson ought to be at 30 years. As per *Attorney General v. Larry Raymond Jones et al SCCrApp & CAIS Nos 12, 18 and 19 of 2007, See paragraph 20, page 5; Maxo Tido v The Attorney General, SCCrApp & CAIS No.296 of 2013*). I agree with Counsel for Ms. Johnson in this regard, as well as relative to the highlighted mitigating factors.

42. Mandatory minimum sentences have been abolished as of 5th November, 2014, deemed unconstitutional. The Court is not fettered in rendering an appropriate sentence. The Court can consider if the Convict can be rehabilitated as much as punished. As highlighted in the Attorney General's Reference No. 4 of 1989 reported at (1990) paragraph 10:

“it must always be remembered that sentencing is an art rather than a science; that the trial judge is particularly well placed to assess the weight to be given to various competing considerations; and that leniency is not

itself a vice. That mercy should season justice is a proposition as soundly based in law as it is in literature.”

I am of the view that in respect of the Convict Johnson she is capable of some rehabilitation, although the offences she was convicted of are depraved.

DECISION OF THE COURT

43. Applying the principles above to the facts of this case, I have 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, on behalf of both Convicts. That whilst the Court is sensitive to the Convicts personal circumstances. In my view we have a straight Murder and Armed Robbery conviction on the facts which require a grave penalty for the reasons that the Convict Bevans could have elected merely to rob Mr. Richards at gunpoint, as he did his previous armed robbery complainants. Yet, Mr. Scott Richards was robbed, shot and left to die on the ground, like an animal. There appears to be no provocation involved. It was a cold-blooded, callous act for which neither the Convict Bevans nor Convict Johnson have shown any remorse. Ms. Johnson lured, tempted and persuaded Scott Richards to that spot at the Bonefish Pond. On the evidence the person shot there was Mr. Richards. There is no excuse for this reprehensible conduct.

44. Mr. Richard Bevans, I hereby sentence you to Forty-eight (48) years for your conviction for the offence of Murder, Twenty Five Years for the offence of Armed Robbery. I have taken the two (2) years spent awaiting trial into consideration.

I hereby sentence you Ms. Raquel Johnson to Twenty-eight (28) years for Murder, Ten (10) years for Armed Robbery. Her time spent on Remand has

been deducted. The sentences will run from the date of conviction. I do not consider the Convict Bevans capable of rehabilitation and reform. I do consider Ms. Johnson capable of reform. I found this offence abhorrent. The only way I can express that is in the sentence I pass. I seek to protect society from this type of behavior. I hope this is a valuable lesson learnt by both of these Convicts and the society at large.

Dated this 8th day of February, 2023.

The Honourable Madam Justice Mrs. Cheryl Grant-Thompson