

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

Criminal Side

2023/CRI/bal/No. 00006

BETWEEN

CLIFFORD CARLOS ALMONOR

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

BEFORE: The Honourable Mr Senior Justice Bernard Turner

**APPEARANCES: Mr Joel Seymour for the Applicant
 Ms Janessa Murray and Ms Karine MacVean for
 the Respondent**

HEARING DATE: 6 February 2023

RULING

3. In response, an affidavit was filed objecting to bail, that affidavit reads:

“... ”

3. That the Applicant, Clifford Almonor aka "CJ", (Date of Birth: 31st March, 2003) stands charged with one (1) count of Murder contrary to section 291(1)(B) of the Penal Code chapter 84 and one (1) count of Attempted Murder contrary to section 292 of the Penal Code chapter 84. In particular, it is alleged that the Applicant herein murdered Herick Charles and attempted to Murder Craig Devaux on Monday 22nd August, 2022 There is now produced and shown to me marked as Exhibit CT.1 " a copy of the charge sheet in relation to same.

4. That the Respondent objects to the application for the grant of bail for the following reasons:

5. The Respondent avers that there is cogent evidence to support the charges as aforementioned against the Applicant.

6. The Applicant is identified by the victim of the alleged Attempted Murder, Craig Devaux. "The male in the front was a male I know as Clifford Almanor Alias CJ".. " I knew CJ because we used to hang out together. From CJ went to RM Bailey he started hanging with the Pinewood boys so we wasn't as cool as we used to be" There is now produced and shown to me marked as Exhibit "CT2" a copy of the statement of Craig Devaux dated 25th August 2022.

13. There are no conditions that can be imposed that can protect the Applicant if he is released on bail.

14. There are no conditions that can be imposed on the Applicant that can protect the public or the complainant if the Applicant is released on bail.

15. That there is nothing peculiar about this Applicants situation which suggests that his continued detention is unjustified.

16. In these circumstances, the Respondent requests that this Honorable Court exercise its discretion and not admit the Applicant to bail.

17. That the contents of this Affidavit are true to the best of my knowledge, information and belief.”

4. The charged offence is a Part C offence and in relation to those types of offences section 4(2) of the Bail Act provides:

“4. (2) Notwithstanding any other provision of this Act or any other law, any person charged with an offence mentioned in Part C of the First Schedule, shall not be granted bail unless the Supreme Court or the Court of Appeal is satisfied that the person charged –

(a) has not been tried within a reasonable time,

(c) should be granted bail having regard to all the relevant factors including those specified in Part A of the First Schedule and subsection (2B),

(g) the nature and seriousness of the offence and the nature and strength of the evidence against the defendant;

(h) in the case of violence allegedly committed upon another by the defendant, the court's paramount consideration is the need to protect the alleged victim.

5. Relative to the nature and seriousness of the offence of murder, that offence is obviously one of the most serious offences and attracts a severe penalty upon conviction which can give rise to the risks of the applicant absconding or failing to appear for his trial.

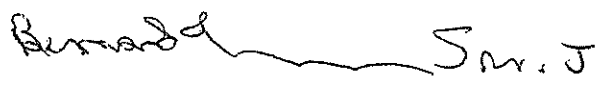
6. The Court of Appeal in **Jevon Seymour v Director of Public Prosecutions, No. 115 of 2019**, stated, at paragraph 66, the following:

“66. In the absence of evidence, merely listing the relevant factors and using expressions such as “may”; or “is likely to”; or “it is recommended” as was done in the McHardy affidavit, cannot discharge the Crown’s burden. We take this opportunity to stress once again what this Court (differently constituted) said in Armbrister, which is that that is not how the Crown’s burden on a bail application is discharged. Paragraph (a) of the First Schedule requires the production by the Crown of evidence capable of supporting a belief that the applicant for bail “would”, if released, abscond, commit new offences or interfere with witnesses. Ritualistic repetition of the Part A factors, in the absence of evidence, is unfair to the accused person and comes nowhere close to discharging that burden.”

statement however does not refer to the existence of any gang or other rivalry.

10. Without any supporting evidence, the respondent's invitation to find that there exists these two separate basis for denying the applicant bail would clearly be unreasonable and wrong, in the Court of Appeal's analysis.
11. The applicant is therefore granted bail on the following terms:
 1. Bail in the sum of \$20,000.00 with two sureties.
 2. The applicant is to be electronically monitored and is required to comply with the Regulations for the use of such a device.
 3. The applicant is not to come into any deliberate contact with any of the witnesses in this matter, either by himself or through any agent.
 4. The applicant is to remain at least 100 feet from the virtual complainant in relation to the attempted murder charge.
 5. The applicant is required to sign in at the East Street South Police Station on Mondays and Fridays before 6:00pm.
 6. The applicant is required to remain at his identified home between the hours of 8:00pm and 6:00am.
 7. Any breach of any of these conditions will render the applicant liable to further remand.

Dated this 16th day of February, A D 2023



Bernard S A Turner
Senior Justice