



In The Supreme Court of Bermuda

CRIMINAL JURISDICTION

2021 No: 35

BETWEEN:

R

V

ANTHONY DAVIS

SENTENCE

Date of Sentencing Hearing: Monday 27 March 2023
Date of Ruling on Sentence: Wednesday 29 March 2023

Counsel for the Crown: Ms. Cindy Clarke, Director of Public Prosecutions
Counsel for the Accused: Ms. Elizabeth Christopher, Legal Aid Office

Section 287(1) of the Criminal Code (Murder)

RULING of Shade Subair Williams

Introduction

1. The Accused appears before the Court for sentence, having been convicted, upon his guilty plea entered 22 February 2023, to a charge of murder contrary to section 290 of the Criminal Code. No sentencing reports were requested or ordered by the Court.

The Deceased and the Victims

2. The Accused in this case murdered his then girlfriend of some five years, with whom he cohabited for 2-3 years before she was killed by knife. Her name was Morrissa Moniz, daughter of Mr. Morris Moniz and Mrs. Patty Moniz. It is evident to this Court, not only via the Victim Impact Statements (VIS) read before me, but also by their visible presence throughout these Court proceedings, that their torment is so cutting that no lawful sentence of this Court could ever bring them any real or long-lasting relief.
3. After all, Mr. and Mrs. Moniz have lost their daughter who they will never have the joy of seeing accomplished, married or with child. This pain is not only theirs alone to bear but also that of Brittney who has lost her sister, a pain that is frankly indescribable and beyond the comprehension of the average person.
4. Mr. and Mrs. Moniz and Brittney are not the only victims here. There is a living grandmother of the Deceased who, at the elderly age of 84 year, suffers from anxiety spells and hysterical grieving. Hopelessly, I have tried to gain some understanding of what it must be like for an elderly person to reach the top level where life's golden years lie, only to look all around you and see all of your love ones suffering. In addition to other close family and friends, another victim is Ms. Regina Smith, Morrissa's paternal aunt who shared her family's daily agony of wondering to what extent Morrissa suffered under the murderous rage of the Accused, Anthony Davis.
5. To witness and to hear the members of the Morrissa's family weep, wail, bawl and howl in and around the precincts of this Court has undoubtedly been a gut-wrenching experience for not only them but also for those who have had to witness it and remain professionally composed.
6. I will also note that there are likely several dozens of others in the community who either knew Morrissa or knows a close member of her family and have also encountered a profound sadness, one which may never be publicly announced. This may include a church community, a school alumni, a grieving workplace and others pockets of the Bermuda community. I also imagine the suffering of the young man who had hopes of Morrissa leaving the Accused in order for her to become his girlfriend.

7. It must also be said, as was pointed during the reading of the VIS, that the Accused's own family members are also victim to this heinous crime for the shame and pain he has no doubt inflicted on them. The Accused has a daughter who will not only grow up without a father but who will soon enough learn of his monstrosities.
8. In the end, the true extent of the resulting trauma and sadness of this case can never be fully known.

The Role of this Court

9. It is perhaps better that I begin by explaining what is not the role of this Court. As the presiding judge over these proceedings, it is not open to me to enact an emotionally driven sentence. This is a Court of law and I am duty bound to act dispassionately when administering the law and in doing so I am constitutionally bound to do right to all manner of people without fear or favour, affection or ill will.
10. So, the sentence of this Court must be one which is passed in accordance with the law as I see it. This requires me to take numerous factors under consideration.

Previous Cases on Sentence

11. While I was referred to previous local cases, Counsel agreed that there were no written judgments available that would assist this Court for the purpose of setting the appropriate range of sentence.
12. This Court was informed that in the case of *R v Norris Simpson* Appeal No. 4 of 2012, the Appellant was sentenced after a trial to life imprisonment with a minimum period of 23 years. I was informed by Ms. Christopher that in that case Mr. Simpson had inflicted 60 stab wounds on the victim who also suffered from 4 broken ribs. (The reduction of sentence on appeal resulted only from the repealed statutory regime by which the Court was not empowered to set the tariff for parole.) The Court was told that Mr. Pearman had a history of previous dishonesty offences.
13. Counsel also cited the 2011 case of *R v Jermaine Pearman* where the victim, a young woman, was stabbed 17 times. She desperately ran out into a public road where she died leaving behind her 2 year old child. Ms. Christopher pointed out that in that case, Mr. Pearman feigned an attack by the victim by slitting his throat. The Court was told that Mr. Pearman had a history of previous offences for violence and also a previous conviction of unlawful carnal knowledge

of a female. In the case of Mr. Pearman, he was convicted on his guilty plea and sentenced in the Supreme Court to life imprisonment with a minimum term of 25 years which was reduced on appeal to 21 years.

14. This Court was further directed to various English authorities.
15. The Appellant in *R v Melvin Terrence Sullivan* [2004] EWCA Crim 1762 was 45 year old man who had 12 previous convictions, mostly for dishonesty offences. Of the previous violent offences, he had been convicted for assault occasioning actual bodily harm on one occasion and for common assault on another occasion.
16. The facts borne out at a trial were such that the Appellant became involved in an altercation with his neighbor which stemmed from a noise complaint after his neighbor returned home from a night out. The Appellant or the Appellant's wife banged on the inside walls in protest of the noise which provoked the neighbor and his fiancée into coming outside and shouting abusively towards the Appellant's home. The Appellant came outside armed with a bayonet (a long thin sword-like weapon) and a confrontation ensued. With a single and fatal stab to the neighbour's chest, puncturing his neighbour's heart and lungs, the Appellant inflicted a 33cm deep wound.
17. The sentencing judge in *R v Sullivan* found that an aggravating feature of the case was the Appellant's decision to go outside of his house armed with the bayonet while the deceased was unarmed, bare-chested, and made no attempt to physically attack him. Putting aside the sentence restrictions imposed by Schedule 22 of the Criminal Justice Act 2003 under which the Secretary of State had powers to prescribe a term which could not be exceeded, the judge determined that the appropriate starting point for sentence was 15 years imprisonment and settled on a minimum period of 13 years and 88 days.
18. The Appellant appealed on the ground that, *inter alia*, the sentence was manifestly excessive and/or wrong in principle. However, the English Court of Appeal dismissed his appeal.
19. *R v Christopher Thomas* [2010] 1 Cr. App. R. (S) 14 (2009) involved a murder against a background of domestic violence. The Appellant in that case had a history of violence towards the deceased and other women from past relationships. The Appellant had inflicted injuries to his live-in girlfriend's face and body before having killed her. A post-mortem examination revealed a substantial number of injuries, including internal injuries which were thought to have resulted from a forceful kick or stamp on the deceased's abdomen.
20. At sentence (there having been a trial), the judge settled on a 15 year starting period for Mr. Thomas' parole eligibility before considering the aggravating factors which brought the total

parole period on the life sentence to 17 ½ years. As Ms. Christopher pointed out, one of the aggravating factors in that case was Mr. Thomas cruel and violent behavior towards the deceased over a prolonged period of time, so much so that the judge considered the death to be a culmination of sustained domestic violence.

21. Dismissing Mr. Thomas' appeal against sentence, Leveson LJ stated in the judgment of the Court of Appeal [82] and [84]:

“As a matter of common law, it has always been open to a judge, when assessing the culpability of the offender, to have regard not only to the gravity of the offence but also to a defendant's antecedent behavior not all of which is necessarily evidenced by previous convictions. Quite apart from the evidence in a case, pre-sentence reports frequently refer to the attitude, approach and behavior of an offender in terms which allow the court to determine, for example, whether the use of violence reveals an entrenched disregard for others or is “one off”.

...

...Prolonged, abusive domestic violence which leads to death must always result in condign punishment...”

22. In *R v Bristol* [2013] 1 Cr. App. R. (S.) 81 (2012) The Appellant killed his former girlfriend with whom he was in a relationship for some 3 years until the victim became involved with another man. Having learned about this relationship, Mr. Bristol became obsessive and intimidatory and travelled from Trinidad to the UK where the victim was residing. The police later discovered the victim dead in her home with 37 stab wounds.

23. Following a trial, the sentencing judge determined that while the Mr. Bristol did not go the UK to kill the victim, he did intend to kill her during the attack itself. Rejecting the defendant's claim to have attempted to kill himself also, the judge adopted a 15 year period as the starting point for parole. The judge had regard to Mr. Bristol's previous good character and to Mr. Bristol's past behavior towards the victim, which included a strangulation attempt. The judge also stated that it was absolutely clear that Mr. Bristol had been “eaten up by jealousy” when he learned of her new relationship. The Court found that Mr. Bristol killed his ex-girlfriend simply because he could not bring himself to accept that her life had moved on and that their previous relationship was over. So he killed her so that no other would replace him.

24. Accordingly, Mr. Bristol was given a life sentence with a minimum period of 22 years which was upheld on appeal.

The Sentence

25. The Crown submitted that the appropriate sentence in this case is one of life imprisonment and a tariff of 23-30 years before the Accused may be eligible for parole.
26. The Defence, however, argued that the tariff for parole eligibility should not exceed 21 years.
27. The Accused, now 39 years of age, was a 37 old man when he killed Ms. Moniz. Much like the English case of *R v Bristol* [2013] which was cited to me, Mr. Davis was overcome by a jealous rage and killed the Deceased in this case to ensure that no other man would have her. The attack was vicious and ferocious leaving no doubt that he intended to kill her.
28. I am satisfied, on the Summary of Evidence and having heard Counsel for both sides, that the relationship between the Accused and the Deceased was one which was abusive, violent and toxic. The fact that the Deceased may have been the perpetrator of some of those incidents does not make this any less of a case of domestic violence which culminated in the death of Ms. Moniz.
29. I also find as an aggravating factor, that the Accused retrieved and armed himself with two knives before chasing the victim through no less than two rooms before stabbing her on 17 occasions.
30. While this Court cannot increase the tariff of sentence based on the Appellant's previous conviction, I am bound to take this into consideration in assessing the seriousness and gravity of this offence. I must therefore also heed the Defendant's community based sentence which was imposed on him by another judge of the Supreme' Court for an offence of actual bodily harm whereby he caused his then infant child to be thrown/dropped from a window.
31. This Court must send a clear message of deterrence against domestic violence against women, the prevalence of which is increasing and undeniable such that I may take judicial notice.
32. I have had regard to the purpose and principles of sentencing under Part IV of the Criminal code. That part of the Code also requires me to be satisfied that only an immediate custodial sentence is appropriate, which I so find.
33. I must also take account of any mitigating factors which in the case consist of the Defendant's guilty plea and his expression of remorse.

(Remarks made to the Defendant directly)

Conclusion

34. In all of these circumstances, I impose a life sentence with a minimum term of imprisonment of 23 years before you may be considered eligible to apply for parole.

Dated this 29th day of March 2023



THE HON. MRS. JUSTICE SHADE SUBAIR WILLIAMS
PUISNE JUDGE OF THE SUPREME COURT