

**IN THE SENIOR COURTS OF BELIZE**

**CENTRAL SESSION-BELIZE DISTRICT**

**IN THE HIGH COURT OF JUSTICE**

**INDICTMENT NO: C79/2023**

**BETWEEN:**

**THE KING**

**and**

**ETHAN MATURA**

Defendant

**Before:**

The Honourable Mde. Justice Candace Nanton

**Appearances:**

Mr. Robert Lord, Crown Counsel for the King

Mr. Hurl Hamilton, Counsel for the Defendant

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2024: April 22

June 18  
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**SENTENCING:**

**ETHAN MATURA- CAUSING DEATH BY CARELESS CONDUCT**

## **Background/Facts**

- [1] **NANTON, J.:** The Crown has indicted Ethan Matura for one count of causing death by careless conduct contrary to **Section 108 (2) of the Criminal Code**<sup>1</sup> for an offence arising out of an incident which is alleged to have occurred on 22<sup>nd</sup> June 2022.
- [2] The particulars of the offence are that the Defendant Ethan Matura caused the death of Rodel Williams by his careless driving of a Ford Ranger motor vehicle bearing license plate number BMP-26290. The facts agreed by the Parties are that whilst driving his vehicle Ethan Matura failed to observe the stop sign. As a result of said failure, motor vehicle namely a silver in colour 2001 Nissan Frontier truck bearing license plate number BCC-66848 coming from the direction of Cleghorn Street, collided into the right back passenger side door of Ethan Matura's vehicle, and as a result of that collision Ethan Matura lost control of his vehicle and collided into the deceased Rodel Williams.
- [3] The Defendant was initially indicted for the offence of Manslaughter by Negligence; however, after discussions between the Crown and the Defence the indictment was amended and the offence of Causing Death by Careless Conduct was substituted.
- [4] The Defendant was re arraigned and pleaded guilty to that offence.
- [5] The Court has considered the following reports:
- i. Social Inquiry Report,
  - ii. Antecedent History
  - iii. Victim Impact Statement
- [6] The Court further heard a Plea in mitigation from Counsel on behalf of the Convicted man, and submissions on sentencing were made by Counsel for the Crown.

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<sup>1</sup> Chapter 101 of the Substantive Laws of Belize, Revised Edition 2020

## Prescribed Penalty

- [7] The offence of Causing Death by Careless Conduct is contained in **Section 108(2) of the Code** and prescribes a maximum sentence of 2 years.

## Starting Point

- [8] In assessing the appropriate starting point, the Court has derived considerable assistance in determining the appropriate sentence and ranges from the authorities of **Cardinal Smith v The Queen**<sup>2</sup>, **DPP v Gonzalez**<sup>3</sup>, **Victor Cuevas v The Queen**<sup>4</sup> and other reported decisions helpfully provided by the Crown.
- [9] The Court also found the judgement of Lamb J., **King v Earl Armstrong Indictment No. N9/2022** to be of great assistance. Lamb J., after referencing the authorities of **Smith**, **Gonzalez** and **Cuevas** amongst others, outlined the current judicial approach to sentencing and the sentencing options exercised by the Court. Lamb J. outlined the options as follows<sup>5</sup>:

*“a) A maximum term of imprisonment of two years - although the courts have on occasion awarded a custodial sentence, more usually, any such sentence is awarded in default of payment. Terms of imprisonment in default of payment have ranged from between three months to two years duration, depending on the circumstances of the case;*

*b) A fine. Depending on the circumstances, decided cases have imposed fines in the range of \$2,000.00 to \$9,000.00, with the quantum typically being in the range of \$2,500 and \$4,500.00 in incidents involving a single death;*

*c) Compensation to the deceased’s family. Compensation under Section 108(2) of the Criminal Code does not seek to place a monetary value on human life. Instead, the quantum of compensation, when awarded at all under this provision, reflects considerations such as any payments previously made by the Accused to the deceased’s family, prior or*

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<sup>2</sup> Criminal appeal no. 35 of 2005

<sup>3</sup> Cr. Application for Leave to Appeal no. 2 of 2015

<sup>4</sup> Cr. Application for Leave to Appeal no. 17 of 2007

<sup>5</sup> Paragraph 5 Earl Armstrong

*anticipated future insurance payments to the deceased's family, pending civil claims, and the financial means of the Accused. The Court of Appeal has, however, intervened in a case awarding compensation of \$1,000.00, considering this sentence to be unduly lenient. Compensation payments awarded to date has ranged from zero to \$10,000.00, with a range of \$3,500.00 to \$5,000.00 being the norm; and*

*d) Disqualification from driving. Despite the view expressed at paragraph 68 of Cardinal Smith v. The Queen that "where persons are convicted of an offence under this section, [...] [their driving] licence [...] should invariably be suspended", other cases have criticized this approach as indefensibly rigid and inflexible and have refrained from ordering the suspension of the Accused's licence"*

- [10] The Court is mindful of the guidance in **Michael Espat**<sup>6</sup> that the maximum sentence ought properly to be reserved for the worst of the worst instances of conduct by persons charged under the section.
- [11] The Court notes Lamb J's observations that custodial sentences are rarely imposed in circumstances such as this, and have been reserved for cases where there were egregious examples of careless conduct such as was the case in **Cuevas**, where there was evidence of drunk driving, a sentence of one year was imposed in addition to a disqualification of his licence and compensation for the family of the victim. The Court further notes that from the decided authorities, where the conduct is less egregious, that the usual sentence is that of a fine with a default term of imprisonment.
- [12] The Court also further notes the guidance of our Court of Appeal in **Gonzalez**<sup>7</sup>, in respect of the disqualification from holding a drivers licence<sup>8</sup> of a person convicted under **Section 108**, that there should not be a rigid approach to the imposition of this sanction and it should only be imposed in circumstances which warrant such a sanction.

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<sup>6</sup> Michael Espat v The Queen Criminal Appeal no. 8 of 1993

<sup>7</sup> Para 21

<sup>8</sup> Pursuant to s91 of the Motor Vehicle and Road Traffic Act Cap 230

### **Aggravating/Mitigating Factors Offence**

**[13]** The Court finds that there are no aggravating factors relative to the offence. The following mitigating factors from the offence:

#### **Mitigating Factors Offence**

- The Defendant only lost control of his vehicle as a result of another vehicle colliding with his.
- No use of any intoxicating substances.
- Nor was there any evidence of speeding

**[14]** The Court does not consider that the commission of the offence as outlined in the facts above falls into the category of the worst of the worst. This Court; therefore, sees no need to depart from the established range of sentences as set out in the authorities.

**[15]** The Court considers that a custodial sentence is not appropriate in the circumstances outlined above.

**[16]** The Court has looked at the decided cases helpfully submitted which reflects final sentences within the range of \$2,000.00 to \$9,000.00 with a default term of imprisonment. The Court notes that the starting points in those cases have not been identified, but with some mathematical calculations and averaging the Court in this case is able to deduce an appropriate starting point bearing in mind that this particular case, falls within the lower range of offending. The Court sets the starting point at a fine of \$7,500.00.

### **Aggravating/Mitigating Factors Offender**

- [17] The Court next considers the aggravating and mitigating factors of the Offender in considering whether, to make any adjustments to the starting point outlined above. The Court has taken into account that Ethan Matura is a man of otherwise good character, and that he has strong familial ties and he is well respected in his community. He has a very close relationship with his mother with whom he resides. He is gainfully employed and receives a modest income.
- [18] He has expressed genuine remorse for his actions and regrets that he has taken the life of someone. He has also undergone counselling for the impact this incident has had on his mental health, which is a matter for which he will be credited.
- [19] His mitigating factors warrant a reduction of the starting point. The Court; therefore, reduces the starting point by \$1,500.00 leaving a fine at \$6,000.00.

### **Discount for Guilty Plea**

- [20] By the Prisoner's guilty plea, the Defendant has saved precious judicial time and resources. The Court wishes to express its gratitude to the Parties on both sides for its efficient conduct of this matter. In line with the authorities, the Court will award full credit to the Prisoner for his guilty plea, which results in a one third deduction from the starting point which comes to \$2,000.00. That figure deducted leaves a net figure of \$4,000.00.
- [21] The Court reiterates that the fine in this case does not seek to place a value on the life of Rodel Williams- as there can be no expressed monetary value to same. The loss of life suffered by his family and loved ones can never be compensated. The High Courts have imposed fines in matters of this nature not as a reflection of the value of that life, but as part of the sentencing process in criminal matters which seeks to reflect the aims of sentencing- and which is individualised to take into

account the particular features of the offending, the culpability of the Convicted man and the other factors already outlined above including his guilty plea.

### **Other Considerations**

[22] The Court has also considered, whether an order for compensation to the Victim's family is warranted. The quantum of compensation, when awarded at all under this provision, reflects considerations such as any payments previously made by the Accused to the Deceased's family, prior or anticipated future insurance payments to the Deceased's family, pending civil claims, and the financial means of the Accused. In this case, I am informed by Counsel for the Convict, and the Court has been provided with a settlement figure of \$43,500.00 that was paid by insurance as settlement. In those circumstances the Court will not order any further compensation.

[23] The Court does not consider that disqualification from driving is necessary in the circumstances of this case.

[24] The Court wishes to express its gratitude to the parties who have moved with commendable alacrity in engaging in plea discussions with a view to achieving a just outcome in this case.

### **Disposition**

[25] **The Prisoner is fined \$4,000.00 (Four Thousand Belize Dollars), in default six (6) months imprisonment. Time allowed is six (6) months for payment of fine from today's date (18<sup>th</sup> June 2024).**

**Candace Nanton**  
High Court Judge  
Senior Courts Belize  
Dated 18<sup>th</sup> June 2024