

IN THE SENIOR COURTS OF BELIZE

CENTRAL SESSION-BELIZE DISTRICT

IN THE HIGH COURT OF JUSTICE

INDICTMENT NO: C 106 of 2020

BETWEEN:

THE KING

and

ERIC EDWARD MENDEZ

Defendant

Before:

The Honourable Mde. Justice Candace Nanton

Appearances:

Ms. Portia Ferguson, Senior Crown Counsel for the King

Ms. Sherigne Rodriguez Defence Counsel for the Defendant

2024: July 29

August 28

September 11

Written Transcript of Plea Agreement - Use of Deadly Means of Harm with Intent to Cause Grievous

Harm (Sentencing)

Wednesday, 11TH September 2024

(Court Session Commenced)

THE MARSHALL: The King V Eric Mendez

THE COURT: Appearances?

5 THE PROSECUTION: May I please you, Your Honour. I appear on behalf
of the Crown on this matter. Appearing for Eric
Mendez is Ms. Sherigne Rodriguez.

THE COURT: We're prepared to proceed with the Plea Agreement
today?

10 MS. RODRIGUEZ: (Inaudible).

THE COURT: Ms. Ferguson? Before I get started, I just want to - - is
Shereema Neal here? Mr. Mendez, could you just step
down one moment (inaudible).

(Accused steps down for Court to deal with The King V Shereema Neal Case).

15 (Matter Resumes)

THE MARSHALL: The King V Eric Mendez.

THE COURT: Ms. Ferguson I would just want you to have (inaudible) relative to the witnesses to be able (inaudible) get confirmation from them.

THE PROSECUTION: Yes, Your Honour.

5 THE COURT: All right, yes, have a seat. The appearances as before both sides?

THE PROSECUTION: Yes, Your Honour.

THE COURT: So, this hearing is pursuant to the Criminal Procedure of Plea Discussion and Plea Agreement, Act
10 No. 12 of 2024, which was enacted on the 3rd of June of this year.

15 For the record, the Court is in receipt of the following documents. The Court has received a Form 6, which was filed pursuant to Section 19 (2b) of the Act, which is a statement by the attorney at law representing the Accused that this agreement was clearly discussed with her client, Mr. Mendez, and that he was advised of this rights, possible defences, penalties, and consequences of entering into the agreement.

A Form 5 was also filed, which is a statement of the Accused signed by him, and stating to the effect that he has read the agreement and that he carefully discussed the content of the agreement with his attorney at law, that he agrees to that agreement and that he voluntarily and of his free will agree to plead guilty to the amended indictment. He indicates that he has been advised of this rights, that he understood, he also indicated that he was advised of the possible defences, penalties, and consequences of entering into the agreement, and that no promises, agreements, or inducements had been made to him, or was he threatened, forced to enter into the agreement, that he had sufficient time to confirm with his attorney.

There's also a statement from the Crown, which basically summarizes the substance of the Plea Agreement, and Ms. Ferguson, I'll ask you to go through this in a short while.

And there's the amended indictment, which was filed in pursuant of that concluded agreement.

Substituting essentially the original indictment, which was ‘Attempt to Murder’ and substituting the count of ‘Use of Deadly Means of Harm with Intent to Cause Grievous Harm’ contrary to Section 83(b) of the Criminal Code, Chapter 101 of the Substantive Laws of Belize.

The Court has also received a Victim Impact Statement from Virtual Complainant, Mr. Tyrone Stevens, which the Court has taken into consideration and which will be read into the record in a short while. Now, Ms. Rodriguez, you are also in receipt of all this documents, correct?

MS. RODRIGUEZ: Yes, Your Honour.

THE COURT: Victim Impact Statement and the Antecedent History, which I also received, yes?

MS. RODRIGUEZ: Yes, Your Honour.

THE COURT: So, Ms. Ferguson, I’ll ask you now to just go through the basis or the substance and reasons for the agreement.

THE PROSECUTION: Your Honour, should I read the facts?

THE COURT: No, no, not the facts, just the background into why the agreement was concluded. Pursuant to the Act on what basis in the administration of justice, but the Crown decided to enter into this Plea Negotiation. Just a brief statement.

5

THE PROSECUTION: Your Honour, in view to the administration of justice, and going through the facts - -

THE COURT: Yes?

THE PROSECUTION: Reading Mr. Steven's - - his statement, and looking at the medico legal form.

10

THE COURT: Yes?

THE PROSECUTION: I came to the conclusion that it was not 'Attempt to Murder'.

THE COURT: Yes.

15

THE PROSECUTION: It was 'Use of Deadly Means of Harm with Intent to Cause Grievous Harm' as is specified by the doctor.

THE COURT: Yes, did you also consult with the Learned Director?

THE PROSECUTION: Yes, Your Honour.

THE COURT: (Inaudible).

THE PROSECUTION: Yes, Your Honour.

THE COURT: And the reasons for the instructions to proceed in this manner?

5 THE PROSECUTION: Yes, Your Honour.

(9:25 a.m. Court inquiries from Accused on guilty Plea)

10 THE COURT: Yes, okay. I'm just going to go into and read the Accused at this stage pursuant to Section 24 to satisfy myself that the Accused person understands the nature of the Plea Agreement, and that he's agreeing to same voluntarily. Please stand Eric Mendez. All right, was this Plea Agreement entered into by you voluntarily, meaning you did it of your own free will?

THE ACCUSED: Yes.

15 THE COURT: All right, did you agree to it?

THE ACCUSED: Yes.

THE COURT: Did anyone promise you anything, or induce you to make this agreement?

THE ACCUSED: No, Ma'am.

THE COURT: Did you have an opportunity to speak with your attorney to go over the contents of the agreement with her.

5 THE COURT: Do you understand what the agreement is? You understand that you are pleading guilty to the lesser charge of 'Use of Deadly Means of Harm, yes?

THE ACCUSED: Yes, Ma'am.

THE COURT: All right, do you understand what it means to plead guilty to an offence?

10 THE ACCUSED: Yes, Ma'am.

THE COURT: What do you understand by it?

THE ACCUSED: That you accept you're wrong and you want better for yourself and moving forward (inaudible).

15 THE COURT: Okay, good, and do you understand that a conviction will still be recorded against you, even though, you plead guilty to this offence? Do you understand that you have a right to a trial in this matter, and you are essentially

waiving your right to a trial by pleading guilty? Do you understand that?

THE ACCUSED: Yes, Ma'am.

THE COURT: Do you understand that the Court does not have to accept
5 your Plea Agreement. It can if it thinks it's wise to do so,
but it does not have to, it's in the Court's discretion, do
you understand that?

THE ACCUSED: Yes, I do.

THE COURT: You can have a seat. All right, so, the Court has
10 considered carefully all the documents that has been
presented to it containing the forms that I've already
described. The Court has also considered as I said, the
Victim Impact Statement, the terms of the agreement
itself, the amended indictment. Court has also read the
15 file and considered the facts upon which the Plea
Agreement has been concluded. The Court has also
considered the indications that have been made by Crown
Counsel in terms of the substance and basis of the Plea

Agreement, and that the Victim was properly consulted before the conclusion of the Plea Agreement.

Now, the Victim does not have to agree to a Plea Agreement; however, it's important that the views of the Victim are canvassed, because it leads to more effective administration of justice, and of course, justice is not just to the Defendant. It's also to the alleged Victim in the matter, and the Court appreciates that the Crown did take the opportunity to speak with the Victim, and the Victim has helpfully provided a Victim Impact Statement, which also guides the Court.

Now, the Court is also satisfied that the Accused person himself understands the substance and nature of the Plea Agreement. That he was properly advised by Legal Counsel before doing so. The Court takes into account that this matter had been case managed for some time for you to go into trial; however, it was on the Defence's request that the matter be adjourned for the purposes of concluding a possible Plea Agreement.

The Court thanks Counsel on behalf of the Defence and the Crown for taking the time to properly iron out and conclude this agreement, and the Court is satisfied that no inducement improperly was made to the Accused to enter this agreement.

The Court is also satisfied that the offence to which the agreement relates adequately reflects the gravity of the probable conduct of the Accused person. Although, the conduct may have been more egregious, which would have substantiated the original indictment, this is a case in which the facts do support the amended indictment and the agreement, which has now been dealt with.

The Court; therefore, finds that it is justifiable having regard to the benefit that will occur to the administration of justice and the protection of society from Prosecution of the Accused person.

The Court comes to this conclusion based not only on the sentiments expressed by Counsel for the Crown

and the Victim Impact Statement, and the Victim's stance on the matter, but the Court has also considered as I said, the facts, the severity of the harm that was done, and the significant delay in bringing this matter to trial, which has been over 6 years. It's a 2018 offence.

So, the Court has taken all of that into consideration in its view that it is just to accept the Plea Agreement as concluded by the Parties. The Court again thanks the Parties for their very efficient handling of this matter, and for bringing this matter to a just conclusion without having to use the resources of the Court to go to trial.

As we are well aware, some matters can properly be dealt with in lieu of a trial, and justice can still be served to the public, even in the absence of a custodial sentence. The Court also finds that this welcomed legislation is one that is to be commended and to be encouraged to be used in appropriate matters in clearing the backlog of matters. And this are the recommendations of the Needham Point Declarations on Criminal Justice

(9:31 a.m. Amended Indictment Charge Read to Accused)

THE MARSHALL: Eric Mendez, His Majesty Director of Public

Prosecution present this indictment charging you with the following crime.

5

Statement of Crime, ‘Use of Deadly Means of Harm with Intent to Cause Grievous Harm’ contrary to Section 83(b) of the Criminal Code, Chapter 101 of the Substantive Laws of Belize, 2020.

10

Particulars of Crime, Eric Mendez on the 6th day of May 2018 in Belize City in the Belize District in the Central District of the High Court used a firearm with intent unlawfully to cause grievous harm to Tyrone Stevens.

15

Have you any objections to make to the form or substance of this indictment? How say you, are you guilty or not guilty?

ACCUSED: Guilty.

THE MARSHALL: Guilty, My Lady.

Eric Mendez, you have plead
guilty to the crime of “Use of Deadly Means of
Harm with Intent to Cause Grievous Harm’ contrary to
Section 83(b) of the Criminal Code, Chapter 101 of the
Substantive Laws of Belize, 2020.

5

Have you any matter of law to urge why sentence
should not be passed on you.

THE ACCUSED: No.

THE COURT: You can have a seat Mr. Mendez. I have considered the
Plea Agreement and then the Court is prepared to honour
it, but if are there any remarks you wish to make as plea
in mitigation, you may do so.

10

MS. RODRIGUEZ: Your Honour, just to indicate that Mr. Mendez is
employed and has been gainfully employed, and he can
express for how long, but it has been quite some time.
And during this entire process the employers of Mr.
Mendez have been in full support. That is an indication to
me that they hope that this matter comes to a conclusion,
because they wish to have him further trained on the job,

15

and they intend to keep him more for as long as possible.
To his credit he has been consistent with his approach to
the entire Plea Agreement process, and that - -

THE COURT: Does he have children?

5 MS. RODRIGUEZ: No, Your Honour. He does not have any children.

THE COURT: Married?

MS. RODRIGUEZ: No, Your Honour.

THE COURT: He didn't commit any other offences, right? His record is
clean other than this matter?

10 MS. RODRIGUEZ: Yes, Your Honour, no other offences.

THE COURT: Do you wish to say anything by way of remorse
(inaudible) towards the Victim if there's anything you
wish to say.

15 THE ACCUSED: Well, in reference to this case, I would like to say that the
circumstances on which this situation happened was the
downfall for my personal freedom.

THE COURT: Yeah. Now, I was asking whether you wish to make any
statement to the Virtual Complainant.

THE ACCUSED: Well, Mr. Tyrone Stevens seems knows what he's doing.
Many of my friends that I grew up with succumb to
circumstances due this individual and all I did was
defend myself, because I was in the process of targeted as
well.

5

THE COURT: All right, you understand that by pleading guilty, you
accept responsibility for the act, right, and that you did
not wish to rely on any defence, you understand that? So,
are you still wishing to plead guilty? Are you sure that
you received proper advice in terms of pleading guilty?
Cause you can change your plea if you wish to do so.

10

THE ACCUSED: No.

THE COURT: All right, have a seat. All right, is that (inaudible)?

MS. RODRIGUEZ: Your Honour, if I may have just a short while - -

15

THE COURT: Yes, yes, just to ensure that the plea is unequivocal. Yes,
Ms. Rodriguez?

MS. RODRIGUEZ: Yes, Your Honour.

THE COURT: Are you continuing with the guilty plea?

MS. RODRIGUEZ: Yes, Your Honour, we are.

THE COURT: Because the Court needs to be satisfied that the Accused understands that by pleading guilty. He's saying he has no defence to (inaudible). Is he aware of that?

5 MS. RODRIGUEZ: He's aware of that, Your Honour, you can - -

THE COURT: Yes. Mr. Mendez, are you aware that by pleading guilty -
- and if you have a valid defence, you should plead not
guilty, do you understand that?

10 THE ACCUSED: Your Honour, it's the wording you used, I didn't quite
comprehend what you tried to indicate, but now my
attorney - -

THE COURT: Your attorney explain to you? No, but what I'm asking
is, are you sure that you wish to plead guilty, because if
you have a valid defence, you ought not to plead guilty.

15 THE ACCUSED: No, Ma'am.

THE COURT: So, do you wish to plead guilty and continue with this
hearing?

THE ACCUSED: Yes, Ma'am.

THE COURT: Have a seat. All right, so the Court has considered the agreed. I'm prepared to give sentence at this - - yes? Ms. Ferguson, let me just hear the Victim Impact Statement (inaudible).

5 THE MARSHALL: Your Honour, this is the Victim Impact Statement, pursuant to Practice Direction dated 23rd March 2007. No. 151 of 2007.

(9:37 a.m. Victim Impact Statement read into the Record by Crown Counsel (Attached 2 pages PDF file)).

10 (9:41 a.m. Court reads into the Record Sentencing for Accused)

THE COURT: This is the Court's ruling on sentence.

The penalty for the offence of 'Use of Deadly Means of Harm' contrary to Section 83 (b) of the Criminal Code states as follows:

15 Every person who uses a sword, dagger, bayonet, firearm, poison or any explosive, corrosive, deadly, or destructive means or instrument, shall—

(b) if he does so with intent unlawfully to wound or cause grievous harm to a person, be liable to imprisonment for ten years;

Now, the Court has considered the propriety or otherwise, before accepting this Plea Agreement, of a custodial sentence relative to the offence. The Court has also had regard to the Penal System Reform (Alternative Sentences) Act, (the “PSRAA”) which states under Section 28, Subsection (2): The Court shall not pass
5 a custodial sentence on the offender unless it is of the opinion, (a) Where the offence is a violent or sexual offence, defined in Section 7 of this Act, that only such a sentence would be adequate to protect the public from serious harm from the offender.

Now, in consideration of that Section, the Court has taken into account the
10 prevalence, gravity and seriousness of the offence, with which the Defendant is indicted. The violence inflicted on the Victim and the need to punish the Offender as well as to protect society from serious harm by the Offender are considerations for this Court. The Court has also considered that this was a gratuitous violent offence committed with the use of an illegal firearm with no apparent explanation
15 or motive.

Now, in light of the guidance and the principles of sentencing adumbrated by the CCJ jurisprudence, and the statutory requirement under the PSRAA that the gravity of the punishment must meet the gravity of the offence. The Court may have in other circumstances been minded to impose a custodial sentence in this
20 matter. However, on the other hand, the Court has considered the

recommendations made by the Learned Crown Counsel and the Plea Agreement
itself, which has already been agreed upon by both Parties. The Court has
considered the impact of this offence on the Virtual Complainant. The Court has
considered the benefits that could accrue to the administration of justice in
5 accepting this Plea Agreement, and also that it is not in every case of violence that
justice warrants the imposition of a custodial sentence. In fact, in Belize there are
precedents for similar offences, which have attracted fines by the Courts in the
past. So, it is not a unique approach to impose a fine and/or compensation in
relation to offences of this type. That does not mean it would be the norm. In this
10 case the Court is very much minded of the requirements of restorative justice, and
the Court has considered that in the Plea Agreement, which includes some level of
compensation, and the Courts must also consider the harmful impact of the crime
on the Victim himself, and what can be used to repair that harm whilst still holding
that person accountable for his or her actions.

15 Now, accountability for the Offender means accepting responsibility, which
Mr. Mendez has done, and acting to repair the harm, which he has also consented
to do by virtue of the Plea Agreement. The Court has also considered his guilty
plea, which would have warranted him a deduction in his sentence in any event.

Now, in this particular case, the Victim has not stated any (inaudible) in
20 relation to his views on sentence, as he's not allowed to, but the Court has also

considered his views and feelings on the matter in the consideration of this Plea Agreement.

The Court, in fact, does not consider that a custodial sentence is appropriate in relation to this amended count on the indictment, and in the circumstances
5 which present itself in this case.

Now, in the case of Desmond Baptiste v The Queen, the Court there had identified the principles of sentencing, which are retribution, deterrence, prevention, and rehabilitation.

The fact, Mr. Mendez that you are not liable to a custodial sentence does not
10 mean that you are spared from that rehabilitated work that is necessary to make (inaudible) for this offence. The Court recognizes that rehabilitation may be one aspect. The Court has also considered that you have not re-offended, since this matter has occurred in 2018, which is to your credit. The Court considers that you continue on this path towards rehabilitation you have already started, and that by
15 the Court tempering justice with some means in this case that it will allow you the opportunity to make a more positive impact in the rest of your life. The Court has also considered that violent offences and offences, which use firearms are far too prevalent in Belizean society, and the Court denounces any suggestion that the Court does not take this types of sentence seriously as it seriously does, and

although a non-custodial sentence will be imposed in this matter, measure of the fine and the quantum of the fine should be reflective of the significance of this factor.

5 The Court having reviewed the local sentencing authorities in this matter has engaged its consideration in terms of the type of sentence, and the Court as I said before is satisfied that there is precedent to the imposition of a fine in relation to this type of offence, and although it should not be the norm, but rather the exception. The Court finds that in this case those exceptional categories do exist.

10 So, the Prisoner is hereby sentenced. The Court imposes a fine of \$4,000.00 to be paid to the Government of Belize, in default 6 months imprisonment. The time allowed for the payment of that fine is 12 months.

The Court also orders that the Accused shall pay compensation to the Virtual Complainant, in the amount of \$4,000.00, in default distress, and the time allowed for payment of same is 6 months.

15 Again, I wish to express my gratitude to the Parties for the manner in which they have conducted this Plea Agreement discussions, and I think that it is in spirit of that type of engagement that the legislation was in fact, enacted. Appropriate matters can be resolved in a manner other than the antagonistic and sometimes

stressful manner of a trial, which is not necessary in every case. So, I commend the Parties for the alacrity, and I wish you well, Mr. Mendez.

So, please stand. Again, just to repeat your sentence. Your fine is \$4,000.00 to be paid to the Government of Belize. You have 12 months to do so, in default of that payment, you will serve 6 months imprisonment, which means you have to pay the fine within the 12 months. If you don't do so, the default sentence is 6 months imprisonment. You also have 6 months to pay the compensation of \$4,000.00 to the Victim, Tyrone Stevenson in this matter. That's the order of the Court, thank you.

10 (9:48 a.m. Court Session Ended-Plea Agreement Accepted by Court)