

IN THE SENIOR COURTS OF BELIZE

CENTRAL SESSION-BELIZE DISTRICT

IN THE HIGH COURT OF JUSTICE

INDICTMENT NO: C 29 of 2023

BETWEEN:

THE KING

and

GERSON GUERRA

Defendant

Appearances:

Mr. Robert Lord, Crown Counsel for the King

Ms. Erin Quiros Defence Counsel for the Defendant

Madam Justice Candace Nanton for the Court

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2024: July 26  
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**Written Transcript of the Plea Agreement –Guilty of Use of Deadly Means of Harm with Intent to Cause Dangerous Harm (Sentencing)**

**Friday, 26<sup>th</sup> July 2024**

(Court Session Commenced at 11:27 a.m.)

THE COURT: Good morning everyone.

THE PROSECUTION: Good Morning.

5 MS. QUIROS: Morning, My Lady.

THE MARSHALL: The King V Gerson Guerra.

THE PROSECUTION: May I please you, My Lady. Robert Lord for the  
Crown, for the Defence Ms. Erin Quiros.

THE COURT: Yes, Thank you.

10 MS. QUIROS: Your Honour, before we (inaudible), I just wanted to  
apologize for the late start today.

THE COURT: Yes?

MS. QUIROS: (Inaudible) at a bit earlier; however, my matter earlier  
this morning (inaudible) 45 minutes later, so, it pushed  
15 me back, and I do apologize for the lateness.

THE COURT: Yes, thank you. Okay, this morning we are prepared to engage in the Plea Agreement hearing. Are the Parties ready to do so this morning?

THE PROSECUTION: Yes, My Lady.

5 THE COURT: Yes, Ms. Quiros? Yes? Okay. All right, so this hearing is pursuant to the Criminal Procedure plea discussion on Plea Agreement, Act No. 12 of 2024, which was enacted on June 3<sup>rd</sup> of that year.

10 Mr. Lord, I will ask you first to give some background to the Court in relation to the substance of and the reasons for the Plea Agreement. Before you do so, I would just like to indicate that the Court is in receipt of the Form 6 filed by the - - well all the documents filed by the Crown, particularly Form 6, which is pursuant to  
15 Section 19-2B of the Act, which is a statement by the attorney of law representing the Accused that this agreement was carefully discussed with Mr. Gerson Guerra, her client, and he was advised of his rights, possible defences, penalties, and consequences of

entering into the agreement. There's also the Form 5,  
which is a statement of the Accused signed by him on the  
22<sup>nd</sup> of July 2024 to the effect that he has read the  
agreement and carefully discussed the contents of same  
with his attorney at law. That he agrees to that agreement  
and he voluntarily and of his free will agrees to the terms  
of that agreement, and agrees to plead guilty to the  
charge, which has been amended. He indicates that he  
has been advised of his rights, and he understands same.  
The possible defences, penalties, and consequences of  
entering into the agreement and that no promises,  
agreements, understandings, or inducements had been  
made to him by anyone, nor was he threatened, forced to  
enter into the agreement and that he had sufficient time to  
confer with his attorney.

There is also the statement of the Crown, which  
basically summarizes the substance of the Plea  
Agreement, which I will ask Mr. Lord, I will ask you to  
go through after I have completed this part, and also  
there's an amended indictment, which was filed with

the Courts, which substitute the offences for which the Accused was initially indicted for one Count of Use of Deadly Means of Dangerous Harm, correct?

THE PROSECUTION: That is so, My Lady.

5 THE COURT: Yes, the Court has also received a Victim Impact Statement from the Virtual Complainant filed with the Court and also Agreed Facts, which form the substance or basis for the plea. Ms. Quiros, are you in possession of all of these documents?

10 MS. QUIROS: Your Honour, I would need the (inaudible).

THE COURT: Yes.

MS. QUIROS: (Inaudible).

THE COURT: You will? Okay.

MS. QUIROS: I am not in possession of the Victim Impact Statement.

15 THE COURT: Yes.

MS. QUIROS: (Inaudible) please provide me an opportunity to look through it.

THE COURT: Yes.

MS. QUIROS: I don't have a copy for myself.

THE COURT: Okay, but you had an opportunity to look at everything?

MS. QUIROS: I had an opportunity to quickly scan through.

5 THE COURT: Did you had an opportunity to speak with your client in relation to the Agreed Facts?

MS. QUIROS: Very quickly, yes, Your Honour.

THE COURT: You did.

MS. QUIROS: (Inaudible).

10 THE COURT: Okay. All right, well the Victim Impact Statement, which we'll get to in short order, there's just one particular paragraph, paragraph 7, line 3 starting 'with' ending with 'punishment'. The Court would have that redacted pursuant to Section 17-2 of The Plea Agreement Act as there are certain constraints that a Victim Impact  
15 Statement should not really get into the substance of punishment or advising, or suggesting any particular punishment. So, the Court will have that particular portion redacted, but everything else does not seem to

be objectionable to the Court. I don't know, Ms. Quiros,  
if you have a different view.

THE PROSECUTION: My Lady, if I may?

THE COURT: Yes.

5 THE PROSECUTION: Upon the Defence perusing the Agreed Facts, there  
was a small amendment that was made to the first  
paragraph, the last line which states, which led to the  
Accused becoming upset, My Lady. The word enrages to  
be substituted.

10 THE COURT: I see, to upset?

THE PROSECUTION: Yes, My Lady.

THE COURT: Okay. All right. Yes, Ms. Quiros, you were going to say  
something about the Victim Impact Statement?

15 MS. QUIROS: Your Honour, I'm in a very difficult position in regards  
to the Victim Impact Statement, given that I don't have a  
copy of it.

THE COURT: Do you wish to have a copy?

MS. QUIROS: I really would wish to have a copy of it, Your Honour, as I really just had a - - maybe 2 minutes to briefly look through it.

THE COURT: Yes.

5 MS. QUIROS: So, I would appreciate - -

THE COURT: All right, the Court can make a - - I can sign it. I've already marked up the redacted part in that document. You can just give it to her. I have the - -

MS. QUIROS: Much obliged, Your Honour.

10 THE COURT: Yes. All right. So, Mr. Lord let me just have you pursuant to Section 24 of the Plea Agreement Act, please disclose to the Court the substance, reasons for the agreement.

THE PROSECUTION: Obligated, My Lady.

15 THE COURT: Yes.

THE PROSECUTION: May I please you, My Lady. As per the document forwarded to Your Ladyship, the Plea Agreement that was perfected. The Crown and the Defence entered into



extensive discussions regarding this particular matter, My Lady, where at the end this Plea Agreement was formalized.

Initially, My Lady, as you are aware, the Accused person, Gerson Guerra was charged with the offence of Attempt Murder, and the Crown saw it fit after discussions with the relevant stakeholders to amend the indictment to read, 'For Use of Deadly Means of Harm. My Lady, initially Mr. Gerson Guerra was charged with Attempt to Murder, Dangerous Harm, Aggravated Assault, and Use of Deadly Means of Harm.

On the 22<sup>nd</sup> of July 2024, Mr. Gerson Guerra plead to Use of Deadly Means of Harm pursuant to Section 83-D of the Criminal Code. And - -

15 THE COURT: He plead to it?

THE PROSECUTION: Pursuant to the Plea Agreement, My Lady.

THE COURT: Oh, you mean he indicated that he would be pleading to it?

THE PROSECUTION: Yes, My Lady, pursuant to this Plea Agreement.

THE COURT: Yes, yes.

THE PROSECUTION: And in consideration of Mr. Guerra agreeing to the Plea Agreement, the Crown undertook to make certain submissions to, Your Ladyship that being that the Crown will submit to, Your Ladyship that Mr. Gerson Guerra be made to pay fifteen hundred dollars to the Government of Belize, in default of that 6 months imprisonment. Further, the Crown will submit to Your Ladyship that Mr. Guerra be made to pay \$2,000.00 compensation to the Virtual Complainant. In default of that, 6 months imprisonment.

The Crown further submits that Mr. Gerson Guerra be made to attend 5 mandatory Counselling sessions on anger management. Additionally, the Crown will be submitting that it is in the interest of justice, that the Accused Mr. Gerson Guerra not be sanctioned by way of custodial sentence.

Finally, My Lady, the Crown submits that Mr. Gerson Guerra be allowed to maintain his freedom and liberty at this point, which encompasses the main consideration of the Crown, which is the best interest of



THE COURT: Okay.

THE PROSECUTION: So, she would not have been able to - -

THE COURT: But she was informed of today's hearing?

THE PROSECUTION: Yes, My Lady.

5 THE COURT: And she was informed of the Plea Agreement?

THE PROSECUTION: Yes, My Lady.

THE COURT: And the substance of it?

THE PROSECUTION: I fully consulted with her regarding all aspects of  
the agreement.

10 THE COURT: Okay.

THE PROSECUTION: So, she understands everything. Yes, My Lady, so  
the VC has moved on and forgiven the Accused person,  
and she has stated to me that Mr. Guerra does not  
interfere with her, is not aggressive towards her in any  
15 regard, and that he continues to financially assist the  
offspring shared between them, and this, My Lady again  
is the paramount consideration of the Crown's decision  
to enter into plea discussions with Learned Defence

Counsel. As I'm sure, Ms. Quiros will relate to, Your Ladyship, Mr. Guerra is a working class individual, which positively contributes to the society, so I'm sure she will elaborate on that aspect.

5 My Lady, the Crown humbly prays that, Your Ladyship concurs with the plea agreement and the terms of which Mr. Guerra has signed on to. We humbly submit and pray that, Your Ladyship will see it fit to abide by the terms of the Plea Agreement.

10 My Lady, as Her Ladyship, is aware of the Victim Impact Statement is filed and has been forwarded to, Your Ladyship, and learned Defence, which further displays how the VC was impacted from this incident. I will go on to read it with, Your Ladyship's permission.

15 THE COURT: Sorry, one second. How many children do they have together?

THE PROSECUTION: One, My Lady.

THE COURT: What's the age?

THE PROSECUTION: She is currently 10 years old, I believe.

THE COURT: I don't want you to read the Impact Statement yet. Let me just - - all right, just for the sake of the record, was any previous Plea Agreement - -

THE PROSECUTION: No, My Lady, this is the first Plea Agreement, My  
5 Lady.

THE COURT: Yes, okay.

THE PROSECUTION: The Victim Impact Statement was filed in Apex.

THE COURT: Right, yes? Ms. Quiros, have you had an opportunity to look at the Victim Impact Statement?

10 MS. QUIROS: Yes, I have, Your Honour.

THE COURT: Do you have any objections to it being read?

MS. QUIROS: No, Your Honour.

THE COURT: All right, so, Mr. Lord I'll ask you to read the Victim  
Impact Statement subject to the redaction that the Court  
15 indicated in relation to paragraph 7.

THE PROSECUTION: Yes, My Lady.

THE COURT: Yes.

THE PROSECUTION: Just the word or - -

THE COURT: Ms. Quiros, you have my marking on it, just show it to  
Counsel, please.

THE COURT: Yes, all right.

5 THE PROSECUTION: Guided, My Lady.

THE COURT: Yes.

THE PROSECUTION: Indictment No. C29 of 2023. The King V Gerson  
Guerra. Victim Impact Statement, signed by Zuemy  
Tzalam; dated, 24<sup>th</sup> July 2024.

10 My name is Zuemy Tzalam and I am a resident of  
Bahia Area, Caye Caulker Village in the Belize District. I  
am a mother of 2 female children, namely, Ziely Tzalam  
of 11 Years, and Stefania Guerra of 9 years.

15 On Monday, the 24<sup>th</sup> day of February 2020 was the  
day I witnessed a deadly situation of my own, and my  
kids. I was sliced on my throat and injured to death, and  
with the possibility in leaving my two daughters behind  
without a mother. It really hurts me in thinking over the

pain I went through. It wonders my head every single day  
what would be my kids' life without me. How my own  
companion tried to take my life away. Therefore, since  
that day, Gerson Guerra brought great emotional  
5 depression and sleepless nights to my loving kids. Gerson  
Guerra left my kids traumatized, fearing for their lives  
with the eldest reaching to a point of shaking and  
screaming when she witness extreme discussions in  
front of her eyes. Ziely Tzalam crying hysterically,  
10 frightened and feeling hopeless. I hugged and comfort  
her in my arms. Personally, I couldn't sleep for months; I  
couldn't eat due to my injuries and he left a scar on my  
neck. It's helpless not thinking the tragedy I had to pass  
every day. I look at myself on a mirror and clear remind  
15 me that I am a living proof of death. The depression took  
me over, I was traumatized for years and had to build my  
own confidence again, crying every time they asked me  
about the scar on my neck.

It's marked my life in so many ways and it mourns  
20 my soul, thinking what would be of my kids if I was not



with them no more. I have tried to leave my past behind,  
although it's hard. I have tried to forgive Gerson Guerra,  
but I believe that all actions have consequences, and I  
wish he learns his lesson, and be a better person for his  
family. I hope he changes his way of seeing life and  
people. People do deserve a second chance just like life,  
and God has given me.

Signed Zuemy Tzalam, 24<sup>th</sup> July 2024.

THE COURT:

Thank you. All right, thank you Mr. Lord. Ms.  
Quiros, I will proceed now, pursuant to Section 24 to  
satisfy myself that the Accused person understands the  
nature of the Plea Agreement and that he is agreeing to  
same voluntarily, yes?

All right, Mr. Guerra, can you please stand. All  
right, was this Plea Agreement made by you voluntarily?  
Did you agree to it? Yes? Did anyone induce you, by  
induce I mean, did anyone promise you anything, or  
threatened you, or suggest any favour for you to enter  
into this Plea Agreement?

THE ACCUSED: No.

THE COURT: Were you properly advised by your attorney at law, did she explain to you the consequences of pleading guilty to this matter.

5 THE ACCUSED: Yes.

THE COURT: Yes? And do you understand that discussion that you had with your attorney at law.

THE ACCUSED: Yes.

10 THE COURT: All right, do you understand the nature of the agreement, which is, that you would be pleading guilty to the offence of Use of Deadly Means of Harm, you understand that?

THE ACCUSED: Yes.

15 THE COURT: You understand that a conviction will be recorded against you if you plead guilty? Yes? A conviction would be on your record, do you understand that?

THE ACCUSED: Yes.

THE COURT: Do you understand that you do as every Accused person does, have the right to a trial in your matter, you

understand that? And you understand that by pleading guilty, you are foregoing, or you're relinquishing that right to a trial, you understand that?

THE ACCUSED: Yes.

5 THE COURT: Do you understand also that the Court does not have to accept the Plea Agreement? Have you been advised of that, yes, yes? And do you understand that the Court can accept the Plea Agreement based on the terms, but the Court can also reject it if it finds that it's suitable, 10 yes? Okay. All right, thank you very much.

All right, so the Court has considered carefully all the documents that has been presented to it, namely, the Plea Agreement itself containing the forms that have been described by the Court before the statement of the attorney at law, statement of the Accused, statement of 15 the Victim, the terms of the agreement itself, the amended indictment. The Court has also considered the indications 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 be in agreement with the Plea Agreement, but it's also important that the views of the Victim is canvassed by the Prosecution before entering into a Plea Agreement with any Accused person, and the Court is satisfied that that was done in this case.

The Court is also satisfied that the Accused person himself understands the nature and substance of the plea agreement that he entered into, and that he was properly advised by his Counsel before doing so. The Court has understood that this matter was in fact set for trial and it was on the Defence's behest that this Plea Agreement was initiated. That the Counsel on behalf of the Defence indicated to the Court on the date that the matter was set for trial that it wished to engage in plea discussions with the Crown, and that the Crown and Defence had sufficient time to properly iron out, and come to a conclusion on the basis of the agreement. The Court is satisfied that no improper inducement was made to the

Accused to enter into this agreement. That the Accused does in fact understand the nature, substance, and consequences of it. That he understands the nature of the offence with which he is now being charge and to which he will plead. That he understands that the Court does not have an obligation to accept the agreement, and 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, there are in this case exceptional circumstances, and the agreement, the Court finds is justifiable having regard to the benefits that will accrue to the administration of justice and the protection of society from the prosecution of the Accused person.

The Court comes to this conclusion based on the sentiments expressed by Counsel for the Crown in relation to the Victim and her stance on the matter, and having considered the Agreed Facts, the Court is also satisfied that the Plea Agreement is justifiable towards the administration of justice.

The Court has also considered the views expressed in the Victim Impact Statement, and the Court understands that it is not bound to accept the Plea Agreement, but I will accept the Plea Agreement for the reasons that I've already indicated. The Court thanks the Parties for their efficiency in concluding this agreement. I think this may be the first agreement, if I'm not mistaken under the newly enacted legislation, and the Court is thankful that the attorneys moved with swift alacrity in terms of bringing this matter to the Court's attention that it can be resolved in another way. It is not every matter that comes before the High Court of Belize that has to go to trial. Some matters can be resolved in other more efficient, appropriate, and just manners, especially bearing in mind the wishes of the Parties and what will be served to the public, justice that will be served to the public.

The newly enacted legislation allows an Accused person and the Prosecution to engage in plea discussions; it's preferable that an attorney at law is engaged for this

purpose, although, it's not mandatory, and in this case  
thankfully, the Accused was ably represented by an  
attorney at law, who was able to advise him in this  
regard. So, the Court thanks you Ms. Quiros for your  
5 discussions with your client, and for engaging in this  
process.

The Court also finds that this welcome legislation  
is one of several initiatives, which will assist in clearing  
the backlog of matters. As I said before, not every matter  
10 needs to go to trial, and this is one clear example. These  
recommendations have been proclaimed by the  
Caribbean Court of Justice's Academy for Law, the need  
and point declarations on Criminal Justice Reform with  
the view to achieving a modern Criminal Justice System,  
15 and this is just one of those initiatives that can help to do  
so.

So, the Court will now have the amended  
indictment read to the Accused, and thereafter we will  
have the Agreed Facts read, and then the Court will  
20 pronounce sentence post a plea in mitigation by Ms.

Quiros if necessary. So, Ms. Smith can you - - Please stand Mr. Guerra.

5 THE MARSHALL: Gerson Guerra, His Majesty Director of Public Prosecutions present this indictment charging you with the following crime.

Statement of crime, Use of Deadly Means of Harm with Intent to Cause Dangerous Harm contrary to Section 83C of the Criminal Code, Chapter 101 of the Substantive Laws of Belize, Revised Edition, 2020.

10 Particulars of Crime, Gerson Guerra on the 24<sup>th</sup> Day of February 2020 at Caye Caulker Village in the Belize District in the Central District of the High Court used a knife with intent unlawfully to cause dangerous harm to Zuemy Tzalam.

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

THE ACCUSED: Guilty.

THE MARSHALL: Guilty, Your Honour.





with his key that was given to him, because Mr. Guerra was asked to babysit the offspring of their previous common law relationship. Upon entering the domicile, the Accused initiated and altercation where he punched and threatened the Virtual Complainant. After that, Gerson Guerra with the use of knife inflicted a cut wound to the thyroid cartilage of Zuemy Tzalam with intent unlawfully to cause dangerous harm.

Signed by Gerson Guerra, Ms. Erin Quiros for the Defence, and myself for the Crown.

THE COURT: Thank you. Read the allocutus.

THE MARSHALL: Gerson Guerra, you have pleaded guilty to the crime, Use of Deadly Means of Harm with Intent to Cause Dangerous Harm, contrary to Section 83C of the Criminal Code, Chapter 101 of the Substantive Laws of Belize, Revised Edition, 2020.

Have you any matter of law to urge why sentence should not pass on you?

THE COURT: Ms. Quiros? You can have a seat Mr. Guerra. Your lawyer will speak on your behalf. Ms. Quiros, now we have the conclusion agreements in terms of the advice on sentencing, but I don't know whether you want to just  
5 give any context to the present state of the Convict.

MS. QUIROS: Certainly I appreciate that. Your Honour, I can say after discussions with my client that he has certainly made great efforts to live a peaceful life. He had expressed to me how sorry he is for entering into any kind of  
10 altercation with the Virtual Complainant, Your Honour, and certainly he's lived his life since then in honour of that. He has ensured that he gets a job, so that he can maintain his child. He stayed away from the Virtual Complainant, and he is trying to live his life peacefully  
15 from here on as well.

THE COURT: Yes?

MS. QUIROS: He's happily accepted this Plea Agreement, Your Honour, and the only questions, Your Honour, that we would have - - The only questions that he has had, that

he's asked me to ask on his behalf is in regards to the fine. How will they be paid, the timeline for them, and in regards to the anger management classes, how will it actually be dealt with, those are the only questions, Your Honour.

5

THE COURT: All right, where does he work?

MS. QUIROS: He lives in San Ignacio, and he does construction work, but I'm not clear in regards to the actual name of the company where he works.

10

THE COURT: In terms, what would he be able to pay on a monthly basis?

MS. QUIROS: When he spoke, Your Honour, he works on an interim basis with the construction company as needed.

15

Currently, he works about 3-4 days he indicated to me, and he makes about \$60.00 a day. (Inaudible) and this is when there is work to be done.

THE COURT: Yes.

MS. QUIROS: So, it's a bit- -

THE COURT: Yes?

MS. QUIROS: It fluctuates, Your Honour.

THE COURT: I see.

5 MS. QUIROS: And so the concern would be being expected to pay a  
very large sum in a short amount of time. What would be  
desirable, Your Honour, is for him to make small interim  
payments.

10 THE COURT: Well, this is what I was asking. So, what would be the  
length of time that he would need to pay off, because  
from the agreement he would be fined fifteen hundred to  
the Court, and thereafter, he would also be fined  
\$2,000.00 to the Virtual Complainant.

15 MS. QUIROS: What my client had indicated to me, Your Honour is at  
this point in time he is able to contribute \$50.00 a month  
towards the fine, towards the Government, and \$50.00  
towards the fine for the Virtual Complainant.

THE COURT: Per month?

MS. QUIROS: Hundred dollars a month.

THE COURT: One hundred dollars a month? That would take us 20 months, that's a year.

MS. QUIROS: A little over a year, Your Honour.

THE COURT: Yeah, Mr. Lord, you have any position in relation to that?

5 THE PROSECUTION: My Lady, as previously discussed between myself and the Defence, we are aware of the Accused person's economic situation.

THE COURT: Yeah?

10 THE PROSECUTION: And we are not unreasonable, My Lady, and we had suggested that a reasonable time be given for him to pay these sums in consideration of what he's making and his financial position. I had indicated to the learned Defence that we would not object to - - if Your Ladyship obliges us to a maximum of maybe 24 months. I have  
15 known in the past - -

THE COURT: To pay both, to complete both fines?

THE PROSECUTION: Yes, My Lady. Both the fifteen hundred and the \$2,000.00, and we will go on to further say that these sums to be paid are on the lower end of the spectrum.

THE COURT: Yes.

5 THE PROSECUTION: Still between the realm of matters been done before, but like I said we are not unsympathetic towards his plight, but there is a sanction for him, and he needs to pay his fine within a reasonable time given the situation. So, 24 months would be the max that the Crown humbly  
10 submits to, Your Ladyship. If, Your Ladyship, sees otherwise then we - -

THE COURT: I see.

THE PROSECUTION: - - are obligated to that.

15 THE COURT: Okay. Yes, Ms. Quiros. Does he pay maintenance for the child? How much does he pay per month?

MS. QUIROS: Fifty dollars a week.

THE COURT: Five, zero a week? Okay, go ahead.

(Inaudible)

THE COURT: Okay, yes.

MS. QUIROS: Hence the small sum that he is requesting to pay towards the fines, Your Honour.

THE COURT: I see. All right, is that all you wish to say? Okay.

5 Okay, the Court has considered the Agreed Facts, which have been read into the record. The Court has also taken into account the plea in mitigation made on behalf of the Convicted, Mr. Guerra. The Court has also considered of course the Plea Agreement, which is the basis for the plea  
10 and the Court is prepared to honour that agreement in terms of the fines that have been concluded between the Parties and the award of compensation to the Victim.

This is the Court's ruling on Sentence.

15 The penalty for the offence of Dangerous Harm is contained in **Section 82 of the Criminal Code**, which states: *Every person who intentionally and unlawfully causes a maim, or any dangerous harm to a person shall be liable to imprisonment for twenty years.*



Now, the Court has considered the propriety or otherwise, this is before accepting the Plea Agreement, of a custodial sentence relative to the offence, and the Court has had regard to the **Penal System Reform (Alternative Sentences) Act**, (the “PSRAA”) which states under:

*“Section 28.-(2) ...the court shall not pass a custodial sentence on the offender unless it is of the opinion, (a) Where the offence is a violent or sexual offence (as 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 prevalence, gravity and seriousness of the offence, with which the Accused, now Convicted man is indicted. The violence inflicted on the Victim and the need to punish the offender as well as to protect the society from serious harm by the offender.

The Court has also considered that this was a violent offence conducted in a domestic setting in which

far too common offences against women are perpetuated by the men, who they at one point loved.

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 matter. However, on the other hand, the Court has considered the recommendations made by the Learned Crown Counsel and the Plea Agreement, which has already been entered into and accepted by the Court, which has been entered into between the parties, and this was after consultation with the persons, who were directly impacted by this offence.

The Court also considers that it is not in every case of violence that justice warrants the imposition of a custodial sentence. There are in fact precedents for this very offence where persons have been fined by 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 will be the norm; however, in this  
case the Court is also very much minded to the  
requirements of restorative justice, which at times the  
Court must have consideration for.

Now, restorative justice seeks to examine the  
harmful impact of a crime and it then determines what  
can be done to repair that harm while holding the person  
who caused the harm accountable for his or her actions.

Now, accountability for the offender means accepting  
responsibility, which thankfully Mr. Guerra has done,  
and acting to repair the harm done, which he has pledged  
that he's willing to do.

Now, in this particular case, the Victim is not  
opposed to the sentence. Especially, in the circumstances  
where she and the Accused, the Convicted man now,  
share a child together, a child of 9 years old, who of  
course needs a father in her life. Now, the Convict is  
actively engaged in not only the financial care of the  
child, but also in the child's life in a direct manner, and

the Court considers that that is a very important consideration for this Court in accepting the plea agreement.

5 So, in those circumstances the Court considers that the imposition of a custodial sentence is not in fact appropriate in relation to the count on the Indictment.

10 Now, in the case of **Desmond Baptiste v The Queen** the Court identified the principles of sentencing, and those principles are retribution, deterrence, prevention and rehabilitation.

15 Now, in terms of rehabilitation, the Court is also happy that the Plea Agreement included some form of rehabilitation in relation to the anger management classes that the Convicted person has agreed to undergo. This will of course help to prevent future incidents from occurring in the same manner that they have in the past. Now, this is one positive step that the Convicted person can take, but of course it takes peculiar and efforts to ensure that you don't repeat the mistakes of your past.

And the fact that you are not liable to a custodial sentence does not mean that you are spared from that rehabilitated work. So, the Court in this case recognizes that rehabilitation is one of the main or driving aspects in terms of sentencing in this particular case. And of course, as I said in line with restorative justice repairing the actual harm done.

Now, in determining the appropriateness of the sentence, which has been agreed by the Parties, the Court has considered that violence offences are serious and prevalent in Belize society, and that the Court's sentence should reflect the significance of this factor.

Now, the Court has also considered that this offence was facilitated by the use of a weapon, and that the Virtual Complainant suffered not only physical injuries, but emotional distress for a very long time thereafter. And the Court also as I said already consider that this was a crime against women, against a woman, which is far too frequent in our society.

Now, the Court has also reviewed the local  
sentencing authorities, which have been helpfully been  
provided by the Crown. Now, while most of these  
authorities are first instance judgments, and the Court is  
5 preferential to Court of Appeal judgments that have  
engaged some discussion in terms of sentencing. The  
Court is satisfied that there is precedent for the  
imposition of fines in this jurisdiction for these types of  
offences. Of course, as I said before, that should not be  
10 norm, but it's rather the exception, and this case falls  
under one of those exceptional categories bearing in  
mind the Plea Agreement that has been concluded.

In those circumstances, this is the ruling of the  
Court in relation to sentence.

15 So, the Prisoner is hereby sentenced. The Court  
imposes a fine of \$1,500.00 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, Zuemy Tzalam in the amount of \$2,000.00. Now this I see the clause in the agreement says, in default 6 months imprisonment, but I think the correct term is, in default distress, that's the correct terminology for the compensation awards. So the Prisoner is ordered to pay \$2,000.00 compensation to the Victim, in default distress. Time Allowed for payment of same is 24 months.

The Convict is ordered to attend 5 mandatory counselling sessions on anger management. Where's this made available?

THE PROSECUTION: My Lady, there is the hub on Chetumal Boulevard.

THE COURT: Yes?

THE PROSECUTION: And there is a Ms. Dawson, who is in charge of the unit there, which deals with counselling and social workers, etc. My Lady. I can get an exact name

and contact information and forwarded to Learned  
Defence Counsel.

THE COURT: Okay. Thank you. The Prisoner is ordered to attend  
5 5 mandatory counselling sessions on anger management.  
Time allowed for the attendance of this counselling  
sessions is 12 months. Upon completion of same, the  
Convicted man is to report - - I think I will have him send  
- - I don't know if it's a certificate they will give him at  
the end, but he must show proof of having concluded the  
10 5 mandatory sessions, and I will ask him to submit that to  
the Court at the end of 12 months, yes? So, those are the  
orders of the Court.

THE PROSECUTION: Obligated, My Lady.

THE COURT: Yes. So, just to recap. \$1,500.00 fine, in default 6  
15 months imprisonment, time allowed 12 months.  
\$2,000.00 compensation to the Victim, in default distress,  
time allowed 24 months. Attendance at 5 mandatory  
anger management classes, time allowed 12 months.  
Upon conclusion to provide the High Court with proof of



having satisfied this condition. Yes, that's the order of the Court.

Again, I do wish to express my gratitude to the Parties for the manner in which they have conducted this Plea Agreement discussions. I think that this is the spirit in which the legislation was enacted. It is so that some 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 single case. So, thank you Ms. Quiros for identifying that this matter was one that could be properly resolved in another manner, and for Mr. Lord for your efforts with conversing with your Learned Director, I imagine, and in swiftly providing the documents that the Court has had resort to in consideration of the appropriateness and whether the Court should in fact uphold this Plea Agreement.

Mr. Guerra, I wish you the best, and I hope that you understand that the severity of the offence for which you indicted may not have been reflected in the sentence that you actually received, but it gives you an opportunity

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as the Virtual Complainant has said for a second chance at life, and to make a better go at it in terms of not only for yourself, but for the care of your daughter. And she's a young woman, you don't want her to be exposed to the type of violence that you, yourself have inflicted on her mother. So, you really have to do better, and now that you know better, you can do better in the future. So, I wish you the best and thank you very much.

(12:11 p.m. - Court Session Concluded-Matter Finalized)

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