

**IN THE SENIOR COURTS OF BELIZE  
CENTRAL SESSION-BELIZE DISTRICT  
IN THE HIGH COURT OF JUSTICE**

**INDICTMENT NO: C 2/2024**

**BETWEEN**

**THE KING**

**and**

**SHANE BRADLEY**

**Before:** The Honourable Justice Derick F. Sylvester

**Appearances:**

Ms. Shanell Fernandez for the Crown

Mr. Leeroy Banner for the Accused

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2024: June 3<sup>rd</sup>  
July 24<sup>th</sup>  
August 30<sup>th</sup>  
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**MANSLAUGHTER-SENTENCING**

[1] The accused Shane Bradley (hereinafter referred to as “the accused”) was charged with the offence of murder, the particulars are as follows:

‘**SHANE BRADLEY** on the 14<sup>th</sup> day of August 2021 at Belize City, in the Belize District, in the Central District of the High Court murdered Edward Westby’.

[2] On the 3<sup>rd</sup> day of June 2024, the prosecution requested to amend the indictment to read manslaughter. The accused thereafter entered a plea of guilty to manslaughter contrary to section 116(1) read along with section 108(1)(b) of the **Criminal Code**<sup>1</sup>.

### **The Agreed Facts**

[3] The prosecution and the defence agreed upon the facts in this matter and it was read into the record as follows:

- i. On the 14<sup>th</sup> August 2021 Shane Bradley, Edward Westby and others were socializing at Westby's Apartment in West Landivar in Belize City, when a physical altercation ensued between the two, both the deceased and the accused sustained injuries.
- ii. Shane Bradley made death threats to Westby and others. He then left the apartment and went home.
- iii. About 5 minutes later he returned to Westby's apartment. Westby requested for him to leave. A further oral confrontation ensued between Bradley and Westby where Bradley then took out a knife and stabbed Westby once to the chest.
- iv. Westby succumbed as a result of that single stab wound.

[4] The record also reflected that the accused sustained injuries as stated on the medico legal form as follows:

"Patient comes with pain to left shoulder and left elbow, abrasions to left shoulder. Ecchymosis and edema to right eye and nose. 3cm laceration to crown of head.

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

Xray shows nondisplaced fracture of nasal bone’.

### **The Legal Framework**

- [5] The offence of manslaughter is prescribed in the Criminal Code, wherein the maximum penalty is life imprisonment and states as follows:

*“116(1) Every person who causes the death of another person by any unlawful harm is guilty of manslaughter.*

...

*108(1) Every person who commits manslaughter–*

...

*(b) by any other cause shall be liable to imprisonment for life.”*

- [6] From the agreed facts in par. 3 above, it is self-evident that the accused caused the death of the deceased by the infliction of unlawful harm.

- [7] This court will examine the **Penal System Reform (Alternative Sentences) Act**<sup>2</sup> (hereinafter the “**PSRASA**”). That in determining the imposition of a custodial sentence, the Court must have regard to the provisions of sections 28 and 31 which states as follows:

“28.-(1) This section applies where a person is convicted of an offence punishable with a custodial sentence other than one fixed by law.

2) ...the court shall not pass a custodial sentence on the offender unless it is of the opinion,

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<sup>2</sup> Chapter 102:01 of the Substantive Laws of Belize, Revised Edition, 2020, see section 25.

(a) that the offence was so serious that only such a sentence can be justified for the offence; or

(b) where the offence is a violent.... 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.

“ 31.-(1) ... a court in sentencing an offender convicted by or before the court shall observe the general guidelines set forth in this section.

(2) The guidelines referred to in subsection (1) of this section are as follows,

1. The rehabilitation of the offender is one of the aims of sentencing, except where the penalty is death.

2. The gravity of a punishment must be commensurate with the gravity of the offence.”

[8] This court takes judicial notice that the **Alternative Sentencing Act 2024**<sup>3</sup> (hereinafter the said Act), seeks to repeal the **PSRASA** pursuant to section 81 of the said Act. However, the Act has not yet been gazetted. The **PSRASA** is therefore still in force until repealed.

### **Methodology of Fixing the Starting Point**

[9] The fixing of the starting point has been explicated in the Caribbean Court of Justice (hereinafter the “CCJ”) our Apex Court in the authority of **Teerath Persaud v R**<sup>4</sup> and the formulation of a just sentence, as per Anderson JCCJ where he opined as follows:

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<sup>3</sup> Act No. 13 of 2024

<sup>4</sup> [2018] 93 WIR 132

[46] Fixing the starting point is not a mathematical exercise; it is rather an exercise aimed at seeking consistency in sentencing and avoidance of the imposition of arbitrary sentences. Arbitrary sentences undermine the integrity of the justice system. In striving for consistency, there is much merit in determining the starting point with reference to the particular offence which is under consideration, bearing in mind the comparison with other types of offending, taking into account the mitigating and aggravating factors that are relevant to the offence but excluding the mitigating and aggravating factors that relate to the offender. Instead of considering all possible aggravating and mitigating factors only those concerned with the objective seriousness and characteristics of the offence are factored into calculating the starting point. Once the starting point has been so identified the principle of individualized sentencing and proportionality as reflected in the Penal System Reform Act is upheld by taking into account the aggravating and mitigating circumstances particular (or peculiar) to the offender and the appropriate adjustment upwards or downwards can thus be made to the starting point. Where appropriate there should then be a discount for a guilty plea. In accordance with the decision of this court in R v Da Costa Hall full credit for the period spent in pre-trial custody is then to be made and the resulting sentence imposed.”

[10] The CCJ in the authority of **Calvin Ramcharran v DPP**<sup>5</sup> stated that sentencing is contextual, geographic, cultural, empirical and pragmatic. Thus, Barrow JCCJ

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<sup>5</sup> [2022] CCJ 4

exposed at par. 15 et seq thus:

*“[15] In affirming the deference an appellate court must give to sentencing judges, Jamadar JCCJ observed that sentencing is quintessentially contextual, geographic, cultural, empirical, and pragmatic. Caribbean courts should therefore be wary about importing sentencing outcomes from other jurisdictions whose socio-legal and penal systems and cultures are quite distinct and differently developed and organised from those in the Caribbean.*

[16] Jamadar JCCJ noted that in 2014 this Court explained the multiple ideological aims of sentencing. These objectives may be summarised as being: (i) the public interest, in not only punishing, but also in preventing crime (‘as first and foremost’ and as overarching), (ii) the retributive or denunciatory (punitive), (iii) the deterrent, in relation to both potential offenders and the particular offender being sentenced, (iv) the preventative, aimed at the particular offender, and (v) the rehabilitative, aimed at rehabilitation of the particular offender with a view to re-integration as a law abiding member of society.

[18]... to find the appropriate starting point in the sentencing exercise one needed to look to the body of relevant precedents, and to any guideline cases (usually from the territorial court of appeal).”

### **Aggravating and Mitigating Factors of the Offending/Starting Point**

[11] This court will examine the aggravating and mitigating factors of the offence/offending in order to arrive at a starting point.

### **Aggravating Factors**

- i. There was the use of a bladed weapon.
- ii. This is a serious and prevalent offence. The deprivation of the family of a husband, father, brother and care giver.

### **Mitigating Factors**

[12] The mitigating factors in relation to this offending are as follows:

- i. The accused pleaded guilty.
- ii. The accused received injuries during the altercation, which was documented on the Medico Legal Form, including a fractured nose.

[13] This court takes judicial notice and obedience to the CCJ's decision in *Ramcharran*, per Barrow JCCJ, on the issue of the objective of sentencing, and solidifies paragraph 64 (*ibid*) as follows:

*“(16) Jamadar JCCJ noted that in 2014 this Court explained the multiple ideological aims of sentencing. These objectives may be summarised as being: (i) the public interest, in not only punishing, but also in preventing crime (‘as first and foremost’ and as overarching), (ii) the retributive or denunciatory (punitive), (iii) the deterrent, in relation to both potential offenders and the particular offender being sentenced, (iv) the preventative, aimed at the particular offender, and (v) the rehabilitative, aimed at rehabilitation of the particular offender with a view to re-integration as a law abiding member of society.*

[18]... to find the appropriate starting point in the sentencing exercise one needed

to look to the body of relevant precedents, and to any guideline cases (usually from the territorial court of appeal).”

[14] The Court of Appeal in **Edwin Hernan Castillo v R**<sup>6</sup> observed that the sentencing range for manslaughter with violence was a term of imprisonment between 15-25 years. However, this case involved the use of a bladed weapon, albeit with one singular injury.

[15] The court has researched a list of manslaughter sentences affirmed by the Court of Appeal and reproduced them hereunder for ease of reference as follows:

- i. In the matter of the **Queen v. James Moreira**<sup>7</sup>, the Court of Appeal of Belize, after quashing the murder conviction and substituting manslaughter, imposed a sentenced of fifteen (15) years for manslaughter.
- ii. In the matter of **Glenford Ferguson v King**<sup>8</sup>, after trial the jury found the accused not guilty of murder but guilty of manslaughter. The accused was sentenced to fifteen years. The issue before the Court of Appeal was credit for the time spent on remand, however the fifteen (15) years sentence was undisturbed.

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<sup>6</sup> Criminal Appeal No 11 of 2017 at para 30

<sup>7</sup> Criminal Appeal No. 12 of 2001

<sup>8</sup> Crim. Appeal No. 12 of 2018 Per Hafiz Bertram JA

- iii. In the matter of **Vincent Tillett v. Queen**<sup>9</sup> after trial the accused was convicted of manslaughter and sentenced to twelve (12) years imprisonment. He appealed his conviction and sentence, and it was affirmed by the Court of Appeal.
- iv. In the matter of **Rosalilia v. Queen**<sup>10</sup> after trial the accused was convicted of manslaughter and sentenced to twelve (12) years imprisonment. He appealed his conviction and sentence, and it was affirmed by the Court of Appeal.
- v. In the matter of **Lavern Longsworth**<sup>11</sup>, at the Court of Appeal her conviction for murder was substituted for manslaughter and sentenced to eight (8) years imprisonment.
- vi. In the matter of **Wyatt Anderson v. Queen**<sup>12</sup>, at the Court of Appeal after a trial for murder and conviction for manslaughter, affirmed the sentence of fourteen (14) years imprisonment.
- vii. In the matter of **May Bush v Queen**<sup>13</sup>, the Court of Appeal, after a trial for murder and conviction for manslaughter in the lower court, affirmed the sentence of thirteen (13) years imprisonment.
- viii. In the matter of **Tony Pasos v. Queen**<sup>14</sup>, the Court of Appeal, dismissed the appeal and affirmed a sentence of seventeen (17) years imprisonment after a

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<sup>9</sup> Crim. Appeal No. 21 of 2013 per Morrison JA

<sup>10</sup> Crim. Appeal No. 1 of 2015 per Hafiz Bertram JA

<sup>11</sup> Crim. Appeal. No. 21 of 2012 per Hafiz Bertram JA

<sup>12</sup> Crim. Appeal No. 3 of 2011 per Morrison JA

<sup>13</sup> Crim. Appeal No. 5 of 2014 per Ducille JA

<sup>14</sup> Crim. Appeal No. 11 of 2016 per. Sosa JA

trial for murder and conviction for manslaughter in the lower court.

[16] This court has considered the retributive, deterrent, punitive and rehabilitative elements of sentencing and notes that the accused will need rehabilitation prior to returning to society. The punitive aspect of sentencing will be met with an appropriate starting point in like manner the retributive and deterrent factors.

[17] The Court would elect a starting point of twenty (20) years imprisonment.

[18] The Court would also individualize the sentence by considering the aggravating and mitigating features of the offender.

#### **Aggravating Factors of the Offender**

[19] The accused was under the influence of self-induced alcohol when the offence was committed.

[20] The mitigating factors in relation to the offender are as follows:

- i. The accused guilty plea.
- ii. The accused's genuine show of remorse, as depicted in the Social Inquiry Report.
- iii. The accused completed the following programmes as stated in the prison report geared toward rehabilitation namely:
  - Certificate of Completion in the Rachel Programme (Advanced) (October 20<sup>th</sup>, 2022).
  - Certificate of Completion of the Remand Rehabilitation Center (RRC) 'Gang

Eradication, Drug and Alcohol Preventative Treatment Therapy and Cognitive Development Program (April 2023 to August 2023).

- Certificate of Completion of the Remand Rehabilitation Center (RRC) 'Gang Eradication, Drug and Alcohol Preventative Treatment Therapy and Cognitive Development Program (August 2023 to December 2023).

iv. The accused cooperated with the police during the conduct of the investigation.

### **Character Witnesses**

[21] Testimonials - The accused mother Phyllis Bradley, family friend Janathan Mulligan and Sisters Golda Tillet and Sharon Bruce, all stated that the offence is out of character and the deceased was otherwise nonviolent. The accused mother stated she was a single parent, and she believed that this may have had an impact on him as she realized as a mother something was always bothering him.

### **Victim Impact Statement:**

[22] The Victim Impact Statement of Xiomarie Lanza, the common law wife of the deceased, delved into the tragic loss suffered by herself and son, who was only two (2) years old at the time. Post the incident, she fell into a deep depression, she could hardly eat, sleep or focus. She questions how the accused could kill the deceased who once fed and took care of him.

### **Psychiatric Evaluation Report**

[23] Psychiatrist Dr. Alejandro Matus Torres, pursuant to report dated 11<sup>th</sup> June 2024, stated the accused has no active sign or symptom of psychosis, and he knows he was

convicted of a crime, the reason for the conviction, the possible penalty and punishment.

[24] With respect to the accused's personal mitigation vis a vis the aggravating and mitigating factors of the offender, wherein the mitigating factors outweigh the aggravating factors, this court will reduce the sentence by three (3) years to seventeen (17) years imprisonment.

### **Guilty Plea**

[25] The accused having pleaded guilty, on the morning of the trial after agreed witnesses' deposition was read and taking all the relevant above factors into consideration, in particular the accused pathway to rehabilitation mentioned above, awards the accused, 25% discount and not the usual 1/3 on account for his guilty plea to manslaughter, coming albeit after the trial was started. The sentence is reduced to twelve (12.9) years and nine months.

[26] The accused's sentence shall take into consideration the time spent on remand, which shall be deducted from the twelve (12.9) years and nine months imprisonment, pursuant to the authority of **R v Da Costa Hall**<sup>15</sup>.

### **Sentence**

[27] The Court sentences the accused as follows:

- i. Twelve [12.9] years and nine months imprisonment, less time spent on remand.
- ii. The accused will be eligible for parole in accordance with the Parole Act.

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<sup>15</sup> [2011] CCJ 6

- iii. The accused must continue to enroll in all rehabilitative courses at the prison dealing with anger management, alcohol abuse and other like courses so as to prepare him to be a productive member of society upon his release from prison.

**Derick F. Sylvester**  
High Court Judge  
Dated 30<sup>th</sup> August, 2024