

SAINT LUCIA

EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
[CRIMINAL]

CASE NO. 35 of 2002

THE QUEEN

V

NORMAN LA CORBINIERE

Appearances:

Mr. Marius Wilson for the Accused

Mr. Leslie Mondesir for the Crown

2003: July 09

July 10

REASONS FOR DECISION

1. **HARIPRASHAD-CHARLES J.** The facts of this case are very simple and straightforward. The Accused, Norman La Corbiniere was employed as a driver with Rambally Funeral Parlour. On the night of 25th April 1998, approximately 7.30 p.m. he was driving motor-car which is a Buick Hearse from Mon-Repos going in the direction of Vieux Fort. From the time he got to the Desruisseaux Gap, he was driving behind the star witness for the Prosecution, Mr. Septime Dalsou. He attempted to overtake Mr. Dalsou twice. On his third attempt to overtake in the vicinity of the local winery at Canelles, a collision took place. A motor pickup driven by the deceased, Rufus Prescott was coming in the opposite direction from Vieux Fort going towards the direction of Castries. The two vehicles collided head on. Mr. Prescott died almost instantly of haemorrhagic shock due to multiple organ haemorrhage. His wife, Christine Prescott sustained major bodily injuries and was unconscious for days. When she recovered, she found herself at Jackson Memorial Hospital, Miami, USA where she spent 3 weeks. The accused was subsequently prosecuted for causing death by dangerous driving as well as dangerous driving.

2. Late yesterday evening, a Jury unanimously returned a verdict of guilty of causing the death of Rufus Prescott by dangerous driving.
3. Mr. Marius Wilson appearing for the Accused put in a plea in mitigation.
4. In sentencing, the court took into consideration several factors, principal among them are what are termed "mitigating" as well as the "aggravating" factors.
5. The practice of the Saint Lucian courts over the years has been not to imprison persons convicted of causing death by dangerous driving. Such a practice does not obtain in some of the other jurisdictions served by the Eastern Caribbean Supreme Court where persons convicted of this type of offence are given a custodial sentence. If I am to change such a practice, it will be setting a different precedent in St. Lucia. The frequency of the occurrences of these offences on our roads today has caused the courts in Saint Lucia to start rethinking along the line of what transpires in other jurisdictions of the Eastern Caribbean Supreme Court and indeed the wider Caribbean.
6. I am reluctant to start the change now for the obvious reason that this case took five years to reach the High Court. I have enquired about the reasons for the delay and it became apparent that the delay was at the Magistrate Court level. In fact, a witness had since left the country and his deposition had to be read into evidence by the Clerk of the Vieux Fort Court, the District in which this incident arose.
7. Section 55 of the Motor Vehicles and Road Traffic Act, 1994 states as follows:

" A person who causes the death of another person by the driving of a motor vehicle on a road recklessly or at a speed or in a manner dangerous to the public... shall be liable on conviction on indictment to imprisonment for a term of 10 years and shall be disqualified from driving for a period of 5 years, such period to commence after the term of imprisonment."

8. Mr. Wilson pleaded for justice to be tempered with mercy, the principal reason being that the Accused is a young man of 34 years of age with 6 minor children, ages 2 to 13. Since the incident, he has lost his job with the Funeral Home. He is now driving a mini-bus which he does not own.
9. It is noteworthy to state that the Accused has no previous criminal or traffic convictions.
10. A custodial sentence seems harsh in light of the fact that if I incarcerate the Accused, six little children will suffer. At the same time, I must weigh it against the gravity of the offence. I permitted Mrs. Christine Prescott, a German National to speak after the verdict. Obviously, she is distraught and extremely emotional. It is understandable. She has lost her "guarded angel" as she puts it. Nothing could bring him back.
11. If I do not send Mr. La Corbiniere to prison, then the alternative penalty I am left to impose is a fine and suspension from driving. I am empowered to do so by virtue of s. 1364(1) of the Criminal Code which states:

"In the case of manslaughter or of any indictable offence punishable with imprisonment, the Court may substitute a fine and impose imprisonment in default of payment not exceeding the term of imprisonment which can be imposed as a punishment for the offence."
12. Subsection (2) states that "but subject to the provisions of any law, such fine shall not exceed eight thousand dollars."
13. Although Mrs. Prescott does not wish the Accused to be incarcerated, she appears worried that a man who has taken the life of someone must "escape" by paying a mere fine of \$8,000.00. But it is the law. If I go beyond, Mr. Wilson could successfully have the Court of Appeal to reduce my sentence.

14. I am therefore left with no alternative but to impose the maximum fine of \$8,000.00 to be paid not later than 17th July 2003, failing which 5 years imprisonment. The Accused, Norman La Corbiniere is also disqualified from driving for a period of 4 years. I know that being a mini-bus driver, he would be without a job but he must learn a lesson and hopefully, this will deter others who are bent on disobeying traffic laws and regulations in Saint Lucia.

15. A copy of this Order is to be served on the Commissioner of Police, The Officer-in-charge of the Traffic Department and the Licensing Authority.

Indra Hariprashad-Charles
High Court Judge