

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

SAINT LUCIA

CASE NO. 56 OF 2003

BETWEEN:

THE QUEEN

and

ORLANDO EMANUS

Appearances:

Ms. Victoria Charles DPP [ag] for the Prosecution

Mr. Shawn Innocent for the Accused. With him is Ms. Mary Juliana Charles

2003: November 19
November 20

DECISION

1. **HARIPRASHAD-CHARLES J:** The Accused, Orlando Emanus is charged with causing the death of Gabriel Paul by unlawful harm contrary to Section 169 (2) of the Criminal Code of Saint Lucia.
2. Briefly the facts are as follows: On Friday, 16th July 1999, the Deceased Gabriel Paul aged 36 was at a dance at the Dennerly Multi-purpose Centre. While at the dance, he met one Sammy Martin and her friend, Paula George. Sammy Martin was the girlfriend of the Accused. It is alleged that she was having a relationship with the deceased. The Deceased began dancing with Sammy and Paula. He was buying drinks for them also. He bought drinks for Anthony Gilbert and his girlfriend, Ms. Evans. He then asked Gilbert for a dance with his girlfriend. After dancing with Gilbert's girlfriend, all three of them went outside.

There the Deceased began to urinate in full view of Gilbert and Ms. Evans. The Deceased had a bottle in his hand.

3. While he was urinating, the Accused went up to the Deceased and words were spoken and a confrontation took place. Gilbert pushed the Accused and told him that he should not fight with a drunken man. The Accused then walked away and picked up a bottle. He raised his hand as if to strike the Deceased with the bottle. Gilbert then pushed him away. The Accused then took off on his bicycle.
4. On Saturday, 17th July 1999 at about 1.15 a.m. the Deceased and one Dio were standing by the road near Rabbi's shop drinking. The Accused came and dealt a lash at the back of the deceased's neck with a piece of wood. The Deceased fell to the ground. Dio said to the Accused "you kill the man." The Accused did not answer but rode off on his bicycle taking away the piece of wood. The Deceased died at the Denney Hospital that same morning.
5. The Accused was subsequently arrested and charged for murder. When he was cautioned and charged, the Accused made a statement on the voluntary statement of accused form. He said "I will say it in court."
6. He has pleaded not guilty to murder but guilty to manslaughter. He is now before the court for sentencing.
7. Mr. Shawn Innocent for the Accused puts in a plea in mitigation. Essentially, he implores the Court to consider the inordinate delay in the prosecution of this case and to discount those years from any sentence that the court may impose.
8. It is not disputed that this Accused has been on remand for 4 ½ years. In fact, prior to the hearing of the criminal case, the Accused had filed a Constitutional Motion in the Civil court seeking an Order to quash the indictment of murder. The Motion was withdrawn after the criminal case was heard.

9. It is my view that the Court has to adopt a sentencing policy which is aimed at combating the growing prevalence of these crimes involving teenagers in Saint Lucia which has been on the rise in recent times while at the same time not denying persons committing these crimes the application of the basic human rights prescribed by our Constitution.
10. It seems to me that our Court of appeal has accepted a sentence of 15 years to be used as a benchmark in cases of manslaughter. Of course, the benchmark could be scaled upwards or downwards depending on the facts and circumstances of the case.

Mitigating Factors

11. The mitigating factors in this case are that the Accused is a first offender before the Court and has pleaded guilty. The Accused is a 24 years old man and the only child of his mother. He appears remorseful in the dock and his good character remains untarnished.

Aggravating Factors

12. The Accused struck the Deceased on the back of his neck with a piece of wood. He ought to have foreseen the consequences of his act and he is indeed a lucky man not to be before the court for murder.

Sentence

13. In determining the appropriateness of sentence, I am obliged to consider some cases of a similar nature and the sentences which were imposed by our courts: see *Denis Alphonse v The Queen*¹ and *James Jn Baptiste v The Queen*². In both cases, the Accuseds were found guilty of murder by the respective juries. On appeal, the conviction for murder was quashed and a conviction of manslaughter entered. A sentence of 15 years imprisonment was substituted in each case. In the case of *Urban Desir v the Queen*³, Desir, a former student of St. Mary's College was found guilty of manslaughter. He was sentenced to 15 years imprisonment. He appealed the sentence but withdrew his appeal moments before the appeal was scheduled to be heard..

¹ Crim. App. No.1 of 1995 (Saint Lucia)

² Crim App. No. 10 of 1994 (Saint Lucia)

³ Crim. Case No. 29 of 2001 (unreported) Saint Lucia

14. In the light of the foregoing, it seems that I cannot depart from the authorities quoted above. The sentence of this court will be that Orlando Emanus is sentenced to fifteen (15) years imprisonment.

INDRA HARIPRASHAD-CHARLES
High Court Judge