

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

SAINT LUCIA

CASE NO. 40 of 2003

THE QUEEN

V

BRENDON HENRY

Appearances:

Mr. Leslie Mondesir for the Prosecution.
Mr. Alberton Richelieu for the Accused.

2003: November 19
November 20

DECISION

1. **HARIPRASHAD-CHARLES J:** This is an unfortunate family tragedy which resulted in the untimely death of 76 years old Marcenel Baptiste (the Deceased). The Deceased's favorite son, Brendon Henry (the Accused) is before the Court to answer the charge of manslaughter. What occurred on this fateful day still remains a mystery to this closely-knit family and in particular, to Brendon himself. As he sorrowfully recounts the incident, he said: "I don't know what happened. I just can't remember. I am still feeling sorrow for my father."
2. The incident which occurred at about 10.00 a.m. on Friday, 29th March 2002, is best told by George Mann, a son of the Deceased and brother of the Accused. He was there. He saw it all. Today, he implores the Court to relieve his family from further grief by bringing the case to a closure. The family does not wish the prosecution of this matter but it is the law of the land. Someone has died and the State is obligated to lay an indictment against the Accused.

3. The Accused pleaded Not Guilty to manslaughter and a 9-member jury was empanelled to hear the case. As the fifth and final witness, the investigating officer, P.C. 231 Peterson Auguste was about to give evidence, the Accused through his Counsel, Mr. Richelieu requested that the indictment be re-read to the Accused. He then changed his plea to one of Guilty of manslaughter but insane.
4. The Court then asked the Jury to return a formal verdict of guilty before proceeding to mitigation and sentencing.

The Facts of the Case

5. On the fateful mid- morning of Friday, 29th March 2002, the Deceased and George Mann were sitting in the balcony of their house having a discussion when Brendon, the Accused walked into the house. He picked up a Koran which was on the television stand and as he walking out, George intercepted him and told him that he cannot go and throw away his book. The Accused did not answer. Just as George was about to take the Koran from the Accused, he (the Accused) took a step backwards and tripped over a wrought iron chair. As he was bracing himself from falling, the book hit the Deceased in his face. The Deceased, partly blind grabbed the Accused and asked him what was he doing? He did not answer. The Accused tried to pull away himself from the Deceased but the Deceased would not let go. The Accused started hitting the Deceased on his head with the book but the Deceased still did not let go of the Accused.
6. George then rushed at the Accused in an attempt to take the book away from him. The Accused pushed him. He kept on hitting the Deceased on his head with the book. George rushed at him again and the Accused cuffed him. George tripped and rolled down the steps. He was unconscious for a while. After regaining consciousness, George rushed again at the Accused who at the time was still hitting the Deceased with the book on his head. He pulled the Accused backwards away from the Deceased and all three of them rolled down the concrete flight of stairs unto a concrete platform with the Accused and George on top of their father. The steps were 10 to 12 feet in length.

7. The Accused got up before George and he picked up a flowerpot and sent it after George but it missed him. The Accused held up the Deceased. When he was holding him, George rushed him and he pushed George and George fell on the concrete platform. At that time blood was coming out of the Deceased's head and ears. George picked up two stones and sent it at the Accused. One stone hit the Accused on his shoulder.
8. The Accused then gave the Deceased a 'jam' behind his head. The Deceased fell face down and the Deceased was not moving anymore. Then the Accused passed through a window and went to his apartment. Later that same day, when the ambulance came to take the Deceased to the hospital, the Accused was seen without clothes. The Accused was apprehended by the police the same day and was taken to Golden Hope Hospital where he was admitted.
9. The Deceased was taken to Victoria Hospital. A report from Dr. Charles Greenidge indicates that the Deceased was diabetic and hypertensive. On his arrival at the hospital, he had a five-minute loss of consciousness. About 1.00 p.m. that said day, on examination, the Deceased was not orientated. His Glasgow-coma scale was 14/15. There was a 10 cm sutured laceration to the back of his head, facial haematomas, chest haematomas, right hand swelling, left knee abrasion, left hallux haemotoma and abrasions to the right shoulder, waist and right thigh. He was assessed at 5.00 p.m. that said day and found to be less conscious with a Glasgow-coma score of 12/15. A CT scan was ordered which revealed a left temporal and left frontal brain injury.
10. According to Dr. Greenidge, the Deceased's condition remained unsatisfactory despite medical care and while in hospital, the Deceased developed a possible pneumonia and peptic ulcer. He died on 7th April 2002.
11. On 9th April, 2002, Dr. Stephen King, the consultant pathologist at Victoria Hospital performed a post mortem examination on the body of the Deceased who was identified by his daughter, Wendy Mann in the presence of the investigating officer. Dr. King found multiple bruises to the vertex, the front of the left chest, the upper part of the left abdomen and to the back of the left hand. He also found a 6 cm sutured laceration to the midline to the back of the head and

abrasions to the back of the right hand and to the left knee. There were contusions to both frontal lobes of the brain and the lower part of the temporal lobes. The contusions were large on the left side of the brain. In the oesophagus, there were oesophageal varices (dilated veins) and they were bleeding. There was blood in the airways and some aspiration (that is when foreign matters are inhaled in the airway). The Deceased had mild arteriosclerosis. There was blood in the stomach and in the upper intestines which came from the bleeding oesophageal varices. The liver weighed 1210 grams and there was advanced cirrhosis.

12. In Dr. King's opinion, the cause of death was cerebral contusion (brain damage) and intracranial haemorrhage (bleeding around the brain) as a result of blunt trauma mainly to the vertex of the head and the back of the head. There was a major contributing factor of advanced cirrhosis of the liver with bleeding oesophageal varices. Chances of survival after receiving these injuries and given the Deceased's general condition were very slim.

13. The Accused was subsequently charged with manslaughter.

14. Mr. Mondesir in outlining the facts of the case for the Crown referred to the psychiatric reports of Dr. Hazel Othello, the former consultant psychiatrist and Dr. Edelio Sejio Aleman, the current psychiatrist at Golden Hope Hospital. Dr. Othello's report is very comprehensive. Dr. Othello was the Consultant Psychiatrist at the island's lone mental institution when the Accused was admitted. Prior to that occasion, the Accused had been admitted on three previous occasions. A summary of his report illustrates that the Accused was first admitted to Golden Hope Hospital on 4th November 2001 with a history of marijuana dependence accompanied by unusual behaviour. He was discharged against medical advice on 15th November 2001 at the written request of his brother Herman Henry.

15. On 19th November 2001, the Accused was returned to Golden Hope Hospital with a vague history (obtained from a police report) of 'sitting at the sales and manager office at Beachcomber, Vide Bouteille. On examination, no psychotic features were elicited and the Accused gave a reasonably plausible explanation for his presence at the said office. The accused was discharged on 21st November 2001 with a clinic appointment intended to ensure

close follow-up. He attended the clinic on 11th December 2001 and again, no psychiatric symptoms were detected. A further appointment for a month later was not kept by the Accused.

16. The Accused was next admitted to the institution on 29th March 2001. On that day his girlfriend reported that the Accused had not been eating well or talking for over two weeks. He had been sitting in one spot staring ahead over this period. That was the day the Accused was involved in the incident with his father.
17. The Accused was examined on 1st April 2002. He stared at Dr. Othello and walked away without participating in an interview. He was given a sedating anti-psychotic drug and reviewed on 4th April 2002. On that occasion, he was cheerful, co-operative, coherent and logical. When interviewed, he denied having experienced any psychotic symptoms during the past two weeks.
18. A further interview with the Accused's girlfriend conducted on 5th April 2002 revealed that for about two weeks prior to this incident, the Accused had been accusing his girlfriend of poisoning his food and telling her other strange things. For example, he kept telling her other strange things. For example, he kept telling her that his father had a message for her but each time she spoke to his father there was no such message. The Accused had also been having difficulty sleeping for over two weeks and had been blessing the house with a piece of bush in his hand during that two week period.
19. Schizophrenia was diagnosed and the Accused was discharged on medication. Dr. Othello noted that the Accused remains quite distressed at the death of his father. He has been referred to a psychotherapist for assistance in dealing with his grief. He continues to hear things that are not real and has difficulty sleeping. He remains on medication.
20. Dr. Othello was of the opinion that at the time of the incident, the Accused suffered from schizophrenia. She also opined that he was not of sound mind at the time of the commission of the offence.

21. She also recommended that whatever the outcome of his matter, he will be required to continue to use anti-psychotic medication indefinitely.
22. The current consultant psychiatrist, Dr. Aleman gave a report on 28th November 2002. He merely reaffirmed that the Accused is on anti-psychotic medication and that he is a good patient who gives no trouble.

Mitigating Factors

23. Mr. Richelieu for the Accused puts in a plea for a non-custodial sentence. He says that this Accused was the apple of his father's eye. He loved his father dearly. He bought meals for his father every evening and what took place on that fateful "black" Friday cannot be explained.
24. The most passionate and emotional plea came from the younger brother of the Accused, George Mann. He said that the Accused is a loving son and brother and a great father to his three children. In the words of Mr. Mann, "He is sick. He needs medical attention. I will undertake to take him to Golden Hope if his girlfriend is not available. I do not think that jail is the answer."
25. His sister Wendy tells it her way: "Brendon should go for medical attention. He loves his father dearly. He needs to get over the harm he has caused."

Sentencing

26. There is no doubt in my mind that what took place on that fateful Friday morning is most unfortunate. A partially blind and ailing septuagenarian met his death at the hands of his favourite son who is mentally insane.
27. Brendon Henry is 36 years of age with no previous convictions. He lives with his girlfriend, Jovita Smith and has three children, the last being 6 years of age. He has maintained a stable relationship with Jovita, they having been living together for about 12 years and they have one child, age 6 years. Brendon is extremely remorseful and is still grieving for his father. The

family is grieving the death of their father but feels that Brendon should be given a chance because he took such good care of their father. They knew that Brendon would not have done what he did under different circumstances. They knew that he was mentally ill. They have all forgiven him. They wish that he be given an opportunity to care for his children whom he loves dearly.

28. Taking all the facts into consideration, my sentence will be as follows:

- (i) That the Accused, Brendon Henry do report to the Golden Hope Hospital once monthly in order that he receives psychiatric treatment.
- (ii) That the said Accused, Brendon Henry be accompanied to the said hospital for treatment by his girlfriend, Ms. Jovita Smith or his brother, George Mann indefinitely.

Indra Hariprashad-Charles
High Court Judge

