

SAINT LUCIA

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

CASE NO. 10 of 2004

THE QUEEN

V

JEAN CLAUDE BONNE

Appearances:

Mrs. Victoria Charles-Clarke, with her Mr. Leslie Mondesir and Mrs. Raquel Willie-Trotman for the Crown

Mr. Kenneth Monplaisir QC, with him Mr. Alberton Richelieu and Ms. Carol Gideon-Clovis for the Accused

2004: March 04
March 05

REASONS FOR DECISION

1. **HARIPRASHAD-CHARLES J:** On Wednesday, 25th February 2004 about 5.50 p.m. the accused, Mr. Jean Claude Bonne arrived at George F.L. Charles Airport from Martinique in transit to Trinidad. Ms. Joan Leonce of Sentinel Security screened Mr. Bonne's bag and noticed what appeared to be ammunition. She immediately informed Ports Police No. 38 Black of her findings. Officer Black cautioned Mr. Bonne and later informed him that it was an offence to have ammunition in his possession. He was taken to the Ports Police where his bag was opened in his presence and 7 rounds of 0.32 ammunition were found among his personal effects. The ammunition was not tested to determine whether it is live ammunition.
2. Mr. Bonne was subsequently arrested and charged for the offence of unlawfully attempting to take ammunition on board an aircraft contrary to section 22(c) of the Civil Aviation Act,

No. 1 of 1992. He pleaded guilty before the Magistrate Court and is before this Court for sentencing.

3. Mr. Bonne is a French National in his fifties who was en route to the twin island Republic of Trinidad & Tobago to visit his son, an English student at the University of the West Indies, St. Augustine Campus when this unfortunate incident occurred.
4. Mr. Kenneth Monplaisir QC appearing for Mr. Bonne made a passionate plea in mitigation stating that the ammunition belonged to Mr. Bonne's deceased father who was a hunter in Martinique. After his father's death, Mr. Bonne kept the ammunition for sentimental purposes. He placed it in a bag, not remembering fully well what bag it was in until he was intercepted by the Police at the Airport.
5. Mr. Monplaisir submitted that Mr. Bonne is a man of good character with an impeccable record. He is well educated having studied in Martinique as well as in France. He is also highly respected and well-known in the business world in Martinique and the Caribbean region due to the various high offices that he held at the Chamber of Commerce for the past 30 years. From 1987 to 1996, he served in the capacity of Airport Manager. Since 1996, he has held the Office of Manager, Chamber of Industry and Commerce. In this office, he is responsible for promoting the co-operation of business in the Caribbean and elsewhere, promoting business enterprises and international co-operation. As such, he has close contact with the Caribbean Islands, the Organization of American States and other international agencies. He travels frequently and is well aware of the vigilance in travel.
6. In support of his submissions, Mr. Monplaisir submitted three letters from various persons in Martinique to attest to Mr. Bonne's good character. The President of the Regional Council of Martinique and a Member of the French Parliament, Mr. Alfred Marie-Jeanne described Mr. Bonne as a person of high moral standing with an excellent reputation who has never attracted the attention of the police or judicial authorities in an unfavourable manner in his country.

7. Mr. Claude Lise, in his capacity as President of the Martinique General Council and Senator vouched for the good character of Mr. Bonne. The Chamber of Commerce also attested to Mr. Bonne's good character. According to the letter, Mr. Bonne filled his various offices with 'much probity and has upheld impeccable moral standards.'
8. Mr. Bonne asserted that he would be the last person to intentionally offend the laws of any country. He has a clean record and does not even possess a firearm.
9. Mr. Monplaisir next submitted that the Court should accept Mr. Bonne's account as credible especially since he did not have a firearm. I have.

The Law

10. Section 22 (c) of the Act states as follows:

"A person who, without lawful authority or excuse, takes or attempts to take on board any aircraft –

(c) any ammunition

is guilty of an offence and is liable on conviction on indictment to a term of imprisonment not exceeding five years."

11. Therefore, under this section, the Court has the discretion to impose any sentence not exceeding five years.

12. In *Winston Joseph v The Queen*¹, at page 8 of the judgment, Sir Dennis Byron, Chief Justice remarked:

"It is not enough for a court merely to identify the presence of aggravating and mitigating factors when sentencing. A sentencing court must embark upon an evaluative process..."

¹ Criminal Appeal No. 4 of 2000 consolidated with Criminal Appeal No. 8 of 2000 and Criminal Appeal No. 7 of 2000 (unreported) (Saint Lucia)

13. In that case, the Court was presented with a petition signed by residents in the community in which Mr. Joseph lived. At page 10 of the Judgment, Sir Dennis stated:

“He is employed and seemed respected in his community. Apart from his maturity, on the one hand, and his clean record and good character on the other, there were no aggravating or mitigating factors, directly connected with the offence.”

14. Needless to say, the sentence which was imposed by the High Court was drastically reduced on appeal.

15. Mr. Monplaisir made reference to the case of *Director of Public Prosecutions v Frank Simmons*², a decision of this very Court. Briefly, the facts of the case are as follows. An elderly Vincentian-born American citizen was in transit at George Charles Airport en route to St. Vincent. He was apprehended by the Ports Police and later indicted for having a firearm in his possession. After spending a considerable number of days at the Bordelais Correctional Facility, he was brought before me. His Counsel made a moving plea for his client who was also a sick man. Mr. Simmons said that that he did not realize that his licensed firearm was in his bag. He was reprimanded and discharged.

16. The present case bears close affinity to the above case. Having taken all factors into consideration including Mr. Bonne’s good character and impeccable antecedents, the sentence of this Court is that Mr. Bonne be reprimanded and discharged. The ammunition is confiscated.

17. I must admit however, that it was irresponsible of Mr. Bonne to choose to retain of all things, his father’s ammunition for sentimental value when he is fully cognizant of the Law.

Conclusion

18. The Sentence of the Court is as follows:

- (1) That the Accused, Jean Claude Bon is reprimanded and discharged.
- (2) That the two passports presently in the possession of the First District Court be handed forthwith to Mr. Monplaisir, QC, Counsel for the Accused.

² High Court Criminal No. 12 of 2003 (unreported) (Saint Lucia)

- (3) That the ticket belonging to Mr. Bonne now in the possession of the police be returned to the Accused or Mr. Monplaisir QC forthwith.

Post-script

19. I think that I should say something of the Security Personnel at George F.L Charles Airport. It is inconceivable how alert they have been in their security checks. Going back to the Simmons case. Mr. Simmons traveled to Saint Lucia via Miami International Airport and the Airport in San Juan, Puerto Rico not too long after the tragic incidents of 9/11. Presumably, he had been screened at those airports. Despite their highly sophisticated paraphernalia, the U.S. authorities were unable to detect the firearm on Mr. Simmons. In the present case, the French island of Martinique is perhaps technologically more advanced than Saint Lucia. Yet they were unable to discover the ammunition on Mr. Bonne. I think that the Security Personnel at George Charles airport deserves special commendation.

Indra Hariprashad-Charles
High Court Judge