

BRITISH VIRGIN ISLANDS

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CRIMINAL)**

Criminal Case No. 10 of 2010

BETWEEN:

THE QUEEN

-vs-

- (1) SHERVON ANTHONY**
- (2) RUDY VANTERPOOL**
- (3) RUDNELL VANTERPOOL JR.**
- (4) DILLON THOMAS**

Appearances:

Mr. Valston M. Graham, Crown Counsel and Ms. Jude Indra Hanley, Crown Counsel for the Crown

Mr. Duane Jean Baptiste for the defendant, Shervon Anthony

Mr. Patrick Thompson for the defendants, Rudy Vanterpool and Rudnell Vanterpool Jr

Mrs. Marie-Lou D. Creque for the defendant, Dillon Thomas

2011: April 12, 18, 22, May 16, 17
2011: May 17

JUDGMENT ON SENTENCING

(Criminal Law – Defendants charged with robbery – Plea of guilty - Youthful ages of defendants – First offenders - Prevalence of crimes against the person – Vulnerability of victim – Planning of offence over extended period – Violence used –Duct tape used to restrain victim)

Background

- [1] **HARIPRASHAD-CHARLES J:** The defendants, together with a fifth defendant, were arraigned on an indictment filed by Her Majesty's Director of Public Prosecution which

charges them with one count of Robbery¹ and one count of Assault Occasioning Actual Bodily Harm². On 12 April 2011, the defendants all pleaded guilty to robbery. On an application by the Crown, the second count was stayed; not to be proceeded without leave of the Court. The case against the fifth defendant has been traversed to the next sitting of the Criminal Assizes and does not concern me any further.

The brief facts

- [2] The facts of the case, as outlined by the Crown, are wholly undisputed. The virtual complainant, Roy O'Neal, is 66 years old. He is a retiree. Although retired, he continues to be gainfully employed. He now works with the Solid Waste Department (Virgin Gorda Branch). His hours of work are during the early hours of the morning.
- [3] On 15 April 2009, he was sitting on a chair in his yard waiting on his supervisor. He was facing his gate when his dog began to bark. He looked towards his gate and observed a male person, dressed in dark coloured clothing and face covered with a white material, running towards him. Shortly after, he observed three other male persons also dressed in dark coloured clothing coming towards his direction. One of the men walked up to Mr. O'Neal and punched him in his right eye with his fist. Mr. O'Neal fell to the ground.
- [4] Thereafter, the men proceeded to tie Mr. O'Neal's hands behind his back with a black garbage bag. They tied his feet also. They demanded money of him and dragged him to his house. One of the defendants broke the lock off the door. Mr. O'Neal was pushed into the house with his hands and feet still bound. Inside the house, they replaced the garbage bags which bound his hands and feet with duct tapes. They continued to demand money and directed him not to call the police. Mr. O'Neal screamed for help. At this stage his face was also bound with duct tape, covering his eyes, mouth, nose and ears. He was then beaten about his body.

¹ Contrary to section 210 (1) of the Criminal Code 1997 of the Laws of the Virgin Islands.

² Contrary to section 184(b) of the Criminal Code (as amended by No. 8 of 2006).

- [5] One of the neighbours heard screams coming from Mr. O'Neal's home. She looked and saw lights. She observed commotion in the house. She telephoned the police. The police responded swiftly. They saw four persons dressed in black with masks covering their faces running away from Mr. O'Neal's residence. They ran in the direction of the basket ball court and made good their escape.
- [6] On entering Mr. O'Neal's residence, the police found him on the floor with his hands tied behind his back, his feet bound together, and his eyes, mouth, nose and ears all covered with duct tape. They untied him by cutting off the tapes. The robbers robbed Mr. O'Neal of his wallet containing \$219 and one Gold Seiko wrist watch. The watch was recovered from the home occupied by Rudy and Rudnell Vanterpool Jr. The stolen wallet was subsequently recovered from a construction site.

Audio/ Video Interviews

- [7] Investigations led the police to the defendants. They were arrested and interviewed under caution. During the interviews, the defendants made various admissions to the police. These include:
1. That the robbery was planned but they gave different accounts as to how long before 15 April 2009, it was planned. Individual accounts varied from 3 days to 2 weeks.
 2. They were present and participated in the robbery.
 3. They were each wearing masks.
 4. That the victim's hands were tied together behind his back, his feet were (held by Rudy Vanterpool) bound together and his face was covered with duct tape.
 5. They ran from the residence when the police arrived.
 6. That Mr. O'Neal was beaten (but no admission as to who inflicted the injuries).
 7. During the robbery, the wallet containing money was taken from under the bed by Dillon Thomas and passed to Rudy Vanterpool.
 8. The money was distributed.
 9. The wallet was discarded by Rudy Vanterpool after the money was distributed.

Plea in mitigation

Shervon Anthony

- [8] Learned Counsel Mr. Jean Baptiste who appeared for Shervon Anthony made a fervent plea in mitigation relying substantially on: (1) the defendant's young age of 17+ when the incident occurred; (2) his unblemished criminal record; (3) his full cooperation with the police and (3) his plea of guilty at the earliest possible opportunity. Mr. Jean Baptiste implored the Court to spare the defendant of a period of incarceration and instead, to impose a suspended sentence. Undoubtedly, these are very powerful mitigating factors.
- [9] The defendant appeared remorseful. He apologized to the Court and to Mr. O'Neal for what he did.
- [10] Ms. Francine St. Clair of Yates Associates submitted a letter to the Court stating that she has known the defendant for 12 months. She found him to be very courteous and peace-loving. She said that the defendant abhors violence and cruelty. Ms. St. Clair implored the Court to give the defendant another chance so that he would continue the rewarding path of becoming a better individual.

Rudy and Rudnell Vanterpool Jr

- [11] Mr. Patrick Thompson, appearing as Counsel for Rudy and Rudnell Vanterpool Jr. also put in a passionate plea in mitigation. He urged the Court to impose suspended sentences on these two defendants because of their early plea of guilty and their youthful ages. Learned Counsel also spoke to the ambition of these young men and urged that they be given an opportunity to fulfil their respective dreams in lives; one of which is to go back to school.
- [12] Counsel also submitted that not because offences of this nature are becoming more prevalent in this Territory, must these defendants pay for all others. May I remind learned Counsel that a sentencing judge is mindful that a defendant is only sentenced for the crime he committed and not for what others have done.

- [13] I observed that Rudy Vanterpool was born on 9 September 1992 in Tortola and is now 18 years of age. He was 16+ when he committed the robbery. In December 2007, he was convicted by a magistrate in Virgin Gorda for damage to property, common assault and failing to observe conditions of probation. On that occasion, he was sentenced to a fine. I further observed that this defendant, whilst on bail by the High Court for this offence, was convicted for possession of cannabis. He is serving a 3 month sentence.³
- [14] Rudnell Vanterpool Jr. is Rudy's older brother. He was born on 27 April 1991. He is now 20 years of age but had just turned 18 when he robbed Mr. O'Neal. In 2007, the defendant was fined \$400 by a magistrate for common assault.
- [15] Even though both defendants have previous convictions, Mr. Thompson was not daunted to seek a suspended sentence.
- [16] Both defendants spoke. They said that they are repentant for what they did and apologized to Mr. O'Neal. They both implored the Court to temper justice with mercy and to give them a second chance.

Dillon Thomas

- [17] Learned Counsel Mrs. Marie Lou Creque appeared for Dillon Thomas. I am grateful to her for providing me with written submissions in respect of this defendant. The defendant is a 20 year old British Virgin Islander. He is a plumber with Yates & Associates. He has been working there since 2007. He was 18 years old at the time of the commission of the offence.
- [18] Learned Counsel implored the Court to be lenient and compassionate because of: (1) the defendant's plea of guilty at the first available opportunity; (2) he co-operated fully with the police and gave interviews in the form of confessions; (3) he did not actively participate in causing the injury to Mr. O'Neal; (4) he is of previous good character with

³ On 3 February 2011, the defendant was sentenced to 3 months imprisonment.

no criminal convictions and (5) he is remorseful. Counsel also submitted that he is an expectant father.

[19] The defendant called two witnesses to attest to his good character. The first witness was Mr. Thomas Alexander. He is an education psychologist. He knew the defendant as a student at the Bregado Flax Center. Mr. Alexander found the defendant to be well balanced, honest and pleasant. He was surprised to learn that the defendant was involved in the robbery.

[20] The next character witness was Mr. Walter Barrett, a Minister of Religion and a journalist. He has known the defendant for the last nine years. He found him to be a very willing young man. Like Mr. Alexander, he was surprised and disappointed that the defendant was involved in the robbery.

[21] This morning, I received a manuscript from the defendant seeking clemency. I must confess that he is the only one who struck me as being truly sorry for his actions.

Social Inquiry Reports

Shervon Anthony

[22] I am afraid that the Social Inquiry Reports do not paint a glowing picture of any of the defendants. If I may attempt to succinctly summarise the report, it described them as *"boys with anger issues who lack respect for their subordinates."*

[23] With respect to Shervon Anthony, he started his primary education at the Bregado Flax Educational Center at the age of 5. According to the school's guidance counselor, *"the defendant had anger issues and was short-fused. He had no sense of reasoning and was very irrational."* He was 14 when he graduated from Grade 6. The defendant went on to secondary school where he repeated Forms One and Two. A report from the Bregado Flax Educational Center Secondary Division stated that the defendant *"had great difficulty academically. He was hardly able to acquire a passing grade"*. The report also stated that *"the defendant consistently displayed delinquent behavioural tendencies."* Additionally, it lists the numerous infractions which included *"bullying,*

encouraging students to fight, using indecent language, threatening to fight the school's security officer, touching male student in his private area, extreme anger and refusing to obey teacher's instruction." The defendant's final term grades (Trinity term 2007-2008) at the school were recorded as 6 failing grades with 2 C+. He did not graduate from High School. He opted to go into the "world of work."

Rudy Vanterpool

[24] Rudy Vanterpool started the Bregado Flax Educational Center when he was 5 years old. According to the guidance counselor at the said institution, the defendant had "*anger issues and was very aggressive to other students.*"

[25] At age 14, he was referred to the BVI Vocational & Technical Institute in Tortola, due to his lack of academic progress. He did not do well at this institute. A former principal described the defendant as a child "*prone to rages*" and not productive. In March 2007, he was indefinitely suspended from the institute due to fighting and damage to school property.

[26] The defendant remained out of school until September 2010 when he enrolled in the Technical and Vocational Program - Culinary Arts at the H. Lavity Stoutt Community College. He completed the practical (baking) part of his training and did very well. This was confirmed by his supervisor. Unfortunately, in February 2011, he was convicted for possession of cannabis. He was sentenced to 3 months imprisonment.

Rudnell Vanterpool Jr.

[27] Like his younger brother Rudy, Rudnell also started the Bregado Flax Educational Center when he was five years old. The guidance counselor stated "*he had a calm attitude.*" The defendant claimed that he was unable to pass the Grade Six examination required for entrance to secondary school due to missing classes. Thus, he was transferred to the BVI Vocational & Technical Institute in September 2005 when he was 14 years old. He did Small Engine Repair as his major technical subject area. According to the Report from that institute, "*the defendant had different issues*

that affected him. From time to time he would get into trouble mainly by fighting and would be suspended. Occasionally, he would be suspended for other infractions."

[28] The defendant went on-the-job training at Tortola Marine Management Limited. He did not complete his internship as he got into trouble. The institute did not hear from him for some time. They were later informed that he was in prison. He eventually returned seeking to complete his on-the-job training. The institute imposed two strict guidelines on him namely: (i) to come to school on time and (ii) not to get into fights. As he continued not to attend school punctually and to be engaged in confrontations, he was asked to stay home and return later during the course of the school year to complete his apprenticeship. The defendant did not follow up. As a result, he did not complete his apprenticeship.

[29] The Report showed that during the academic year 2006 - 2007, the defendant was absent on 49 out of 213 sessions; during 2007-2008, 55 out of 356 sessions and during 2008-2009, 200 out of 340 sessions.

Dillon Thomas

[30] Dillon Thomas enjoyed a stable life. He lived with both parents from his birth until 16 years when he moved to New York to live with his maternal aunt. He lived there for only one year. He claimed that he missed his family.

[31] He commenced his education at the Assembly of God Cornerstone School from the age of one year, in the daycare section of the school. He continued there and completed his primary education. The principal described the defendant as "*a child who gave trouble at times. He was inattentive, would not listen to his teacher and would not complete his work assignments at times.*"

[32] The defendant graduated from Grade Six with decent grades and then went on to the Bregado Flax Educational Center Secondary School. He repeated Form One. When he was in Form Three, he moved to New York. Upon his return to the BVI, the

defendant enrolled in the Ministry of Education Secondary Alternative Program. He earned his secondary school certificate in November 2008 with passes in 5 subjects. In 2007, he started to work as a labourer at Yates Construction. He remained in this job until his incarceration. This defendant used to attend church when he was younger.

Victim Impact Assessment

[33] Mr. O'Neal is 66 years old and a retiree; still trying to make a decent living at his age. He spoke. He said that as a result of the blow to his eye, he still experiences pain in that eye. He also stated that the defendants tied him up, dragged him and shoved him into his house. As a result of that, he was in pain for some time. According to him, if the police had not responded quickly, he would have been dead. He said that he was not breathing as his mouth and nose were also duct-taped. For this, he is most unsympathetic to the defendants and refused to accept their apologies.

Submissions by the Crown

[34] In their usual efficient manner, the Crown has helpfully provided written submissions referring to the well-known principles of sentencing as stated in **R v Sergeant**⁴ and identified by **Lawton LJ** as retribution, deterrence, prevention and rehabilitation. These principles were judicially acknowledged and adopted by Byron CJ in **Desmond Baptiste v The Queen**.⁵

[35] Learned Crown Counsel, Mr. Graham also identified the aggravating as well as the mitigating features in this case. The aggravating features are noted as follows:

1. **Seriousness of the offence** – The relative seriousness of an offence will be determined by several factors. In this case, the victim's hands were bound behind his back, his feet were bound together and the defendants used duct tape to cover his mouth, eyes, nose, and ears which makes the offence a serious one.

⁴ 60 Cr. App. R. 74

⁵ Criminal Appeal No. 8 of 2003 [St. Vincent & the Grenadines] Unreported

2. **Prevalence of the offence** – This was confirmed as an aggravating factor of an offence by George-Creque JA at paragraph 19 (1) in **DPP v Shaunlee Fahie**.⁶
3. **Defendants operated in a group or gang** – group offending likely to increase the level of intimidation or fear to victim.
4. **Vulnerable victim** - The victim is an elderly person.
5. **Planning of the offence** – The offence was pre-planned and previous visits to the residence indicate it was not an opportunistic offence.
6. **Wearing disguised** – The defendants used masks to conceal their identity.
7. **Violence was used** – the victim was punched in the eye, beaten about his body and dragged from outside his yard to inside his house.

[36] The mitigating features are:

1. **Plea of guilty.**
2. **No previous convictions** in relation to Shervon Anthony & Dillon Thomas. However, Rudy Vanterpool and Rudnell Vanterpool have criminal convictions but for unrelated offences.
3. **Age of the defendants.** They were all under 21 when they committed the offence.

Sentencing Guidelines

[37] Just like the United Kingdom, the maximum penalty for robbery in this Territory is life imprisonment.⁷ The guidelines cases in the UK for robbery are **R. v. Turner (B.J.)**,⁸ **R v Daly**,⁹ **R v Gould**¹⁰ and **R v Adams and Harding**.¹¹

[38] In **Gould**, Lord Lane CJ confirmed that the guidelines as laid down in **Turner** in the judgment of Lawton LJ remain the basis for sentencing in armed robbery offences. He also added that some of the features likely to mitigate an offence were:

⁶ Director of Public Prosecutions v Shaunlee Fahie – HCRAP 2008/003

⁷ See section 210(2) of the Criminal Code. It provides that “any person who is convicted of robbery is liable to imprisonment for life.”

⁸ [1975] 61 Cr. App. R. 67, CA at p.91

⁹ [1981] 3 Cr. App. R. (S) 340, CA.

¹⁰ [1983] 5 Cr. App. R. (S) 72, CA.

¹¹ [2000] 2 Cr. App. R. 274.

- a plea of guilty;
- the youth of the offender;
- a previously clean record;
- the fact that the defendant had no companion when committing the offence; and
- the fact that no-one was injured.

[39] The learned Chief Justice also opined that the following were matters which the court must put into the balance on the other side of the scale when determining the correct sentence for any particular offender:

- the fact that a real rather than an imitation weapon was used; (here duct tape was used to restrain the victim);
- it was discharged (not applicable in this case);
- violence was used upon the victim;
- a number of men took part in the attack;
- careful reconnaissance and planning were involved; and
- more than one offence was committed by the offender.

[40] More recently, in **Adams and Harding**, it was said that **Turner** only provided a starting point and that in today's sentencing climate, the guidelines should be revised upwards.

[41] In **Allan Wilson v The Queen**¹², Sir Dennis Byron, CJ opined that "*robbery is an offence that should always warrant a custodial sentence.*" He declared that the sentencer should however reserve the right to go beyond or below this range in appropriate circumstances.

[42] In **Allan Wilson**, Mr. Wilson pleaded guilty to robbing a bus conductor of EC\$220.00 and was sentenced to 10 years imprisonment. On appeal against sentence, the Court of Appeal reduced the sentence to 5 years. The Court of Appeal found that there were substantial mitigating factors namely that Mr. Wilson was a young man of 18 years old and a first offender. He co-operated fully with the police and pleaded guilty at the first

¹² Criminal Appeal No. 10 of 2003 (St. Vincent & the Grenadines) [unreported].

available opportunity. The Court opined that the early guilty plea would account for a one-third reduction of the sentence and the other strong mitigating circumstances should account for at least a deduction of a few additional years.

[43] In **R v Keno Allen**¹³, the defendant pleaded guilty to one count of robbery and one count of aggravated burglary. He had entered the dwelling house of the virtual complainant. He used a knife from her home to intimidate her. He also tied her up. Thereafter, he robbed her of an undetermined amount of cash. He was sentenced to 8 years imprisonment on both counts; sentences to run concurrently.

[44] In **R v Damian Hodge**¹⁴, the defendant was found guilty of one count of aggravated burglary, one count of robbery and one count of assault occasioning actual bodily harm. The defendant and another man armed with a gun shouted "armed robbery, armed robbery" before they kicked down the door of the hotel/restaurant around 10.00 p.m. The owner and a patron were the only persons inside at the time. The defendant robbed the owner of his wrist watch, hand bracelet and \$92.00 cash from his pockets and the cash pan. Before leaving, he assaulted the patron with the gun. He was sentenced to 10 years imprisonment for the robbery, 10 years for aggravated burglary and 3 years for occasioning actual bodily harm.

[45] In **R v Stanley Bertie Jr**,¹⁵ the defendant was charged with one count of robbery. He along with another robber met the complainant on the road in the early hours of the morning. They knew that the complainant had in his possession the payroll for employees at Guana Island as the defendant had worked there before. He along with the other robber (who had a gun) came upon the complainant and fought with him for the money. The defendant was knocked down by the complainant and held until the police came. The other robber fled the scene with the money. The defendant pleaded guilty at the first available opportunity and was sentenced to 7 years imprisonment. He had no previous convictions.

¹³ Criminal Case No. 11 of 2005 (British Virgin Islands) [unreported].

¹⁴ Criminal Case No. 13 of 2001 (British Virgin Islands) [unreported].

¹⁵ Criminal Case No. 4 of 2006 (British Virgin Islands) – unreported – Judgment on sentencing delivered on 21 February 2006.

[46] In **The Queen v. Kareem Durante and Nicoy Scatliffe**,¹⁶ the defendant, Scatliffe pleaded guilty to a single count of robbery at the earliest opportunity. The Crown's case was that both defendants were armed with handguns. Scatliffe was 18 years old at the time and a first time offender. He was sentenced to 5 years imprisonment.

[47] In **Seantroy Hanley, Seltroy Hanley & John Harvey**¹⁷, the defendants pleaded guilty at the earliest opportunity for the offences of robbery, aggravated burglary and criminal damage. They were sentenced to 8, 5 and 3 years respectively in respect to the count of robbery. The Hanley brothers were young adults with previous convictions, while Harvey was 16 years at the time of the incident.

Court's considerations

[48] The defendants face a maximum penalty of life imprisonment for robbery. So, the maximum sentence which the Court can impose on these defendants is life imprisonment. However, the Court has a wide discretionary power in sentencing both at common law and under the laws of this Territory (see sections 22 and 23 of the Criminal Code) to enable it to do justice having regard to the particular facts of each case.

[49] The offence of robbery is grave. Normally, it would attract custodial sentences. The length of such sentence is heavily dependent on the aggravating and mitigating features and, usually to a lesser extent, the personal circumstances of the offender. The aggravating and mitigating features of this case have already been identified.¹⁸

[50] It is also widely recognized that the aims of sentencing are that of retribution, deterrence, prevention and rehabilitation.¹⁹ These cardinal principles are well-established and need no further elucidation.

¹⁶ Criminal Case No. 16 of 2008 [British Virgin Islands] Unreported

¹⁷ Criminal Case No. 5 of 2009 (British Virgin Islands) [Unreported]

¹⁸ See paragraphs 36 and 37 [supra] of this judgment.

¹⁹ See paragraphs 20 – 25 of the judgment of the Court of Appeal in *Desmond Baptiste v The Queen* (supra).

[51] In **Desmond Baptiste et al v the Queen**²⁰ Sir Dennis provided some useful guidance with respect to the relevant legal principles that the court should apply in sentencing an offender. The learned Chief Justice reviewed three very significant mitigating factors which present themselves in the case at bar namely: the relevance of the guilty plea, age and prior criminal history. On a plea of guilty, Sir Dennis stated:

"In England a plea of guilty normally attracts a significant, approximately a one third, reduction of the sentence. There are sound public reasons for this. The criminal justice system benefits from genuine pleas. Such pleas spare the Judge, the jury and witnesses the stress and rigours of a full trial. The state saves both time and money. It could be manifestly unfair to accord the identical sentence to co-defendants charged with the same offence where one has pleaded guilty at an early stage and the other has put the state through the ordeal of a long and demanding trial. The defendant who had pleaded guilty is entitled to a considerable discount."

[52] Sir Dennis further stated:

"While suggesting a discount of the order of a one third however, Lord Taylor, CJ stressed in **Buffrey** that "it would be quite wrong... to suggest that there was an absolute rule as to what the discount should be. Each case must be assessed by the trial Judge on its own facts and there will be considerable variance between one case and another". In our view, our courts should adopt a similar approach. Clearly, the earlier the defendant pleads guilty, the greater the likelihood that he will receive the full discount permissible"²¹.

[53] With respect to first time offenders, Sir Dennis said:

"As to the fact that the offender was committing crime for the first time, it seems to us that the importance of this circumstance should be left to the discretion of the sentencer as a matter that is to be taken into account with all other mitigating circumstances of the offence. It must be stressed though that the more serious the offence, the less relevant will be this circumstance."

[54] Sir Dennis also reminded us that:

"On the issue of the age of the offender, a sentencer should be mindful of the general undesirability of imprisoning young first offenders. For such offenders, the

²⁰ Criminal Appeal No. 8 of 2003 (Saint Vincent & the Grenadines) –judgment delivered on 6 December 2004 (unreported).

²¹ See paragraph 28 of the judgment.

Court should take care to consider the prospects of rehabilitation and accordingly give increased weight to such prospects. Where imprisonment is required, the duration of incarceration should also take such factors into account....As with first time offenders, the more serious the offence, the less relevant will be these circumstances”.

[55] Having said all of that, Sir Dennis opined that “**robbery is an offence that should always warrant a custodial sentence.**”[emphasis added].

[56] In the instant case, I have considered all of the judicial authorities cited and in particular, the Court of Appeal decision in **Allan Wilson v The Queen and Desmond Baptiste et al.**

[57] Sentencing, as I have already alluded to, is always a matter of the Court’s discretion. Robbery is a serious offence. And a sentencer must give credence to all that was said in mitigation.

[58] As a general rule, the Court reduces the sentence imposed on a defendant who pleads guilty at the first available opportunity by one-third. Where, as in the case at bar, there are other strong mitigating factors, such as the youthfulness of the offenders and the fact that two of the defendants are first offenders, namely: Shervon Anthony and Dillon Thomas, there must be a further reduction of their respective sentence.

[59] I have also taken into consideration that violent crimes involving young masked men have been plaguing this Territory. Society continues to show its abhorrence for these crimes. They seek the sanctuary of the Court. The Court must therefore assist them and the only way to do so is by the sentences which are passed; aimed at ensuring that the wrongdoer does not repeat the offence and potential criminals get the message that society will not condone criminal activities.

[60] I must add that the Vanterpool brothers are no strangers to the Court. It appears that the younger brother, Rudy is leading the older brother, Rudnell astray. At their youthful ages, they both have criminal records although the list of criminal convictions for Rudy is longer.

[61] Having considered all the circumstances of the case, paying particular regard to the mitigating and aggravating circumstances, the sentencing guidelines and the circumstances in which the offence was committed together with the defendants' culpability, I am constrained to impose custodial sentences upon all of the defendants. I do hope also that the time in prison would be usefully served to rehabilitate them.

[62] I bear in mind that the defendants had spent a period of 8 months on remand prior to being admitted to bail. I ought to take those 8 months into consideration. Therefore, the sentences will commence from 18 April 2011 less the 8 months spent on remand.

The sentence

[63] Taking all matters into consideration, I hereby sentence the defendants as follows:

Shervon Anthony

You are sentenced to seven (7) years imprisonment – four (4) years to be served forthwith with a suspended sentence of three (3) years.

Rudy Vanterpool

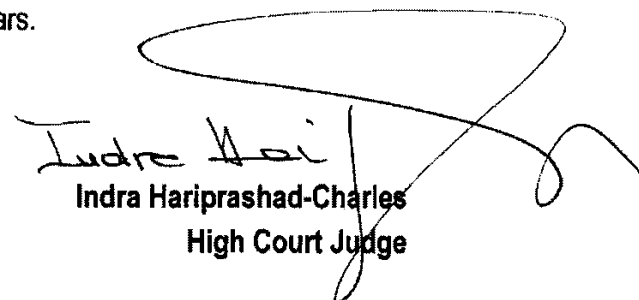
You are sentenced to eight (8) years imprisonment – five (5) years to be served forthwith with a suspended sentence of three (3) years.

Rudnell Vanterpool Jr

You are sentenced to eight (8) years imprisonment – five (5) years to be served forthwith with a suspended sentence of three (3) years.

Dillon Thomas

You are sentenced to seven (7) years imprisonment – four (4) years to be served forthwith with a suspended sentence of three (3) years.


Indra Hariprashad-Charles
High Court Judge