

33THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

SAINT LUCIA

CRIMINAL CASES NOS. SLUCRD 2011/0517, 1231

BETWEEN:

THE QUEEN

Claimant

AND

MIGUEL ST. ROSE

Defendant

Appearances:

The Defendant in person
Mr. Seryozha Cenac Crown Counsel for the Crown

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2012: June 13
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JUDGMENT ON SENTENCING

[1]. CUMBERBATCH, J. : The defendant is one of three children from a common law union between his parents Eva St. Rose and Auguste Goodman. He was born on the 18th September 1994 and grew up within a single parent household headed by his mother.

[2] From his pre-teen years the defendant had embarked on bizarre and criminal conduct. He acquired a reputation for being a compulsive thief both at school and at home. He started smoking marijuana at age 12 according to him but his teachers allege that he smoked and sold the drug as

early as age 8. The police station in the area where he resided, Marchand has a well-documented history of past complaints made against him and officers attached to that station view him as a social menace.

[3] Not unsurprisingly therefore the Director of Public Prosecutions on the 6th January 2012 and 4th April 2012 indicted the defendant for the offences of robbery committed on the 16th March 2011 on Lillian Laurencin and grievous harm committed on William Jonas on the 4th July 2011. At his arraignments the defendant pleaded guilty to both offences.

[4] **FACTS**

ROBBERY

The virtual complainant herein is an elderly female who resides at Bagatelle. On the day in question the defendant who she has known from infancy entered her shop at around 3.00pm, pointed a gun at her and demanded money. He reached over the counter of her shop and removed money from a drawer and made good his escape.

[5] **GRIEVOUS HARM**

The virtual complainant is a 43 year old gentleman who has on several occasions been threatened by the defendant. On Sunday the 16th January the defendant hit the virtual complainant on his head with a stone causing him injuries which necessitated his hospitalization. On the day in question the virtual complainant was walking on the public road in Bagatelle, Marchand on his way home when the defendant attacked and chopped him on his left hand with a cutlass. He received serious injuries and was hospitalized for one week during which time he underwent surgery.

[6] The defendant's explanation for committing the offence of robbery is that he was hungry and that the gun was a toy. He could give no sensible explanation for his cutlass attack on William Jonas. Suffice it to say however, these acts of criminal conduct are by no means inconsistent with the defendant's established character in his neighbourhood.

[7] **SENTENCE**

The pre-sentence report discloses the opinions of a select group of young males who hail from the community in which the defendant resided. The court finds that the views therein are most appropriate and are worth repeating here:

“Another group, comprising some five (5) young males, all residents within the Jerusalem area, has all acknowledged the negatives within the defendant's behavior. However, they have pointed to the lack of proper and effective guidance and supervision for Miguel who is still considered a young boy. They have posited the need for dire social intervention (counseling mentoring) for the defendant who has been observed, frequently talking to himself, as though mentally un-well.”

[8] The defendant's mother with whom he resided seemed to have shared that view as the pre-sentence report reveals that she made approaches for help to control the defendant via approaches to social agencies such as the Probation and Parole Department and the Family Court.

[9] At the time of the commission of these offences the defendant was just sixteen (16) years old. I find that he was at that age where he was most susceptible to unsavory influences and quite impressionable. He clearly was a teenager who found comfort and satisfaction in his unbridled pursuit of legally and morally unacceptable conduct no doubt encouraged by the undesirable company he kept and his own unsupervised youthful exuberance.

[10] In the concluding paragraph of the pre-sentence report the writer opines thus:

“A critical examination of the defendant’s current mode of conduct directed at an unsuspecting citizenry to sustain or to cater for his economic livelihood and survival, does not reveal a pleasant picture. It indicates that as a result of the defendant’s seeming propensity to re-offend, he must be considered as a social menace and a social problem within any specific community. Any direct intervention made should seek to address adequately, both social concern and the possible approaches towards rehabilitation for the defendant.”

[11] I concur with the aforesaid opinions in the pre-sentence report but would add however that I find the defendant to be a confused and misguided teenager whose soul is crying out for guidance and relief from the mire in which he now finds himself, to which this court will not turn a deaf ear.

[12] The defendant has committed serious offences for which he should be punished. In *Desmond Baptiste et al v Regina* Sir Dennis Byron C.J. stated thus on the issue of sentencing of a young offender:

“On the issue of the age of the offender, a sentence should be mindful of the general undesirability of imprisoning young first offenders. For such offenders, the 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. In the same vein, in cases where the offender is a mature individual with no apparent propensity for commission of the offence, the sentence may also take this circumstance into account in weighing the desirability and duration of a prison sentence. As with first

time offenders, the more serious the offence, the less relevant will be these circumstances."

[13] I find the dictum of Sir Dennis Byron aforesaid to me most helpful and instructive. In the circumstances of this case the defendant is currently serving a period of imprisonment of twenty-one (21) months imposed by the District Court for offences involving dishonesty. His pre-sentence report is by no means complimentary to him and he's generally described as a teenager of bad character.

[14] The court must of necessity put in place certain social programs to aid the defendant's rehabilitation and re-integration into the society this time free from the inclinations to re-offend. These programs will take time and require professional management and control over the defendant's activities. Hence the court must impose a custodial sentence to ensure the success of the defendant's rehabilitation and to serve as a deterrent to the defendant and those of similar ilk who consider a life of crime and criminal conduct to be an attractive proposition.

[15] Accordingly the defendant is sentenced to three (3) years imprisonment on each offence to run concurrently with the sentences imposed by the District Court aforesaid. The defendant shall be credited for all time spent on remand.

[16] Whilst serving his sentence at the Bordelais Correctional Facility it is ordered that the Defendant shall benefit from the following:

1. Counselling to correct psychosocial behaviour;
2. Lifeskill program/sewing classes to acquire a skill to make him employable upon his release from prison;

3. Academic program to clothe the defendant with the basic literacy skills.

[17] The Defendant is placed on probation on his release from Bordelais Correctional Facility. He is assigned to Probation Officer Rowland Browne for two (2) years who will prepare programs for his re-integration to society.

Failure to comply with the conditions of his probation may cause the defendant to be re-sentenced.

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FRANCIS M. CUMBERBATCH
HIGH COURT JUDGE