

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

SAINT LUCIA

CRIMINAL CASE NO. SLUCRD 2011/0929

BETWEEN:

THE QUEEN

Claimant

AND

ALI HAMILTON

Defendant

Appearances:

Defendant in person
Mr. Jeannot Walters, Crown Counsel for the Crown

.....
2013: April 15
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JUDGMENT ON SENTENCING

- [1]. **CUMBERBATCH, J.:** On March 20, 2011, Sean Blaze ('the Virtual Complainant') attended a session called a "passa passa" at Beanfield, Vieux Fort. A dispute arose between the virtual complainant and the defendant whilst the virtual complainant danced with a certain young lady. A scuffle soon ensued and the defendant who was armed with a knife stabbed the virtual complainant. The virtual complainant was admitted to the St. Jude's hospital and underwent two surgeries for the injuries incurred by him at the hands of the defendant.

[2]. The defendant was indicted by the Director of Public Prosecutions for the offence of dangerous harm and at his arraignment he pleaded guilty to the said charge. The court therefore ordered a pre-sentence report be produced and set a date for a sentencing hearing.

[3]. **THE HEARING**

The pre-sentence report is replete with negative remarks and opinions of the defendant's character and personality. It seems that from his early childhood the defendant was deemed to be a troublemaker and rebellious. He left his father's home at age fifteen (15) to follow bad company.

[4]. Whilst a student at the Vieux Fort Primary School, the defendant was described as being disruptive, disobedient, disrespectful and defiant. At the behest of the Department of Probation, a behavioural contract was entered into with the defendant. In that contract he agreed to listen to, obey, and respect his father and stepmother; to be home no later than 6.00pm and to inform his parents of his intended whereabouts when he left home. The defendant also agreed to attend counseling sessions and to seek his father's permission to visit a nearby stable. Unhappily it was soon learnt that the defendant did not abide with the terms of the contract.

[5]. Between August 2010 and March 2011, the defendant acquired five (5) criminal convictions for offences of stealing and assault. He admits to being a consumer of alcohol and marijuana.

[6]. Crown counsel has submitted the following to be the aggravating and mitigating factors herein with which the court concurs to wit:

AGGRAVATING FACTORS

1. The seriousness of the offence;
2. The defendant is not remorseful;

3. The offence was committed with the use of a weapon on the Virtual Complainant;
4. The extent and location of the injury – potential to be life threatening without timely medical intervention;
5. The defendant has a long history of deviant behavior;
6. The defendant has previous conviction, in particular offences against the person;
7. The defendant did not stop stabbing the Virtual Complainant on his own violation.

MITIGATING FACTORS

1. A plea of guilty at the first reasonable opportunity which presented itself;
2. The defendant's age at the commission of this offence.

[7]. I have considered and evaluated the aggravating and mitigating factors herein in light of the circumstances of this case and find that the aggravating factors considerably outweigh the mitigating ones.

[8]. SENTENCE

In determining an appropriate sentence the court will apply the classical principles of sentencing namely retribution, deterrence, prevention and rehabilitation.

[9]. The defendant armed with an offensive weapon at a social event proceeded to cause severe injuries to the virtual complainant which will probably affect him for the rest of his life. Though he has had two surgical interventions one of which was a colostomy he will still require another surgical intervention on another date to reverse same.

[10]. There is overwhelming evidence that the defendant attacked the virtual complainant for dancing with a female person not connected to him but he remains unrepentant and unremorseful for what

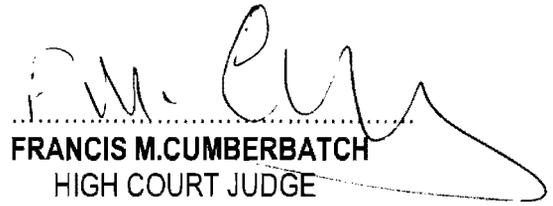
he has done. This is compelling evidence that the defendant requires a lengthy period of rehabilitation to deal with the several risk factors identified by the probation officer in the pre-sentence report such as:

1. Defendant has exhibited a pattern of behavioural problems from an early age;
2. He has an unstable home environment;
3. He does not have a stable place of abode;
4. He has a low socio-economic status;
5. He has minimal academic/vocational skills;
6. He abuses drugs;
7. He has previous convictions.

[11]. The defendant though just around eighteen (18) years old on the commission of this offence is not a first offender. Thus though the court is aware that the defendant's youthful age might merit a reduced sentence, the court must also have regard to the defendant's checkered past herein before stated together with the aggravating factors herein. I find having regard to the foregoing, there is a strong likelihood of him re-offending if he is not rehabilitated for his re-integration to the society. The failed social contract with the defendant, his drug use and his predilection for keeping bad company are compelling reasons for him to be confined for a suitable period to ensure his rehabilitation.

[12]. The offence for which the defendant has pleaded guilty carries a maximum sentence of twenty (20) years imprisonment. I find in the circumstances a benchmark of ten (10) years to be appropriate from which I will deduct five (5) years for the early guilty plea. Accordingly, the defendant is sentenced to five (5) years imprisonment. He shall be credited for all time spent on remand whilst

awaiting his trial. The defendant shall receive counseling for his drug use and shall learn a suitable skill to ensure his ability to be lawfully employed on his release from Bordelais Correctional Facility.



FRANCIS M. CUMBERBATCH
HIGH COURT JUDGE