

BARBADOS

CRIMINAL DIVISION

Indictment No: 0134 of 2011

THE QUEEN V. CHRISTOPHER JUNIOR GOODRIDGE

SENTENCING REMARKS

Christopher Junior Goodridge,

- [1] **Background:** On Friday 18th of September 2013 you were arraigned and pleaded “not guilty” to the murder of **Charles Payne** on the 28th day of March, 2009 but “guilty” instead to manslaughter.
- [2] **The Facts:** Following your plea, the learned Director of Public Prosecutions, Mr. Charles Leacock, Q.C. outlined the facts and circumstances surrounding the manner in which Charles Payne lost his life at your hands on the afternoon of March 28th, 2009.
- [3] The Court was informed that sometime after midday in the area of Sealy Land, Bank Hall on Wednesday March 18, 2009, the deceased man had been up in a mango tree picking ripe mangoes for a female friend, Keisha Hunte, when you and your cousin came to the foot of the tree armed with a hook stick intending also to pick some mangoes.
- [4] You pushed the stick into the tree to start picking, but the deceased, who was still up in the tree, asked you to stop because he was already picking the mangoes.
- [5] A war of words then started between you and your cousin on the one hand, and the deceased man on the other, after which you and your cousin walked away from the mango tree and continued on your way.
- [6] However, as you were proceeding down the road away from the area, the deceased man descended from the tree and followed you. He began remonstrating with you, suggesting that he had been struck with their hook stick while he had been up in the tree. He then swung another stick which he had been carrying at you and a physical struggle ensued during which his stick was taken from him. The deceased man was then

overpowered and held in a headlock while you were seen to have been repeatedly striking him with his own stick on his legs as well as in his head.

[7] Keisha Hunte who had witnessed the entire incident tried unsuccessfully to pull you and your cousin off the deceased man and ran to her home nearby to seek assistance. However by the time she returned to the scene, all she observed was a trail of blood leading from the scene of the fight to the deceased man's home.

[8] The deceased man was rushed to the FMH for medical assistance and subsequently transferred to the QEH, but died 10 days later from his injuries.

[9] A post mortem was conducted and the pathologist's report gave the cause of death as traumatic head injury complicated by bi-lateral bronchial pneumonia.

[10] Following police investigations into the incident, you were apprehended and made a number of oral statements and also provided the police with a self-written confession statement on March 30th, 2009 which was read into evidence by Mr. Leacock during his narration of the facts and the contents of which have also been considered by the Court.

[11] You told police, among other things, that you had beaten the deceased with the stick and that you did not know the injuries were that serious and that you were only defending yourself. You also told police that the man had hit you on your right elbow and that the stick had broken. You described the fight in great detail and told police that after the fight both you and your cousin had gone to the drug store and had purchased pain medication because both of your hands had been hurting you.

[12] The facts as outlined by the learned Director of Public Prosecutions were accepted on your behalf by Defence Counsel, Mr. Pilgrim and have also been accepted by the Court for sentencing purposes.

[13] **Basis on which the plea was accepted:** The learned Director of Public Prosecutions, explained the basis for his acceptance of the manslaughter plea as offered in the following terms:

“While the accused cannot rely on self-defence in this case because the force was really excessive but clearly the defence of provocation is open to them but self-defence is not because the force used was way in excess of

what was reasonable or proportionate in the circumstance and that's why he is quite rightly advised to plead guilty and he has pleaded guilty.

So the plea of Christopher Goodridge is well-founded and I accept it [on] the basis that he was provoked..."

- [14] **Criminal Antecedents:** Following your conviction, Constable Rudy Harris of the Criminal Records Office advised the Court that you had two previous convictions, one on April 16, 1993 for theft, while the other on August 12, 1998 for possession of cannabis.
- [15] **The Pre-Sentence Report:** As requested by Defence Counsel, Mr. Pilgrim, and in order to satisfy the requirements of the *Penal System Reform Act, Cap. 139*, the Court ordered a Social Enquiry or Pre-sentence Report from the Probation Department. The Report was prepared by Ms. Angela Dixon, Senior Probation Officer, who read it into evidence on November 28, 2013.
- [16] Her Report has been carefully reviewed by the Court. It provides valuable insight into your family history, your educational and social background, your employment record and your attitude towards the offence of which you have been convicted.
- [17] The Report revealed, for example, that you benefited from a close relationship with your extended family who have provided, and continue to provide you with guidance and support. You also shared a close bond with your immediate family and prior to your remand you rented a 2-bedroom house with your younger brother.
- [18] According to the Report you presented no significant behavioural challenges during your childhood and school life and although you left St. James Secondary School without certification despite being described as “*a bright child*” with “*academic potential*”, you sought and obtained gainful employment first as a general labourer with different organizations and subsequently as fisherman, well digger, jackhammer operator and a mason.
- [19] You have had, according to the Report, brushes with the law for relatively minor offences that occurred more than fifteen (15) years ago and did not involve violence in any way. Interviews with members of your family and community disclosed that you are

considered “*a friendly person with a non-violent disposition*”. You were not known to get involved in conflicts and persons familiar with you expressed shock that you had been involved in this incident and charged with this offence.

[20] Finally, the Report notes that you did not by your actions on March 28, 2009 intend to cause fatal injury to Charles Payne and that you expressed contrition over the loss of the life of this man, who not only came from a large family and was himself also the father of one child.

[21] A victim impact statement was taken from the deceased man’s niece who spoke on the family’s behalf and reported that the deceased man’s elderly mother has had a difficult time coming to terms with her son’s death. The family has, however, maintained that they would be satisfied with whatever sentence is meted out by the Court.

[22] **Observations:** Having regard to the judicial obligations set out under *sections 35 to 41* of the *Penal System Reform Act, Cap. 139*, the Court now has to determine the appropriate sentence to be imposed upon you for the offence of which you have been convicted.

[23] **Reasons for imposing Custodial Sentences - Section 35(4):** As required by *section 35(4)* of the *Penal System Reform Act* and after considering the outline of facts and the manner in which this offence was committed, together with the Pre-sentence Report, the Court has formed the opinion that *subsection (2)(a)* applies and that this offence is so serious that only a custodial sentence should be passed upon you in this case.

[24] In keeping with the *Suratan1[1]* sentencing guidelines adopted by the Barbados Court of Appeal in the case of *Ricardo Deverne Griffith v. The Queen Criminal Appeal No: 6 of 2007; 2009-06-19*, I have also borne in mind that as this is a case where the Crown has accepted a plea of not guilty of murder but guilty of manslaughter by reason of provocation, I am, as the sentencing judge, required to make a number of assumptions in your favour by way of mitigating the seriousness of the offence.

[1] *Attorney General’s Reference (Nos. 74, 95 and 118 of 2002) (Suratan and others) (2003) 2 Cr. App. R. (S) 42.*

[25] Assumptions: Applying the *Suratan* guidelines, the Court has therefore assumed firstly, that the seriousness of this offence has been mitigated by the fact that at the time of the incident you were provoked and lost your self control.

[26] The Court has, secondly, assumed that you were caused to lose your self control by the following facts and circumstances disclosed on the record:

- a) the fact that a short while before, you and your cousin had been involved in a verbal altercation with the deceased man who had at that time been up in the mango tree and had effectively stopped you from picking mangoes while he was still up in the tree;
- b) the fact that after you had decided to walk away from the tree empty handed, the deceased man had come down from the tree and had followed you with a long stick and remonstrated with you and asked you if you wanted drama;
- c) the fact that the deceased man had initially started to attack your cousin with the stick he was carrying;
- d) the fact that you were aware that your cousin was unable to fight due to an injured hand and you had told the deceased man not to trouble your cousin because he could not defend himself;
- e) the fact that the deceased man, apparently bent on a fight, had then run at you and hit you on your right elbow with such force that the stick he was carrying broke when it hit you;
- f) the fact that according to you, during the fight, the man had started fighting with your cousin once again and you then picked up the broken piece of stick and hit him across his head as your cousin had him in a headlock;
- g) the fact that even after your cousin let him go and the deceased man had fallen down, you continued to beat him with the stick some more on his head and to kick and cuff him in his face and his belly.

[27] The Court has assumed that your loss of self control in the several

circumstances just outlined was reasonable in all the circumstances, even bearing in mind that persons are expected to exercise reasonable self control over their emotions and that as society advances it ought to expect higher measures of self control.

[28] Finally, the Court has assumed that the circumstances surrounding this killing were such as to make your loss of self control sufficiently excusable to reduce the gravity of your actions from murder to manslaughter.

[29] The Court has also determined the seriousness of the manslaughter offence in this case having regard to the following factors:

- 1) Based on the facts as outlined, following the initial war of words at the mango tree, the deceased man was the clearly the aggressor and it was without a doubt, he who initiated the physical altercation with you in the road, at a time when you and your cousin had been walking away from the area of the mango tree;
- 2) The Court is satisfied that while you did not set out deliberately to kill or to cause anyone serious bodily harm to the deceased man and were, as you told police, seeking only to defend yourself and your cousin from a physical attack initiated on you by the deceased, the Court is satisfied that the force which was ultimately used against the deceased man was excessive and disproportionate.
- 3) It is clear from the facts as outlined to the Court, that during the physical altercation which ensued between you and your cousin and the deceased man, the deceased man had at some point in the fight been effectively immobilized and incapacitated. He had been placed in a headlock and his only weapon - the stick, had been taken from him. Clearly therefore, no further action could be justified in law to protect you or your cousin from further harm from him. The facts are that even though you had effectively disarmed him, and even when he had fallen on the ground, you repeatedly hit him about his legs and in his head with a stick not once, but multiple times, all while he was already immobilized and effectively helpless.
- 4) The force you used against him was so severe that the deceased man suffered devastating head injuries and which were the effective cause of his death some 10 days later;

- 5) The attack against the deceased was not in any way pre-meditated but was rather, a spontaneous response to the deceased man's attack against you and your cousin which caused you to become "vex" and lose your self control;
- 6) The Court has also taken into account the fact that the deceased man had struck you on your elbow with the stick he was carrying and that immediately following the fight, you and your cousin had both been forced to purchase pain medication for the hurt you had suffered;
- 7) Finally, the Court has taken into account that the weapon used to commit the offence was not one that was intrinsically dangerous, even though it was used by you with a considerable degree of force against the deceased man and ultimately caused his death.

[25] In summary, the Court is satisfied that this was a serious case of manslaughter which while containing some aggravating factors, was outweighed by many more mitigating factors. The Court is satisfied, however, that your conduct as the offender took the offence beyond the threshold for non-custodial punishment and into the realm of custodial punishment. Your conduct during the commission of the offence as reflected in the aggravating factors outlined earlier, was completely uncalled for and cannot be condoned.

[26] The Court has firstly adverted to *section 6 of the Offences Against the Persons Act, Cap. 144* which stipulates that the permitted maximum custodial sentence which may be imposed on any person convicted of manslaughter is imprisonment for life. However, as is clear from the manslaughter guidelines established by the Barbados Court of Appeal in ***Pierre Lorde (2006) 73 WIR 28***, the statutory penalty of imprisonment for life is to be reserved only for the most serious manslaughter offences.

[27] In issuing its manslaughter guidelines in ***Pierre Lorde***, in 2006, the Barbados Court of Appeal stressed that the guidelines were "*not to be construed as putting sentencers in a kind of straight jacket or fettering in any way the judicial discretion which must remain at the heart of the sentencing process.*"

[28] In its later decision in *Curtis Joel Foster (DPP's Reference No 1 of 2010) (unreported) Decision of 11 February, 2011* Peter Williams JA of the Barbados Court of Appeal observed that the guidelines in *Pierre Lorde* are now well established and are routinely followed. He suggested that it is helpful to consider the 4 guidelines set out in *Pierre Lorde* on a sliding scale of 1 to 4, with 1 being reserved for the most serious offences and 4 for the least serious.

[29] Against the foregoing background, I am satisfied that the task which lies before me in my role as sentencer in this matter, is to seek as far as possible to position this case within the appropriate *Pierre Lorde* guideline while at the same time complying with the procedures set out in the *Penal System Reform Act*.

[30] In his mitigation, Mr. Pilgrim QC urged the Court to take into account the fact that you were, according to the Pre-Sentence Report, a person of good nature and temper who wanted to take responsibility for your action and did not want your cousin to suffer for it. This, he submitted, showed that your temperament was good and you were not someone likely involved in crime and likely to pose a problem in terms of recidivism.

[31] Mr. Pilgrim, QC also maintained that this particular case fell squarely within the second limb of Guideline 4 of *Pierre Lorde*. Referring to decisions of the Court of Appeal in *Blades v the Queen, Criminal Appeal No. 12 of 2002, Decision of December 11, 2003* and *Hazell v the Queen, Criminal Appeal No. 24 of 2008, Decision of September 16, 2011*, Mr. Pilgrim pointed out that the offence occurred in “*a spontaneous set of circumstances...brought into existence by virtue of the conduct of the deceased*”. Not only was the offence not premeditated, but the weapon used was neither tailored for offensive behavior or intrinsically dangerous itself and it was also clear that you had acted to defend yourself and had been provoked by the deceased to act. In these circumstances he suggested that only a sentence of less than 8 years would be appropriate and, having regard to the aggravating and mitigating factors of the offender as well as of the offence itself, urged the Court to be as lenient as possible.

[32] For his part, Mr. Watts who appeared for the Crown submitted that he agreed with Mr. Pilgrim that the case fell within guideline 4 of *Pierre Lorde* Guidelines with its sole aggravating factor being that you had beaten the Deceased man repeatedly across his

head with substantial force. In these circumstances, he accepted that a sentence in the range of 4 years and 8 years was appropriate.

[33] Having regard to your early guilty plea and keeping Guideline 4 of *Pierre Lorde* firmly at the forefront of its mind, the Court was cognizant that the suggested range of sentence where no intrinsically dangerous weapon is used and there mitigating features is 8 to 12 years where there is a contested trial and 8 years or less where an early plea of guilty has been entered.

[34] Ultimately, having regard to all the circumstances, the Court, in the exercise of its sentencing discretion, established 8 years as the appropriate starting point for determining the length of your sentence.

[35] **Length of the Custodial Sentences- Section 36:** Having considered the gravity of the offence including the need for deterring this type of excessive force and having also established the appropriate starting point, the Court was also mindful of the general judicial guidelines set forth in *section 41(2)* of the Act, which require, *inter alia*, that the gravity of the punishment must be commensurate with the gravity of the offence. The Court next turned to *section 36* of the *Penal System Reform Act* and considered the issue of proportionality with a view to determining what length of sentence would be appropriate to do justice in this case.

[36] Focusing next on you as the offender, the Court then took into account the factors which, in the view of the Court, have reduced the seriousness of the offence and reflect a level of personal mitigation of you as the offender.

[37] These were the fact that:

(i) at the time of the offence you had been provoked by the Deceased and had lost control of yourself and your actions;

(ii) you co-operated from the start with the police during their investigations into this offence and provided them with oral statements and a written statement outlining your role in the incident;

(iii) you did not seek to waste judicial time by seeking to defend yourself but instead entered a guilty plea at the earliest possible opportunity;

(iv) the absence of any earlier convictions involving violent conduct; and

(v) the remorse you have expressed for your actions and the fact that they led to death of the Deceased both in your interview with the Probation Officer and in Court after the *allocutus* was put to you.

[38] **Time spent on Remand:** According to the evidence of Prison Officer Bentley Boucher, you were admitted to prison for this offence on April 2, 2009 and as at November 28, 2013 you have spent a total of 1,702 days [i.e. 4 yrs 242 days] on remand awaiting the trial and final disposition of this matter. To this period the Court had added the additional 15 days that have elapsed since November 28, 2013 up until today's date.

[39] In keeping with the decision of the Caribbean Court of Justice in *Romeo da Costa Hall v R (2011) 77 WIR 66*, you will be given full credit for the now 1717 days [i.e. 4 years 257 days] you have spent on remand to date while awaiting your trial and the final disposition of this matter.

[40] **Order of the Court:** *Christopher Junior Goodridge*, you are hereby sentenced to a term of imprisonment of **6 years** for this offence to commence with immediate effect.

[41] From this sentence and in keeping with the CCJ decision in *Romeo Hall*, there will be deducted, the full period of 1717 days [i.e. 4 years 257 days] which you have to date spent on remand since April 2nd, 2009 while awaiting the final resolution of this matter. In the result, you will only be required to serve an additional period of 1 year 108 days in custody for this offence.

[42] This sentence is, however, suspended for a period of 2 years from today, which shall be the "operational period" for purposes of section 6 of the Act.

[43] *Christopher Junior Goodridge*, the custodial sentence which this Court has just passed is a suspended sentence. Pursuant to section 6(6) of the *Penal System Reform Act*, I am required to explain to you that should you commit a subsequent offence during the "operational period" of 2 years which this Court has imposed, you will be liable to be brought back to Court and to be dealt with in accordance with section 7 of the Act which requires that you then serve the full, unaltered term of your sentence.

[44] Do you understand what the Court has just explained to you?

[45] This is the order of the Court.

MAUREEN CRANE-SCOTT

Judge of the High Court

2013-12-13
