

**IN THE HIGH COURT OF BELIZE, A.D. 2023
(CRIMINAL DIVISION)**

NORTHERN SESSION – ORANGE WALK DISTRICT

Indictment No. 10/2016

THE KING

v

JASON SANCHEZ

Charge: Murder

Before H Lord (J)

Appearances

Ms. Sheiniza Smith Sr. Crown Counsel for the Crown

Mr. Oscar Selgado for the defendant

Heard on 26/1/23

JUDGMENT ON SENTENCING

- 5 The convicted man was indicted by the Director of Public Prosecutions (DPP) for
the offence of murder (e.g.)

The Indictment

10 For that Jason Sanchez on the 28th day of November 2014 in Belize City, in
the Belize District, in the Central District of the Supreme Court murdered
Emerson Arnold contrary to Section 117 read along with Section 106(1) of

5 the Criminal Code, Chapter 101 of the Substantive Laws of Belize (Revised Edition) 2003.

To that indictment he entered a plea of Not Guilty; and after a fully contested trial, he was convicted for the said offence of murder.

The Facts

10 On Friday, the 28th November, 2014 at 6:30 a.m., the deceased Emerson Arnold was killed on Gibnut Street by means of gunshots mainly to the back of the body; the evidence reveals that the main Prosecution witness (Ms. Jacqueline Bermudez) was walking right beside Mr. Arnold (later deceased) when he was shot several times in the back of the body.

15 The evidence of the Prosecution was that defendant/convicted man was the person seen with a gun in his hands and identified by the witness as the person she saw with the gun in his hand immediately after the sounds of the shooting while the deceased was falling/fell to the ground, as he defendant then turned and again rode pass Ms. Bermudez on a bike heading now towards Central American Boulevard at that time.

20 The deceased was subsequently removed and rushed to the KHMH where he later died while undergoing treatment.

The post-mortem examination disclosed the cause of death was exsanguination due to internal bleeding, due to multiple gunshot wounds.

5 **The Hearing**

The court held a sentencing hearing during which the court was informed by Counsel for the Defence Mr. O. Selgado that there would be no witnesses called on behalf of the defendant/convicted man to give any character evidence on his behalf.

10 It is noted that the defendant/convicted man during his speech given under oath, made no mention, nor did he express any remorse or sorrow to the court or the family of the deceased. He therefore, has not taken any responsibility for his actions on 28th November, 2014.

15 **Defence submission/mitigation**

Mr. Oscar Selgado, Counsel for the defendant (Mr. Jason Sanchez) made submissions on his behalf stating as follows –

Jason Sanchez is a Belizean (27 years old). When charged for murder he was 19 years. He spent 8 years 2 months 28 days on remand.

20 He was found guilty on 29th August, 2022. Since on remand he has completed four (4) rehabilitation programs.

(1) Restore Small Groups Program – 1/6/2017 – 30/6/2017

(2) Conflict Management (by Belize Red Cross) 5 to 12/1/2018

5 (3) Rehabilitation Program (4 month program) 1/6/2017 to 30/10/2019 (Gang Education)

(4) Journey to Freedom – 1/7 to 31/12/2021

The Counsel continued – the defence has taken note of the defendant’s antecedent history. These offences were committed as a minor age (e.g.) 15 year to 17 years
10 etc., all his convictions show he was a minor. As an adult he was charged and convicted for the present charge of murder.

The Social Report indicates the defendant grew up in a poverty stricken environment. At age 7 months his father abandoned the family and the mother was father and mother then.

15 Jason Sanchez left school at Standard 3. The defendant is the oldest of the children of the mother.

The economic conditions did not allow him to go to school. He was influenced by peers with criminal behaviour on Sanker Street where he grew up.

Poverty is a major contributing factor in committing crime. Jason Sanchez was then
20 unsupervised from a tender age of 15 years. He became a person deprived of the proper human rights.

A valuable life was loss and the deceased did not contributed to his own demise. He became the victim of a gruesome crime.

5 The court is asked to strike a mid-point in the loss of the deceased family and
defendant, a deprived person, for these submissions to be taken into consideration,
and to take poverty into consideration as part of the actions of the defendant here.

Reference case Yong Sheng Zhang v R

Here Justice Barrow referred to the four (4) principles a court must take into
10 consideration in making a decision, and Rehabilitation is the most serious of the four,
to consider in making the court's decision.

Sentencing is done to rehabilitate the defendant in time; so the defendant is no longer
a threat to society.

So the court must look at an appropriate sentence; taking all things into
15 consideration. The court must make its decision and come to a quantity of years to
be served by the defendant guided by case law, etc.

The defendant gave sworn statement at the sentencing hearing, stating he was
innocent, and that he wanted back his freedom as he was punishing for a next man
crime. He stated "*I want to go home. I want my freedom. I noh harm nobody. I am*
20 *innocent.*"

5 The Crown in reply (Ms. Smith) stated – The Crown relies on the Victim Impact Statement dated 29th August, 2022. (N.B. This was read in full by the Crown Counsel to the court).

Counsel continued – We rely on the written submission given to the Defence and the Court. The defendant was found guilty on 29th August, 2022.

10 The Court also heard further submission by the Crown on the approach of its sentencing function (e.g.) that a sentencing court should be guided by sentencing in murder cases that are comparable to the particular one before the court and not by murder cases generally.

In this regard, sentencing judges at the Supreme Court level should be guided by
15 comparable sentences which have been appealed and upheld by the appellant courts, and not by sentences imposed by judges of concurrent jurisdiction.

Crown Counsel continued – with respect to the case at Bar, the sentencing judge has the option of imposing a life sentence, and stating a minimum term during which the convict would be eligible for parole, or the court can impose a sentence of a fixed
20 term of years.

In arriving at an appropriate starting point, the sentencing court must take into account the aggravating and mitigating circumstances of the offence, but only those

5 concerned with the objective seriousness and characteristics of the offence (see para 46) Teerath Persuad v The Queen 2018 CCJ 10 AJ.

Here then the court noted several cases which have been identified in the method used for sentencing in cases before the courts which guides the court in achieving its just objective in murder cases when sentencing a convicted person who is before the
10 court.

Some of the cases noted and pointed out are:

- (1) **Calvin Ramcharran v DPP [2022] CCJ (4) (AJ) GY**
- (2) **R v Pedro Moran CA (No. 1 of 2017)**
- (3) **Reynaldo Alleyne v The Queen [2019] CCJ 06 (AJ)**
- 15 (4) **Pompey v DPP [2020] CCJ 7 (AJ) GY**

These cases set out it is noted the principles which guide the court in determining the type and range of sentences which the court can and should be able to arrive at in this type of case (murder) which is presently before this court. Therefore, the court will utilize the rulings and advice in coming to a just sentence in the present
20 case now being deliberated before the court.

The Law

Here the court noted that the law as amended by **Act No, 22 of 2017** which amended the Criminal Code, Chapter 101, Laws of Belize at Section 106(1) now states –

5 “Subject to subsection (2) A person who commits murder shall be liable, having regard to the circumstances of the case to (a) suffer death or (b) imprisonment for life.”

Subsection (3) goes on to say –

10 *“Where a court sentences a person to imprisonment for life in accordance with subsection (1), the court shall specify a minimum term which the offender shall serve, before he can become eligible to be released on parole in accordance with statutory provisions for parole.”*

Subsection (4) states –

15 *“In determining the appropriate minimum term under subsection (3) the court shall have regard to (a) any period the offender has spent on remand awaiting trial, (b) any relevant sentencing guidelines issued by the Chief Justice, and finally any other factor that the court considers to be relevant.”*

I here now note the two sentencing options put forward to the court in the submission of the Crown Counsel (e.g.) she stated –

20 *“With respect to the case at Bar, the sentencing judge has the option of imposing a life sentence and stating a minimum term during which the convict would be ineligible for parole; or the court can impose a sentence of a fixed*

5 *term of years. This is a matter for the discretion of the sentencing judge after
 taking all factors into account.”*

The court therefore notes the first step is to determine whether a custodial sentence
is appropriate and the second step is to identify a range of sentence, and the starting
point in the range for the defendant/offender’s sentence to commence. It is noted
10 for this type of offence indeed a custodial sentence is needed and warranted.

The court therefore noted the following cases which set out the principles which
guide the court in determining the type and range of sentences which the court can
and should be able to arrive at in this type of case (e.g. murder case) which is
presently before the court.

15 These are –

(1) **Calvin Ramcharran v DPP [2022] CCJ (4) (AJ) GY**

(2) **Linton Pompey v DPP [2002] CCJ 7 (AJ) GY**

(3) **Teerath Persuad v The Queen [2018] CCJ 10 (AJ)**

(4) **Reynaldo Alleyne v The Queen [2019] CCJ 06 (AJ)**

20 Here the court noted that from the cases considered above and from the Court of
Appeal Belize, that in the cases before the courts, and after a thorough review of the
sentences they passed, it is noted that they fall within the ambit of section (b) (e.g.)

5 Life imprisonment and a term of years to be spent in prison before parole can be granted.

So then, looking at all the considerations, and submissions to this court by the Defence and Crown Counsels, sentencing the defendant in this case to a fixed term of years, it is noted would not be consistent with previous sentences in which fixed
10 terms were imposed on persons who were convicted of murder in other cases in the Court of Appeal and the Apex Court.

Therefore, having regard to the above factors, the seriousness of the offence, the reprehensible conduct of the convicted man as enumerated in the evidence before the court at trial and the facts which show the deceased was killed for apparently no
15 reason at all (e.g.) there was no conflict between the deceased and the defendant prior to his death on the 28th of November, 2014 in Belize City. So, here looking carefully at the facts of the case, it seems that there is a major character flaw on the part of the defendant, and this along with the horrendous and chilling circumstances in which the deceased met his death, (e.g.) his untimely death; the court notes this
20 very seriously and carefully in coming to its decision here in this case.

So, after very careful consideration it is noted that the defendant may represent a grave danger to society, especially when noting this type of conduct which resulted in the death of the deceased; it is therefore noted this would only be fittingly dealt

5 with in commensurating the seriousness of the offence by handing down a sentence
of life imprisonment rather than a fixed term of years in the given situation of this
case.

It is noted here from the evidence that the deceased was walking and talking to the
witness (Jacqueline Bermudez) on Gibnut Street, Belize City that day when he
10 (deceased) was shot approximately six (6) times in the back by the defendant
apparently for no specific reason when the defendant rode passed him on that day.

So, the court here also notes from the evidence before it there was no altercation,
threat, quarrel (nothing) between the deceased and the defendant, only that the
deceased when the defendant rode pass him and the witness (Ms. Bermudez) she
15 heard shots, the deceased was shot six (6) times in the back of his body that day,
while he (deceased) was walking beside the witness in broad day light at that time
on Gibnut Street.

So, having reached the conclusion of a life sentence, the court notes it is left with the
sentencing option of (e.g.) a life sentence, with eligibility for parole. So, after due
20 and careful consideration I here note, believe, and I conclude this is the most
appropriate and fitting sentence for the defendant based on the evidence before the
court; and taking into consideration all the submissions placed before the court at
this time.

5 So, it is noted that in imposing a life sentence, I must specify a minimum term which the convicted man shall serve before he becomes eligible to seek parole.

So, here I note the classical principles of sentencing (e.g. (1) Retribution, (2) Deterrence, (3) Prevention, and (4) Rehabilitation which were laid down by Lawson (LJ) in the case of R v James Sargeant (1974) 60 Cr App R 74 which should be

10 followed by the court here in this case and which stated –

“Any judge who comes to sentence ought always to have these four (4) classical principles in mind, and to apply them to the facts of the case to see which of them has the greatest importance in the case with which he is dealing.”

15 Here I now turn to these principles and apply them here in as follows -

1. Retribution

I note here that the facts of the case are also of importance in looking at this principle, and I note here that although the court must consider the facts, it must also note the public confidence and deliver a sentence that is fair to both the convicted man and
20 the community.

I therefore note, from the facts disclosed that the deceased and the convicted man had no problems, or any previous confrontation prior to 28th of November, 2014 when the deceased was shot in the back on Gibnut Street, in Belize City.

5 The evidence of Dr. Mario Estrada Bran discloses that there were six (6) orifices characteristic of firearm found on the body of the deceased and he stated the cause of death was exsanguination due to internal bleeding, due to gunshot wounds.

Here I further noted that Lawson (LJ) also stated the following –

10 *“Society through the courts, must show its abhorrence of particular types of crimes, and the only way the courts can show this is by the sentences they pass.”*

And in noting the facts of this case and the circumstances surrounding the incident and the death of the deceased. I further noted the case of **Reynaldo Alleyne v The Queen** [2019] CCJ 06 (AJ) where Justice Barrow at para 89 stated –

15 *“In this case, an acceptance of the sentencing court’s decision as justified by the principles of retribution and deterrence is strengthened by a recognition of the importance of the society’s sense of justice. While a court must not abdicate its decision making in favour of popular opinion, or be dictated to by this undoubted pressure, courts must be sensitive to the community’s sense*
20 *of justice. A court must be concerned about public confidence in the administration of justice and the rule of law.*

The contemporary view of retribution is the idea that society disdain for the type of crime committed, and its condemnation of the conduct of the prisoner

5 *in the commission of that crime is at least to some degree reflected in the
 sentencing.”*

So then, here the court notes that Retribution is a particularly important
consideration for very serious offences such as (murder); so while the sentence
cannot bring back the deceased to life; the families of the deceased, and other silent
10 victims, it is noted here await closure and a sense that justice was done.

2. Deterrence

From the evidence the defendant/convicted man is a first offender, so on looking at
this, it may be considered that the principle ought not to be applied against him,
15 however, after considering the seriousness of the offence committed, I note the
taking of a life in this way (e.g.) with a gun and for apparently no reason at all, from
the evidence before the court; then this I note cannot be looked at trivially.

So, as is noted, it is common ground that the prevalence of this offence has become
a matter of great national concern now especially here in Belize.

20 So, here I find that the fact of this being the convicted man’s first offence for this
type of offence, this is not a good or sufficient reason not to apply this principle (e.g.)
not only to deter the convicted man, but also to deter members of society at large,
who may/are contemplating this type of offence also.

5 **3. Prevention**

Here looking very carefully at all the evidence (facts, etc.) and the submissions and reports (e.g.) The Social Report, Impact Assessment, Psychiatric Reports, etc. I note from all of the reports, and from all appearances, the defendant (Jason Sanchez) has no previous conviction as an adult, but has several as a minor/teenager before the
10 Magistrate Courts. However, on becoming an adult and of full age this is his first charge before these courts.

So, here looking carefully at the above I note and I find that the defendant/convicted man may and I note (may) not be a danger to society in the future on his release in the future back into society after paying his debt to society.

15 So, here I then consider that the sentence this court is now considering should be adequate to protect the public from serious harm in the future from the offender.

So, then in looking carefully at the facts of this case and also the dreadful circumstances of it. I am concerned that if the defendant is released in the very near future, the defendant may or could be a threat to society or the public and could
20 cause harm to another human being again.

Therefore, the court should also ensure by its sentence now being imposed that this will/may be unlikely when the defendant is released back into society again.

5 **4. Rehabilitation**

Here I note right away that the Psychiatric Report states that the defendant is without a background of mental disorder and without history of mental disorders at the National Health System. I further noted that the doctor who examined the defendant concluded and reported that after his examination, that based on his history, 10 observation, psychometrics tests, pitchard test, and mental status examination, that the patient was found to have no active signs of psychosis or mood disorder.

Recommendation – based on the above, I consider that the patient is without active psychological symptoms and he can understand the proceeding of the Supreme Court.

15 The court also further noted the report from the Kolbe Foundation (Belize Central Prison); and it is here noted the defendant was remanded to prison on the 1st December, 2014 and that his prison record shows he has committed eleven (11) infractions violating the prison rules from the year 2015 to the year 2021.

Here the court notes some of these violations (e.g.) –

- 20 (1) Use of threatening language (threatening to kill another inmate)
- (2) Assault (Punched another inmate in the face)
- (3) Stoned another inmate in the back with a bottle filled with water and threatening to kill another inmate again

- 5 (4) Possession of unauthorized article (a Digicel sim card)
- (5) Damage to prison properties (etc.) it is noted these are some of the more serious charges which the defendant was charged for whilst on remand at the Central Prison.

His prison record also indicates that he has completed the following programs:

10 (1) Certificate of completion Restore Small Groups Program Journey to a new Beginning after a loss, Freedom from the pain of grief, and disappointment (June 2017)

(2) Certificate of completion the Belize Red Cross – Conflict Management Training (January 5 and 12, (2018)

15 Here as noted and stated by (Sr. Crown Counsel) for the Prosecution the defendant in addressing the court on oath – never apologised or expressed to the family of the deceased any form of sympathy or remorse during his address.

He instead stated several times he never kill any man or anybody.

1. Aggravating factors

- 20 1. The total and senseless loss of a human life
2. The offence was committed with the use of a firearm (a lethal weapon)

5 3. The callous manner in which the offence was committed e.g.) shots to the back of the body.

4. The offence was committed in broad daylight in public with in deference to the presence and safety of others.

5. The offence was committed on an unarmed victim.

10 (6) The deceased was shot six (6) times in the back.

(7) The deceased was a young man who was gainfully employed.

II. **The mitigating factors**

1. The age of the defendant at the time of the offence.

2. The attempts made to complete rehabilitation programmes at the Belize
15 Central Prison.

Impact Statement

Here I now consider the Impact Statement the Crown submitted on behalf of the deceased's family.

1. Eshel Arnold of Belize City stated she is the only daughter for her mother and
20 father and she has two (2) other brothers left since the death of her brother
Ermeson Arnold.

5 She states her brother Emerson was a fun person, and the spark in our family.
He was very helpful, caring and outgoing person. Emerson left behind four
(4) kids, two (2) boys and two (2) girls who he loved dearly, and took really
good care of.

10 What hurts the most is that they took my brother's life on my birthday, and
we had plans to spend the evening together after he was finish from work.
Our family would like to see justice done and sentence that is fitting be given
to this person for what he has done to our family and that he spends the rest
of his life in prison.

Here then I also considered the above Impact Statement very carefully.

15 **The Social Report**

The court here also noted the social Inquiry Report which was completed on the
defendant (Jason Sanchez).

This report was prepared by the Social Department, and also described Jason
Sanchez growing up in a single parent household, but he had a normal life as a child,
20 until he got a bit older. He claims he was abused by his mother a couple of times
where he did not want to be there. Mr. Sanchez shared that as a result of the abuse
that he was experiencing at home at the time he started to stray away from his mother
and started hanging out on the street with boys from his neighbourhood.

5 Mr. Sanchez shared he attended James Garbutt Primary School but he only reached Standard 3 and school was over for him. The reason for his drop out from school is because his mother was unable to send him to school since he had other siblings attending school.

In regards to the matter before the court Jason expressed that he had nothing to do
10 with the death of the gentleman.

Here then, I carefully read, noted and considered the Impact Statement, the Prison Report, Social Report and the Psychological Report. Therefore, I further considered and very carefully noted the submissions made to the court by both the Crown and Defence Counsels referring to the appropriate starting point and sentence the court
15 can consider and eventually can/may decide on as fitting bearing in mind the circumstances of the evidence before this court.

Here I wish to state that the court in its considerations takes all the reports and cases submitted including the submissions made and very carefully consider each placed before the court, and it is noted that each is given full weight when making and
20 weighing these considerations as to the type of sentence the court indicates it is giving; and as to the range of sentence it deems appropriate in this case now before the court; in arriving at the final decision of the type of sentence, and in arriving at a just starting point in this case.

5 So, here I noted the case of Leslie Pipersburg et'al v R (Privy Council) Appeal No. 96 of 2006 on appeal from the Appeal Court of Belize, and I note that Lord Earlsferry in delivering the Board's decision stated at para 33 as follows –

10 *“It is the need to consider the personal and individual circumstances of the convicted person and, in particular, the possibility of his reform and social re-adaptation which makes the social inquiry and psychiatric reports necessary for all such sentence hearings.”*

So, now looking at the law it requires me to look at both the offender and the offence, however, here I note that the intentional taking of someone's life is obviously an offence that is not just against the victim, but it also harms the entire society at large
15 when such offences are committed.

So, here I noted and considered the Social Report very carefully, and here I noted and considered the Impact Statement also very carefully while also taking it into the final consideration, and decision this court makes in this case now before it in arriving at a just starting point.

20 The court after considering the aggravating factors and the mitigating factors here notes it was forced to conclude that the aggravating factors when considered in the round, far outweighed the mitigating factors in the circumstances of this case.

5 Therefore, I take this ruling into serious consideration in making the final decision below.

Here I also considered the case of R v Howells (1999) 1 All E R 50 where Lord Bingham (CJ) stated –

10 *“Courts should always bear in mind that criminal sentences are in almost every case intended to protect the public, whether by punishing the offender, or reforming him, or deterring him and others, or all of these things. Courts cannot and should not be unmindful of the important public dimension of criminal sentencing and the importance of maintaining public confidence in the sentencing system.”*

15 So here I note the above statement in this quoted case and I note that a life was lost in circumstances which was brutal, heinous, and unprovoked; so here I note that the convicted man did not express any sorrow or remorse at the sentencing hearing, and I note the law states that the convicted man must be punished by the imposition of a sentence commensurate with his culpability for the charge he was found guilty of
20 before this court on the count of murder.

So now having considered all of the above, including the cases, reports, submission of both the Defence and the Crown Counsels, it is accepted that the range as accepted

5 from the cases laid before the court, and considered is a range (in murder cases in Belize) of 20 – 35 years imprisonment.

Therefore, having considered all of the above, and having thoroughly assessed the above submissions, reports (etc.) and the evidence presented in this case; the court now having regard to the extreme and heinous circumstance of this case – (e.g.) the
10 horrendous nature of it, the unnecessary death of a human being here in Belize. The court now has adopted a starting point that is conducive to the facts, and circumstances of this case. Therefore, the court adopts a starting point of Thirty (30) years for the offence of murder on the range.

SENTENCE

15 Therefore, I now here rule that the defendant –

- (1) Jason Sanchez is sentenced to life imprisonment
- (2) And it is noted he has been on remand for a period of 8 years 3 months, taking into consideration the time spent on remand (rounding off the above figure to the nearest month).
- 20 (3) Therefore, the period spent on remand will be deducted from the said Thirty (30) years. (Ref. the case Romeo Da Costa Hall) a CCJ ruling.

(4) Accordingly, Jason Sanchez is sentenced to serve Twenty One (21) years
Nine (9) months imprisonment with effect from today day of **March,**
2023 before eligibility for parole.

10 (5) Jason Sanchez is ordered to receive counselling with a view to
rehabilitation before his release from prison.

Given this **17th** day of **March, 2023.**

15 **(H. R. LORD)**
Justice of the High Court
BELIZE