

IN THE SENIOR COURTS OF BELIZE

CENTRAL SESSION-BELIZE DISTRICT

IN THE HIGH COURT OF JUSTICE  
(CRIMINAL JURISDICTION)

CASE NO: BA20230570

IN THE MATTER OF TYRA SHEPPARD -A PRISONER AWAITING TRIAL  
AND

IN THE MATTER OF SECTIONS 3(1) AND 32 OF THE FIREARMS ACT, CHAPTER 143  
OF THE SUBSTANTIVE LAWS OF BELIZE R.E. 2020

AND

IN THE MATTER OF SECTION 16 OF THE CRIME CONTROL AND CRIMINAL JUSTICE  
ACT, CHAPTER 102 OF THE LAWS OF BELIZE, R.E. 2020

AND

IN THE MATTER OF SECTION 62 OF THE INDICTABLE PROCEDURE ACT, CHAPTER  
96 OF THE LAWS OF BELIZE, R.E. 2020

Before: The Honourable Mr. Justice Nigel Pilgrim

Appearances: Mr. Dickie Bradley for the Petitioner.  
Mr. Dercene Staine for the Respondent.

Date of Hearing: 20<sup>th</sup> September 2023.

Date of Delivery: 20<sup>th</sup> September 2023  
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BAIL- CRIME CONTROL AND CRIMINAL JUSTICE ACT- FIREARMS ACT- SPECIAL  
REASONS

**RULING ON PETITION FOR BAIL**

[1] **PILGRIM J.:** Tyra Sheppard (hereinafter the Petitioner) has applied for bail. The Petitioner was arraigned on 18th September 2023, for the offence of possession of ammunition without a license contrary to section 3(1) of the **Firearms Act**<sup>1</sup> (hereinafter the “FA”). This is an offence requiring special reason for the grant of

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<sup>1</sup> Cap. 143 of the Substantive Laws of Belize, Revised Ed. 2020

bail pursuant to the conjoint effect of section 16(2)(i) and section 16(3) of the **Crime Control and Criminal Justice Act**<sup>2</sup> (hereinafter the “CCCJA”).

[2] The effect of section 16(3) of the CCCJA was considered by our High Court in the matter of **Timoteo Douglas Jimenez**<sup>3</sup>, per Barrow J (Ag.), as he then was:

*“4. It makes for clarity to state the obvious: the intention of the legislature was to restrict the power of the Supreme Court to grant bail.*

...

*8. The Supreme Court may now only grant bail for special reasons, to be recorded in writing.*

...

*10. In these cases a common proposition was applied: a special reason was one which was special to the facts which constituted the offence and not one which was special to the offender as distinguished from the offence.... It was made clear that the fact that the offender had no previous conviction or that the application of the law would cause hardship did not constitute special reason’*

...

*12. ...the weakness of a case may provide special reason for granting bail...*

*13. The family circumstances and obligations of the petitioner and his good standing in his community, which counsel for the petitioner had initially proposed to urge as matters for the court to consider on this application, have been shown by the authorities as incapable of constituting special reasons. The length of time that the petitioner will have to wait before he is tried, to which counsel also referred, is undoubtedly a factor that must concern the court as an aspect of its concern with the administration of justice but that is not a special reason either, it is a very general reason that is of concern in every case.*

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<sup>2</sup> Cap. 102 of the Substantive Laws of Belize, Revised Ed. 2020

<sup>3</sup> Action No. 235/04

14. It is a matter for which the Act makes provision by allowing for the accused person to be admitted to bail if he is not tried at the next practicable sitting of the Supreme Court. If in this case, or in cases of bail applications generally, the response of the court seems unsympathetic let it be remembered that it is the duty of the courts to recognize the intention of the legislature as expressed in the language of the Act....It would be wrong for the court to try to stretch the meaning of special reasons to grant bail in a case where, but for the restriction imposed by the Act, it would have granted bail. The Act exists and it is the law and it is not open to the court to ignore its clear intent." (emphasis added)

- [3] A decision of our High Court, **Shelton Tillett**<sup>4</sup>, considered *Jimenez* and provided further clarification, per Lucas J. The Court also relies on that judgment in particular at paragraphs 5-11.
- [4] The propositions that emerge from the two decisions, which in the Court's view correctly explain the effect of the CCCJA are as follows: (i) this Court has no jurisdiction to grant bail for the offences covered by that Act, in a case where there has not been constitutional unreasonable delay, unless special reasons exist to justify it; and (ii) special reasons are not generally peculiar to the offender but to the offence. These special reasons depend on the facts of the case but require a consideration of the strength of the evidence. Delay is factored into the CCCJA by giving the Petitioner liberty to re-apply if trial is not conducted within a particular time.
- [5] It is in this context that the Court examines the petition. The Court is looking for special reasons for the grant of bail. The Petitioner has cited his claim of innocence; grave injustice because it is not foreseeable that a trial date will be given soon; and that he is willing to abide by bail conditions. The Court is of the view that none of these matters cited are special reasons on the authority of *Jimenez*. The Court then

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<sup>4</sup> Action 73/05

looks at the evidence for special reason. This case relies on the presence of the Petitioner in a household where ammunition was found with another. The legal position in that regard is to be found at section 6A(1)(a) of the FA:

**“6A.–(1) *Where any unlicensed* firearm or *ammunition is found in or on any premises owned or occupied by more than one person, the following provisions shall have effect–***

**(a) *where any such firearm or ammunition is found in or on any premises occupied by a family, the head of the family or the person in charge or control of the premises shall, for the purposes of this Act, be presumed to be keeper of such firearm or ammunition, unless there is evidence to the contrary;***” (emphasis added)

[6] The strong inference on the evidence by virtue of the male person answering the door when the police arrived to search is that he was in charge or head of the household, or in control of the premises, making him the person presumed to be in control of the ammunition. There is no other evidence to affix liability to the Petitioner. In the Court’s view this is a weak case. The Court having found special reason and after considering the factors listed at (a)-(d) at section 16(3) of the CCCJA grants bail to the Petitioner.

[7] The Court in the circumstances grants bail to the Petitioner in the sum of \$5,000.00 with 1 surety with the following conditions:

1. The Petitioner is to attend court at the Belmopan Magistrate’s Court when summoned and on each and every adjournment date.
2. The Petitioner is to report to the Roaring Creek Police Station every Wednesday between the hours of 6:00 a.m. to 6:00 p.m. with effect from 27<sup>th</sup> September 2023.
3. The Petitioner is not to interfere or communicate with any Prosecution witness or witnesses either by himself or a third party or any instrument.
4. Failure to comply with the above conditions or if the Petitioner is subsequently arrested and charged for any offence, then the Petitioner is to be

brought immediately or as soon as possible before a judge of the High Court where bail may be revoked.

**Dated 20th September, 2023**

**NIGEL C. PILGRIM  
JUDGE OF THE HIGH COURT OF BELIZE  
CENTRAL DISTRICT**