

IN THE SENIOUR COURTS OF BELIZE

CENTRAL SESSION – CITY OF BELMOPAN, CAYO DISTRICT

IN THE HIGH COURT OF JUSTICE

INDICTMENT No. S38 of 2018.

BETWEEN:

THE QUEEN

and

[1] ARDEN JONES

Defendant

Appearances:

Mrs. J Thomas Shorter, for the Crown

Mr. Hurl Hamilton, for the Defendant

Dates:

Hearing Dates: 2019: February 21, 22, 25, 26

Judgment Date: February 28

April 4

Sentence Date: April 8

JUDGMENT ON SENTENCING

[1] CUMBERBATCH, HON. MR. FRANCIS M.; J: On 8 April 2019, after a fully contested trial, a jury of his peers found Mr. Arden Jones who was indicted along with another by the Director of Public Prosecutions guilty for the offence of extortion for that he on the 8 August 2017, at Punta Gorda Town demanded from one Silvina

Kib the Virtual Complainant (“**the VC**”) the sum of three hundred Belize dollars (\$300.00). A sum which he knew he was not lawfully authorized to demand contrary to the provisions of section 284 of the *Criminal Code*¹ CAP 101 of the Substantive Laws of Belize Revised Edition 2020.

The Facts

- [2] On the said day the Accused who was a serving member of the Belize Police Department was on duty at a road block around 7:00 a.m., when he stopped the virtual complainant’s vehicle and made a routine check of her license and insurance. He discovered that her insurance had expired on the 6 August 2017, hence, she was detained. She was told that she had committed an offence for which she will be charged and her vehicle will be impounded. She was also told that her driver’s license would be revoked.
- [3] The virtual complainant was thereafter escorted to the Punta Gorda Police station where she was detained. Sometime later that morning the Accused returned to the station from the road block and had a conversation with her in the traffic office. She

¹ Section 284 of CAP 101 of the Substantive Laws of Belize Revised Edition 2020

284.- (1) Every public officer or juror who is guilty of corruption or of willful oppression or of extortion in respect of the duties of his office, shall be liable to imprisonment for three years.

(2) Every person, other than a public officer or juror, who is guilty of corruption or of willful oppression or of extortion, shall be liable to imprisonment for three years.

(3) A person, other than a public officer or juror, is guilty of— (a) corruption, in relation to his decision to do any act or omission, if he directly or indirectly agrees or offers to do that act or omits to do that act, to be influenced by the gift, promise or prospect of valuable consideration to be received by him or by any other person from any person whoever, which he knows that he is not lawfully authorized to demand; (b) willful oppression, if he willfully commits any excess or abuse of his authority to the injury of the public or any person; (c) extortion, where by virtue of his position, that person demands or obtains from any other person whether for himself or any other person, any money or valuable consideration which he knows that he is not lawfully authorized to demand or obtain.

was asked how much money she was willing to pay ostensibly for the return of her vehicle and to avoid the institution of charges against her. She suggested the sum of three hundred dollars (\$300.00) which the Accused agreed to accept. She was told to leave her bag at the station and was sent to acquire the said sum of money. She obtained the sum of four hundred dollars (\$400.00) from her manager by way of a salary advance. This said sum of money was photographed and a copy of the pictures of four one hundred dollars (\$100.00) bill was sent to the Officer in Charge of the Punta Gorda police station.

[4] On her return to the station she again met with the Accused who was sitting in the traffic office. She told him she had the money and he instructed her to place same in a drawer. She was then given her handbag and told that the keys for her vehicle were in the bag. After she left the station the Officer in Charge entered the traffic office and asked the Accused about the money. The Accused then handed over the money to the Officer in Charge.

[5] I will proceed to consider and apply the classical principles of sentencing to the facts and circumstances herein as outlined by Lawson LJ in the celebrated decision of ***Sergeant v. The Queen***².

Retribution

[6] It is common ground that the Accused was a police officer at the time of the commission of this offence. His reprehensible conduct is calculated to bring disgrace and discredit to the Belize Police Department, the premier law enforcement

² *Sergeant v. The Queen*

organization of this country which is charged with the duty to serve and protect its citizens and occupants.

- [7] The Court must show its abhorrence for this kind of criminal conduct by the sentence it imposes.

Deterrence

- [8] This principle is intended to deter the Accused from reoffending in like manner and those members of this law enforcement organization who may be contemplating committing this or a similar offence from so doing. Here again the Court must impose a suitable sentence to discourage other members of the Belize Police Department from acting in breach of their oath and bringing the Department into disgrace and dishonour.

Prevention

- [9] This principle is applicable to repeat offenders and those who are likely to reoffend and as such are considered to be a danger to the society.
- [10] However, there is no evidence before me that this Accused is or should be considered a danger to the society, hence, this principle will not be considered herein.

Rehabilitation

- [11] The Court is obliged to consider the rehabilitation of the offender to ensure his smooth reintegration into society. I have heard the favourable statements from family members of the character and upbringing of this Accused person. Thus, I am satisfied that with their support the Accused is quite capable of rehabilitating himself.

Aggravating and Mitigating Factors

- [12] I find the following to be the aggravating and mitigating factors herein.

Aggravating Factors

1. The seriousness of this offence.
2. The offence was planned and premeditated.
3. The breach of the oath taken by the Accused as a member of the Belize Police Department.
4. The effect of the actions of the Accused on the virtual complainant and other members of the public.

Mitigating Factors

1. The hitherto clean criminal record of the Accused.
2. His favorable prospects for rehabilitation.
3. The remorse expressed.

[13] I find that after balancing the aggravating and mitigating factors, in light of the facts and circumstances herein, that the aggravating factors outweigh the mitigating ones.

Sentence

[14] There is no doubt that the Accused planned and premeditated this dastardly scheme to rip off or 'shake down' the virtual complainant. His quest for filthy lucre seems to have caused him to ignore and forget the obligations trust upon him when he chose to become a member of the Belize Police Department and wear its uniform. This conduct inevitably causes disrespect and disregard for law enforcement officers in this country.

[15] The Accused must be suitably punished for this infraction. I have already found that the aggravating factors outweigh the mitigating ones and as such a custodial sentence is usually inevitable.

[16] I have considered the favorable remarks made of the Accused by his family members and the fact that despite his disgraceful conduct they have not abandoned him. However, the Accused must be suitably punished by the imposition of a sentence commensurate with the seriousness of the offence committed by him. In so deciding, I must also take into account the mitigating factors in his favor. I have also taken into consideration the time spent on remand by the Accused whilst the Court awaited the production of a social inquiry report which I am yet to receive.

[17] I find in all the circumstances that notwithstanding the seriousness of the offence committed by the Accused he was more fool than knave and has not clearly evinced the intention to lead a life of crime. Accordingly, the Accused is fined the sum of seven thousand five hundred dollars (\$7,500.00).

Hon. Mr. F M Cumberbatch

Justice of the High Courts