

**IN THE SENIOR COURTS OF BELIZE
CENTRAL SESSION- BELIZE DISTRICT**

**IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)**

INDICTMENT NO. CR2022002C

BETWEEN:

THE KING

and

MICHAEL GARCIA

Before:

The Honourable Madame Natalie Creary-Dixon, J

Appearances:

Mrs. Cheryl-Lynn Vidal SC, Director of Public Prosecutions for the Crown

Mr. Dickie Bradley, for the Accused

2024: December 13

2025: January 31

JUDGMENT ON SENTENCING

[1] **NATALIE CREARY-DIXON, J:** **Michael Garcia** (the convicted man) has pleaded guilty to manslaughter of Jose Alberto Gonzalez (“the deceased”), in that on 20th February 2021, he used a piece of board to hit the deceased in his head causing his death, contrary to Section 106 read along with Section 116(1) of the **Criminal Code (“the Code”) Chapter 101 of the Substantive Laws of Belize, (Revised Edition) 2000.**

[2] The Court requested and was granted the following documents to assist with constructing a just sentence:

1. The Agreed Facts
2. The victim impact statement
3. The SIR
4. The criminal history of the convicted man
5. The psychiatric report; and
6. The Kolbe report

[3] The Court also considered the evidence of the character witnesses, the statement made by the accused, and the submissions of both Counsels.

The Agreed Facts

[4] One the 20th of February 2021, the accused, Michael Garcia, was attacked by the now-deceased Jose Alberto Gonzalez with a knife. He sustained minor injuries to his left upper ear, chest, neck, and left hand, which were classified as harm by Dr. Candy Azueta. After having inflicted the injuries, Gonzalez left the area and was proceeding towards his house.

The accused then found a piece of board and pursued Gonzalez. When he caught up to him close to his house, a struggle ensued, during which the accused hit

Gonzalez repeatedly with the board to his head and body. Gonzalez was taken to the Western Regional Hospital and thereafter transferred to the Karl Heusner Memorial Hospital, where he died on the 9th of March 2021.

Dr. Mario Estrada Bran conducted a post-mortem examination on Gonzalez's body on the 11th of March 2021 and certified the cause of death to be complications consequent to blunt force trauma to the head.

When he was taken into police custody the accused admitted to having hit Gonzalez but alleged that he had done so in self-defence.

The accused was initially charged with attempt to murder but the charge was upgraded to murder after Gonzalez's death. He was taken into custody on the 9th of March 2021, and after his arraignment was remanded to the Belize Central Prison.

The victim impact statement

- [5]** The statement of the deceased man's sister outlines the grief and hardship her family currently faces by this unfortunate incident. It bears repeating that family members found it difficult to even visit the deceased before he died, as they could not find the fare to travel. Needless to say, they could not find the funds to cover the funeral expenses once he had passed. His statement spoke to the pain of her parents losing their only son; as a result of her brother's death, her father took up the incorrigible habit of drinking.

The Social Inquiry Report 'SIR'

- [6]** 25-year-old Michael Garcia grew up with his mother after his father relocated to the United States of America when he was 5 years old. His mother described him as a very obedient child who had many friends. He attended school up to the age of fifteen when he started to work to take

care of his pregnant girlfriend. His mother said that he was a very responsible parent. He would split the bills in the household whilst caring for his son and partner. Throughout the interview for the SIR, he spoke often and highly of God and seeking God's guidance. Although he maintained that he was defending himself, he still expressed remorse for his actions and expressed that he had hoped that the deceased would have lived.

The criminal history of the convicted man - The convicted man has no prior convictions.

The Psychiatric Report - Listed him as fit and proper to stand the sentencing process with no mental illness.

The Kolbe report – He has had 2 minor infractions since his incarceration in 2021. He completed at least three rehabilitation programmes. In short, it detailed that he held positions of trust and authority to some extent, whilst incarcerated.

The Character witnesses' evidence, statement by the accused, and submissions of Counsel

[7] The recurrent theme in the statements of the witnesses, accused, and both counsel, is that the convicted man is remorseful and the prospects for rehabilitation are favourable. The witnesses echoed the sentiments of the SIR that the convicted man was not a known troublemaker, he was responsible and had a bright future prior to being incarcerated.

THE LAW

[8] 116.-(1) Every person who causes the death of another person by any unlawful harm is guilty of manslaughter.

[9] The Court is guided by the decision of the CCJ in Calvin Ramcharran v DPP 2022] CCJ 4 (AJ) GY where Jamadar JCCJ explained the multiple aims of sentencing, as first and foremost and as overarching), (ii) the retributive or denunciatory (punitive), (iii) the deterrent, in relation to both potential offenders and the particular offender being sentenced, (iv) the preventative, aimed at the particular offender, and (v) the rehabilitative, aimed at rehabilitation of the particular offender with a view to re-integration as a law-abiding member of society.

[10] In this case, the mitigating factors outweigh the aggravating factors: the youth of the convicted man; his expression of remorse; the fact that he was first provoked by the deceased; and the fact that he has no prior convictions, means that the Court considers that the convicted man has great prospects for rehabilitation and in fact identifies rehabilitation as the dominant sentencing aim in this case.

Constructing the sentence

[11] In constructing a fair and just sentence, the Court was guided by the new Sentencing Guidelines of Belize (“the Guidelines”).¹ This Court considered the heading of manslaughter by provocation in the Guidelines. The requirements for constructing a sentence under this rubric require an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused. The Guidelines detail a four-step approach to constructing an impartial sentence, as discussed below.

[12] The first stage is to determine the category based on consequence. The consequence of manslaughter is always the death of the victim.

¹ Belize’s first ever sentencing guidelines was passed on 2nd day of January 2025

- [13]** The second stage is to consider the level of seriousness by assessing the culpability of the offender. Seriousness was assessed as Level B-Medium, (significant degree of provocation) because of the physical abuse of the offender by the victim falling short of extreme violence.
- [14]** The Guidelines suggest a starting point of 15 years with a range of between 14-18 years for this category of seriousness. Given the mitigating features of this case, the court finds that a starting point at the lower end of the spectrum (that is, at 15 years) is appropriate.
- [15]** Having determined the starting point, the Guidelines require the Court to consider the aggravating and mitigating factors of the **offence** and adjust upwards or downwards if required, taking care not to double-count factors already considered in arriving at the starting point.
- [16]** The aggravating factors of the offence are that the offence occurred at/near to the home of the deceased, and it involved the use of a weapon; for that, the Court will add 1 year taking the figure to 16 years.

There are no mitigating factors of the offence.

- [17]** The Court next considered the aggravating and mitigating factors in relation to the offender; they are: the fact that he has no prior convictions of this nature; the fact that the SIR speaks favourably of him; the Court also considered that he has a young son; the Court further considered his own youth - both at the time of the commission of the offence and presently; another consideration was what the Court perceives to be his genuine remorse; this is coupled with the fact that he completed rehabilitation courses whilst incarcerated. The Court believes that he shows good prospects for rehabilitation. For these factors the court will deduct 4 years taking the figure down to 12 years.

[18] The third step requires that the convicted man should be given credit for a guilty plea as appropriate. A reduction of one-third should be given for a guilty plea entered at the earliest practicable opportunity; in this case, the convicted man entered a plea at the earliest possible opportunity and will be credited accordingly with a discount of 1/3. When applied, the sentencing figure now stands at 8 years.

TIME SPENT ON REMAND

[19] The last step requires a consideration of this principle.

In step 4, In accordance with the well-settled case of *Romeo Da Costa Hall v The Queen, 2011 CCJ 6 (AJ)*, the Court will deduct time spent on remand. The convicted man has spent 3 years and 11 months on remand; deducted from 8 years, the accused will now spend 4 years and 1 month in custody.

[20] The Court was made acutely aware of the impecuniosity of the victim's family. The Court believes that a sum of money can never truly compensate for the loss of a loved one; nevertheless, the Court appreciates that the impact of a wrongful death extends far beyond the immediate grief, affecting every aspect of daily life. From the overwhelming sense of loss to the financial strain that often follows, the consequences are both deeply personal and far-reaching; the costs associated with an unexpected death of a loved one, for example, funeral and burial expenses, can be substantial. The Court seeks to alleviate some of that loss by making an order for compensation. In doing so, however, the Court must have regard to whether the family of the deceased can pay the sum that is being ordered by the Court.² For that

² The Court had regard to paragraphs 20-21 of the case THE DIRECTOR OF PUBLIC PROSECUTIONS and [1] DALIANNE RICHARDSON [2] SHANIQUE DWYER [3] SHIMMEA WELSH [4] LARSHEKA GRAY, ANTIGUA & BARBUDA ANUHCRA2020 from the Eastern Caribbean Supreme Court of Appeal: "20. A compensation order is not intended as punishment; rather the aim is to compensate the victim for injury or loss

reason, the court will also make the necessary inquiries and order that the convicted man pay the sum of \$2,500.00 to the family of the convicted man within eight months of the date of this order.

[21] The convicted man is also to undergo anger management counselling and any other rehabilitation programmes that will assist in his re-integration into society.

[22] DISPOSITION

1. The convicted man is sentenced to 8 years imprisonment for the manslaughter of Jose Gonzalez.
2. 4 years is to be deducted, resulting in the convicted man serving four years and one month imprisonment
3. The convicted man is also to compensate the victim's family in the sum of \$2,500.00 by 3rd of February 2025.
4. The convicted man is to undergo anger management and other programmes to assist in his rehabilitation and reintegration into society.

POSTSCRIPT

[23] The court must at this time recognize the industry of Counsel for the prosecution and Counsel for the convicted man in disposing of this matter by observing plea bargaining legislation in appreciation of the essence of the Needham's Point Declaration on Criminal Justice Reform: Achieving A Modern Criminal Justice System ("the Declaration"). The Declaration requires that amongst other things:

suffered. Where a court is contemplating ordering the payment of compensation, a number of factors must be considered which would inform whether a compensation order is appropriate in the first place and, if so, the quantum...

[21] I should think it trite that before ordering a defendant to pay compensation, the court must satisfy itself on evidence that the offender has the means to pay compensation. Indeed, it has been held that when a court is minded to make a compensation order, it is under a duty to canvass the matter so that a proper inquiry into the offender's means can be made. "

“32. A Sentencing Guidelines Commission be established in each jurisdiction with a broad remit including the obtaining of data and the making of recommendations to the legislature and judiciary to assist in the formulation of sentencing ranges for various offences falling for determination by judges.

34. ...Courts should adopt a focused and integrated approach to eliminate criminal case backlogs, by using tools and measures such as robust case-management and plea-bargaining discussions”

Given this 31st day of **January 2025**

[24] This is the judgment of the Court.

Natalie Creary-Dixon, J
High Court Judge

By the Court Registrar