

**IN THE CARIBBEAN COURT OF JUSTICE
Appellate Jurisdiction**

ON APPEAL FROM THE COURT OF APPEAL OF BARBADOS

**CCJ Appeal No. BBCR2017/004
BB Criminal Appeal Nos. 6 of 2013**

Between

RENALDO ANDERSON ALLEYNE

Appellant

And

THE QUEEN

Respondent

JUDGMENT SUMMARY

Sections 35 to 41 Penal System Reform Act of Barbados – Section 14 Criminal Appeal Act of Barbados – sentencing – principles of sentencing – rehabilitation of offender – the meaning of ‘life imprisonment’ – discount for early guilty plea – minimum period to be served

- [1] In September 2010, the Appellant, Mr. Renaldo Alleyne, and another man, robbed the Campus Trendz Clothing Boutique located on Tudor Street, St Michael. Mr. Alleyne lobbed two Molotov cocktails into the store which caused a serious fire. Screams were heard coming from the back of the building where six females had concealed themselves to escape the robbery. By the time officials of the Fire Department got to them, it was too late. The six women died of asphyxia resulting from smoke inhalation. Mr. Alleyne admitted his participation in the robbery and gave a self-written statement to the Police. He was thereafter charged with six counts of murder.
- [2] On arraignment in June 2011, Mr. Alleyne pleaded not guilty to murder but guilty to six counts of manslaughter which was accepted by the Director of Public Prosecution. In considering the appropriate sentence, the judge found that the following were aggravating factors: the intention to rob armed with two Molotov cocktails; the well-executed plan

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before and after the robbery; the reckless and callous manner in which the robbery was executed; and Alleyne's willingness to readily participate in such an egregious act which resulted in six young women losing their lives. The judge found that the mitigating factors were Mr. Alleyne's early guilty plea; his clean record; his cooperation with the police; and his young age. However, she held that these could not neutralized the gravity of the offence. After referencing section 36 of the Penal System Reform Act which required that the length of the sentence be commensurate with the gravity of the offence, she sentenced Mr. Alleyne to six concurrent life sentences. As a condition of his sentence, she ruled that Mr. Alleyne be included in treatment programmes that would address his cognitive deficiencies identified in the Psychological Report.

- [3] The Court of Appeal affirmed the six life sentences and Mr Alleyne then appealed to this Court.
- [4] During this Court's hearing of the appeal, on 5 December 2018, the issue arose of whether the imposition of a life sentence necessarily meant incarceration for the natural life of the prisoner. The Court invited counsel to collaborate in providing information on the period of imprisonment served by persons sentenced to life imprisonment, but who would have been released after reviews of sentence conducted by the Review Committee in accordance with Rule 42 of the Barbados Prison Rules. The information was provided on 11 January 2019.
- [5] During the Christmas break, it came to the attention of the Court that Mr Alleyne may have been involved in another matter similar in nature to that in the present appeal. The Court convened a Case Management Conference on 10 January 2019 at which the lawyers on both sides confirmed that Mr. Alleyne had indeed been involved in the firebombing of another building (the *Chicken Galore* building) on 13 August 2010, less than one month before the *Campus Trendz* incident, and that Mr. Alleyne had pleaded guilty to aggravated burglary and arson in relation to that earlier incident. Having considered the submissions on the matter, the Court was satisfied that as Mr Alleyne's guilty plea in relation to the *Chicken Galore* incident was not finalized until 2013, it was not relevant at the time of his sentencing for the *Campus Trendz* matter in 2012. However, the Court considered that it could take this information into account in its own decision in the present appeal based

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upon section 37 of the Penal System Reform Act which empowers the appellate court, to “take into account any information about the offender which is before the court.”

- [6] In deciding on Mr. Alleyne’s grounds of appeal, the Court first dismissed the suggestion that Mr. Alleyne’s early guilty plea automatically rendered it impossible for him to be given a life sentence. The Court made a distinction between cases where a determinate and an indeterminate sentence is given. Referring to its recent decision in *Teerath Persaud*, the Court stated that a discount for an early guilty plea is appropriate and warranted where a sentence for a determinate number of years is contemplated and appropriate. However, the situation is entirely different where an indeterminate sentence such as the sentence of death or of life imprisonment is properly imposed. The Court, drawing from established case-law, held that a discount for an early guilty plea is wholly incompatible with such sentences.
- [7] Secondly, the Court expressed that it was satisfied that the trial judge had considered all the relevant aggravating and mitigating factors as well as the statutory provisions in imposing the life sentences. Whilst regretting that the judge had not dealt with the issue of rehabilitation in a more fulsome manner, the Court noted that after consideration of the aggravating and mitigating factors the judge had concluded that the life sentences were commensurate with the gravity of the offences and were necessary to protect the public from the offender.
- [8] Noting that it was entitled to take account of the earlier *Chicken Galore* incident in determining the appropriateness of the sentence imposed, the Court held that the imposition of the life sentences was justifiable. The actions of the Appellant, in not one but two incidents of a similar nature, revealed a callous and/or reckless disregard for human life that must attract stern condemnation from the judiciary.
- [9] The Court next considered whether the mere confirmation of the 6 life sentences would fulfil the sentencing objectives in this case. The Court stated that sentencing was quintessentially a judicial function and an exercise of judicial discretion having regard to established sentencing principles of punishment, deterrence and rehabilitation. Rehabilitation was inextricably linked to the prospect of release but could not be evaluated or pronounced upon at sentencing and it was therefore for others in the justice system to decide if and when a prisoner had been rehabilitated. However, in pronouncing a life

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sentence, it was the duty of the sentencing judge to recommend a minimum period of incarceration to be served for purposes of punishment and deterrence before there could be any possibility of release. In arriving at this decision, the Court referred to legislation in the Caribbean and elsewhere as well as to several cases including cases decided by the European Court of Human Rights which affirmed that recommending a minimum period of incarceration is consistent with the rights to a fair hearing before an independent and impartial tribunal, protection of the law, and equality before the law.

- [10] The Court noted that the review process provided for in Rule 42 of the Prison Rules, allowing for a review after serving a period of four years, presented the appearance of conflict with the judicial power and responsibility to recommend a minimum period of incarceration and recommended that this situation should be quickly addressed by the Legislature by suitable amendments to the Prison Rules.
- [11] In the circumstances of this case, the Court concluded that in order to secure the objectives of punishment and deterrence evident in the sentencing remarks of the trial judge, whilst not ruling out the possibility of rehabilitation, a minimum period of incarceration for twenty-five years was necessary.
- [12] The Court President, Mr. Justice Saunders, concurred in the judgment of the Court. Justice Saunders considered that Mr. Alleyne's crime was a serious one deserving of a stiff sentence. For the premeditated act of setting a fire in a crowded and confined clothing store causing the deaths of six persons, the trial judge was fully entitled to regard a life sentence as being commensurate. In other circumstances, Mr Alleyne's early guilty plea and youth might have served to reduce his sentence. But these factors were cancelled out firstly, by the seriously aggravating circumstances of the offence and, secondly, by the fact that Mr. Alleyne had, shortly before this incident, committed and pleaded guilty to the offence of torching premises to which the public had access.
- [13] Mr. Justice Barrow also concurred. Justice Barrow expressed that in this case, an acceptance of the sentencing court's decision as justified by the principles of retribution and deterrence was 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, a court must be concerned about public confidence in the administration of justice and the

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rule of law. As such, he agreed that the overall justice of the case required this Court to uphold the sentences of life imprisonment. Justice Barrow commented that the time had come when legislation was needed to provide for the courts to stipulate minimum or qualifying periods before early release.

[14] Having regard to these judgments the Court decided that it would:

- (1) Dismiss the appeal;
- (2) Uphold the six concurrent life sentences imposed on the Appellant;
- (3) Recommend that the Appellant should not be eligible for release before serving a minimum period of twenty-five years' incarceration; and
- (4) Order that this minimum period of incarceration includes the time spent by the Appellant on remand.