

3. Sometime later the convict walked back into the bar and advanced the deceased with a silver knife in his hand and stabbed him killing him.

The Law

4. With regard to the offence of manslaughter section 293 of the Penal Code states as follows:

293. Whoever commits manslaughter by negligence shall be liable to imprisonment for five years; and whoever commits manslaughter in any other case shall be liable to imprisonment for life.

Sentencing Provisions

5. Section 185 of the Criminal Procedure Code, Chapter 91, provides as follows:

“The court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed and may hear counsel on any mitigating or other circumstances which may be relevant.”

Submissions by Counsel

6. In his arguments, Counsel for the Convict raised mitigating circumstances which he implored the Court to consider. Counsel noted that the defendant from the outset never ran away from the fact that he caused the death of the deceased. From the outset the defendant was trying to take a certain course. And you would have heard from his own words that he basically is remorseful from what transpired and it was no intent to take the life of the deceased. Remorseful the Convict has cooperated from the onset. Immediately on the very evening the defendant in this matter turned himself into the police and also went with the police and was cooperative and pointed out certain things to the police.
7. Mr. Delaney pointed out that sentencing is within the discretion and the purview of the judge, however, in light of this case where this case surrounds a fighting incident which led to a particular stabbing we would like to highlight in terms of the facts two cases involving fights and stabbing any eventually the death of the deceased.
8. The first case being **Andy Francis** which is appeal number 133 of 2009 before Court of Appeal, and the second case being **Fritznel Richemond** which is SCCR ASPP number 203 of 2018 another Court of Appeal case. The circumstances in Dino Pinto are similar in terms of the case **Andy Francis** the offence of manslaughter and there was a fight. However, the difference being there was a group of men compared to this case where there was a single defendant. And in the **Andy Frances** the fight actually led to the death of on Cody Davis. Also distinguishable in **Andy Francis** was that the jury trial and the offence of manslaughter was --- well, **Andy Francis** was initially charges with murder and offence of manslaughter in the directions by the learned judge as left to the jury

9. Counsel invited the Courts attention to the case of **Fritznel Richmond**. This is a case involving a defendant who is alleging self-defence. In terms of this case there was an altercation between the deceased and the defendant, whereby b the deceased grabbed the defendant hit him over the head with a lamp, there was a struggle and Richemond as the defendant had to stab him.
10. Mr. Delaney further submitted that the now convict is remorseful and that he views Pinto as a no risk offender. Noting the long delay in the prosecution of the matter Counsel for the Convict implored the Court to season justice with mercy and she further submitted that Pinto is an exception.
11. The Court heard from the Convict himself. I was playing music at this club. My occupation, I am an electrician and I work for a production company. I work for a movie group. I am an audio tech and a lighting tech. I was playing music at the club first of all. This guy took my laptop and my phone from ne and went outside with it. I didn't even pursue him. I was trying to talk to someone else to get him to give me back my stuff when I went outside. Remorseful he said that honestly he knew he was wrong for he did that why he went straight to the police. And he didn't even know the deceased had died because that was never his intention.
12. Ms. Stubbs in support of her submissions as to the length of the appropriate sentence referred me to The Court of Appeal decision in **The Attorney General v Larry Raymond Jones et al.** In this decision, Dame Sawyer P (as she then was) at paragraph 15 of the judgment articulated the following:

*“On the other hand, it must be noted that over the past 7 years, this court has set guidelines in respect of persons convicted of manslaughter. Sentence passed or upheld by this court during that period range from **18 years to 35 years imprisonment**, bearing in mind the character of the convicted person, the circumstances in which the offence was committed and whether the convicted person showed any remorse for the killing (e.g., by pleading guilty at the earliest opportunity) to name some of the usual considerations to be taken into account by the sentencing judge.”*
(Emphasis added)
13. Ms. Stubbs submitted acknowledging that the Convict has no previous convictions is remorseful and has pleaded guilty herein Ms. Stubbs reminded the Court of its duty to balance the matters of aggravation with the matters of mitigation presented by Counsel for Johnson.
14. The aggravating factors are:
 - The offense of manslaughter is a serious one;
 - The Convict was armed with a knife;
 - The death was a brutal one;
 - The deceased was defenceless at the time of her death;

- The deceased was not armed
15. Counsel submitted that the aggravating factors outweigh the mitigating ones. The Court she said having considered the facts of the case and the provisions of Section 293 of the Penal Code should impose a sentence of Eighteen (18) years.

Decision

16. I have reviewed the facts as given by the Prosecution which were accepted by the Defence and the mitigation plea made by Counsel for Pinto. I have also heard Pinto in his own words.

17. I have taken into account the case law, the relevant provisions of the statute law with respect to sentencing and the abovementioned mitigating factors, the above mentioned aggravating factors as well as the plea of mitigation made on behalf of Pinto. Having balanced all that I have mentioned in favour of Pinto against the aggravating factors, I find that a sentence of imprisonment is appropriate.

18. In all of the circumstances of this case and having regard to the authorities submitted I find that an appropriate sentence to be () years which is to run from the 10th March 2020. The Authorities at The Bahamas Department of Correction have confirmed that Pinto was remanded without bail from to . That remand period is to be deducted from the sentence of () years.

Dated this 10th day of March, A.D. 2020

W. Renae McKay
Justice of Supreme Court