

**COMMONWEALTH OF THE BAHAMAS**  
**IN THE SUPREME COURT**  
**CRIMINAL DIVISION**  
**B E T W E E N**

**2011**  
**CRI/bal/00073**

**THE DIRECTOR OF PUBLIC PROSECUTIONS**

**Applicant**

**AND**

**MARISSA ROLLE**  
**ALLERDICE MOXEY**

**Suretors**

**AND**

**RASHAD PAUL**

**Defendant**

**Before: The Honourable Madam Senior Justice Mrs. Cheryl Grant- Thompson**

**Appearances: Director of Public Prosecutions Ms. Cordell Frazier along with Mrs. Karine MacVean, and Ms. Jameca Basden for the Prosecution - Director of Public Prosecutions**

**Mr. Donald Saunders- Counsel for the Suretors**

**Date of Hearing: 29<sup>th</sup> January, 2024; 1<sup>st</sup> February, 2024; 7<sup>th</sup> February, 2024**

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**RULING ON ESCHEAT OF SURETY-  
DEFENDANT FAIL TO APPEAR AT TRIAL  
BAIL SURETORS ENTERING INTO RECOGNIZANCE-**

**R. v. Wells Street Magistrates' Court ex parte Albanese [1981] All E.R ; Alexander Beckles v. The Magistrate, Mag. App. No 253/67; R v Uxbridge Justices, ex p Heward-Mills [1983] 1 All ER 530; Taylor v COP [1992] BHS No.82; Zambar Baksh v The Magistrate First Court (unreported) Magistrate Appeal No 107/82; R v South Hampton Justices ex-parte Green [1975] 2 All ER 107; R v Crown Court at Maidstone ex parte level; R v Crown Court at Maidstone ex parte Connell**

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## GRANT- THOMPSON J

### BACKGROUND

1. This case concerns the duties, obligations, and responsibilities of a suretor. The Crown seeks to escheat the forfeiture of recognisance of Ms. Marissa Rolle of Springfield Road and Ms. Allerdice Moxey of Whyll's Close. Both signed as suretors for the Defendant, Mr. Rashad Paul. Paul cannot be found.
2. The Defendant is charged with **Murder**. He was granted bail by the Honourable Madam Justice Mrs. Renae McKay on the 19<sup>th</sup> of June, 2020, in the amount of Thirty Thousand Dollars (\$30,000) with one (1) or two (2) suretors. His trial is set for hearing on the 15<sup>th</sup> of April, 2024, before my sister Justice Mckay.
3. The Defendant's conditions for bail were as follows:
  - a. The Defendant was to be fitted with an Electronic Monitoring Device (EMD) and ordered to abide by the Regulations of the use of such a device;
  - b. The Defendant was to report to the Quakoo Street Police Station every Tuesday, Thursday, and Saturday before 6:00pm;
  - c. The Defendant was required to remain at his residence between the hours of 10:00pm and 6:00am daily;
  - d. The Defendant was not to come in contact with any of the witnesses in this matter; and
  - e. That any breach of these conditions, shall result in the forfeiture of bail and render the Defendant liable to further remand at The Bahamas Department of Correctional Services.

4. The Defendant has breached every condition of Bail;
  - He has failed to report to the Quakoo Street Police Station as required;
  - He has failed to keep his curfew, in fact he is “on the lamb”, missing in action;
  - The Police has issued an all-points bulletin for his immediate apprehension for the offence of Murder;
  - His electronic Monitoring Device is no longer on his body but cast in a well; and
  - This Honourable Court has revoked his bail and issued a Bench Warrant for the immediate arrest of the Defendant. Breach of his bail conditions makes him liable to remand to The Bahamas Department of Correctional Services.
  
5. On the 19<sup>th</sup> of June, 2020, Ms. Marissa Rolle and Ms. Allerdice Moxey (“the suretors”) both willfully signed a Bail Bond on behalf for the Defendant. They became his suretors with respect to Criminal bail number 00073/2011 in the amount of Thirty Thousand Dollars (\$30,000.00) for which they were either jointly or severally liable. Ms. Moxey allegedly put up her property as security for the bond. Ms. Rolle relied on a job letter of modest means. A search of the Registry revealed no property papers, however, the Court has obtained a certified copy of same from the Registrar Generals office with the assistance of Counsel.
  
6. The Affidavit in Support of Revocation of Bail, filed by the Crown on the 18<sup>th</sup> of January, 2024, stated that;
  - a. The Defendant, Rashad Paul a.k.a “Eyes” (D.O.B. 12/09/1990) was arrested on the 5<sup>th</sup> of February, 2019, and further charged with the offence of the **Murder(1 count)** of Mr. Kirby Jean Pierre;

- b. The Defendant is suspected of the additional Murder of Mr. Travis Allen (D.O.B. 19/08/81) which occurred on the 6<sup>th</sup> of January, 2023, sometime around 2:00pm in the area of East Street and Mason Addition;
  - c. Subsequent to the Murder of Mr. Travis Allen, the Crown was informed by Metro Security Solutions that the Defendant was non-compliant with the conditions of the Electronic Monitoring Program, whereby there was a strap indications that the Defendant tampered with his device;
  - d. It was further submitted by Metro Security Solutions that the EMD device has been removed by the Defendant and has been located through satellite feed, in a man-made well through Pratt Alley, which is not accessible; and
  - e. Since the strap alert was received by Metro Security Solutions on the 6<sup>th</sup> of January, 2024, at 2:15pm, the Defendant remains “off the grid” which is a clear violation of his bail conditions.
7. This Affidavit reveals that the Defendant is “off the grid” and is suspected of having committed another Murder. In addition to this, it is believed that the Defendant has tampered with his Electronic Monitoring Device, removing it and disposing it in a well through Pratt Alley.
8. The Applicant seeks to have the bond forfeited to the Crown in the amount of Thirty Thousand dollars (\$30,000) and ordered paid by the suretors as the Defendant can no longer be located.
9. The suretors, Ms. Marissa Rolle and Ms. Allerdice Moxey both appeared (29/01/2024) before this Honourable Court, at which time they provided

oral testimony as to why they should not be made to pay the amount of Thirty Thousand Dollars (\$30,000).

10. In her oral testimony, Ms. Rolle stated that:

- a. The Defendant is known to her as he is her baby's father;
- b. She would have normal communications with the Defendant over the telephone;
- c. She did willfully sign a Bail Bond in the amount of Thirty Thousand Dollars (\$30,000) for the Defendant;
- d. She produced a job letter, showing her place of employment, and annual salary, to the Criminal Registry before signing the Bail Bond Form. She made One Thousand Five Hundred and Fifty-Four Dollars (\$1,554) per month and an annual salary of Eight Thousand, Six Hundred and Fifty Dollars (\$18,650) in 2020 when she signed the bond;
- e. She tried to contact the Defendant on the 3<sup>rd</sup> of January, 2024. When he was to take her young daughter to the Carnival;
- f. She is unaware of where the Defendant is currently. Indeed she admitted he lived with another woman, his girlfriend;
- g. According to her, she was trying to contact the Defendant up until the 28<sup>th</sup> of January, 2024;
- h. She first signed for the Defendant's bail without knowing the full amount of the Bail Bond;
- i. She was aware of the times that the Defendant was supposed to attend Court and his reporting conditions, yet she never checked in at the Quakoo Street Police Station nor was she specifically aware of his Court dates;
- j. She did not ensure that the Defendant upheld the conditions of his bail, as she was not ensuring that the Defendant;

- i. checked into his assigned Police Station;
- ii. was maintaining his curfew; and
- iii. was not interfering with the witnesses of the Prosecution.

11. In her oral testimony, Ms. Moxey stated that:

- a. She works at the Straw Market. Her salary fluctuates. On a high earning week she could earn anywhere between Six Hundred to Eight Hundred Dollars (\$600- 800) in remunerations;
- b. The Defendant is her Grandson;
- c. The last time she spoke to the Defendant was in December 2023;
- d. She did willfully sign a Bail Bond for the Defendant;
- e. She allegedly provided her property papers to the Criminal Registry in order to secure her portion of the Bond;
- f. She was aware of the Defendant's bail conditions;
- g. She did not see the Defendant often but would inquire about his adherence to the bail conditions whenever she saw him;
- h. She understood that when she signed the bond she would become responsible for the payment of the security and the bail;
- i. Her telephone number and home address was placed on the Bail Bond as the residence for the Defendant. However, the witness admitted that he does not reside with her;
- j. She does not check in on the Defendant as she is always at work;
- k. She does not know where the Defendant or his EMD currently is;
- l. She never had a telephone contact for the Defendant;
- m. She does not know the Defendant's Court dates, or whether he has been keeping the terms and conditions of his bail; and
- n. She did not ensure that the Defendant upheld the conditions of his bail. She did not ensure that the Defendant either;
  - i. checked into his assigned Police Station;

- ii. maintained his curfew; and
- iii. was not interfering with the Prosecution witnesses.

### **Issues**

12. This Honourable Court is tasked with determining two (2) main issues:
- a. What are the duties and obligations of a suretor; and
  - b. Whether the cash bond used as security for the Defendant, should be forfeited to the Crown.

### **Functions of a Suretor**

13. A suretor ensures that the accused person attends Court every time he is instructed by the Court to be present. It is a major undertaking. If a suretor fails to produce the Defendant for his trial or hearings, or if any other condition is broken, the recognisance of the suretor is subject to be forfeited. In order to prevent this the suretor ought to stay in touch with the Defendant to ensure that he appears in Court. The suretor's duty is to keep himself informed of the adjourned date of each hearing. They should not rely on the memory of the Defendant or anyone else. This Defendant has missed Court hearings. His trial is in eight (8) weeks and he can not be located.

14. The Court cited with approval the consideration of the suretor's duties in the case of **R. v. Wells Street Magistrates' Court ex parte Albanese [1981] All E.R. 769 at page 776**. Paragraph d-g explained the nature of the obligation of a surety on a bail recognisance. The Learned Ralph Gibson, J stated that:

*“The first point is that the public duty of the court is to grant bail unless, inter alia, it considers that there are substantial grounds for believing that the respondent will fail to surrender to custody. If*

*there is thought to be risk of his not surrendering, the court may, and will, impose such requirements or conditions as appear to the court to be necessary to secure that he surrender to custody .....*

*Next, the surety on a bail recognisance, as counsel for the respondents submitted, undertakes a special obligation. He does so voluntarily. Failure to fulfil the condition (that is to say, non-appearance of the man bailed) gives rise to a debt which is enforceable like a fine. At common law, if the condition was not fulfilled, the surety automatically forfeited the sum secured by the bond. Forfeiture is no longer automatic but is subject to the discretion given to magistrates .....*

*Apart from that discretion ... the obligation remains in nature the same as it always has been. It is the duty of the surety to stay in touch with the bailed prisoner to see that he will appear at court. The court, in “considering the culpability of the surety in the event of the failure of the bailed man to surrender, will look to what the surety did to see that the man did surrender and what he did to alert the police if there was any known risk of his absconding ...”*

15. From whom much is given, much is expected. If the suretors had done everything that they were supposed to then the Court would have favourably consider an application not to pay anything. If the suretors made any valid attempts to discharge their duty as surety then the Court would have reduced the amount owed to the Crown on a proportional basis, based on the level of action, involvement and contribution of the suretors. However, these suretors did nothing, therefore, nothing will be reduced. The means of the suretors are relevant. This Court understand that the



suretors, are of modest means of a lower middle-income level. Thus, this Court will order the suretors to pay the security in staggered payments.

16. After reviewing the evidence provided, this Court is of the view that Ms. Marissa Rolle and Ms. Allerdice Moxey (“the suretors”) were clearly properly advised by the Criminal Registrar. They were made aware of the obligations and risks which accompanied their role as suretors. From the oral testimonies provided by both suretors, this Court is of the view that their subsequent conduct was neither effective nor efficient as suretors. They were lax in their duties. Indeed, they frankly failed to perform them. Ms. Rolle indicated that she only spoke to the accused relative to her concerns for their child. Ms. Moxey did not bother to attempt any contact with the Defendant at all unless the accused came to visit her, which was on infrequent occasions, notwithstanding that the accused lived just up the road from her. Even now she has not desired to darken the doors of his residence to look for him, nor inform the authorities that he no longer lives with her. She had no concern to ensure he lived with her as the bail bond provides. Further, Quakoo Street Police Station is stationed in close proximity to their homes yet neither suretor visited the station, or the Court, to ensure the accused man’s attendance at either place.

17. The Court finds the suretors conduct or the lack thereof to be reprehensible. The legal obligation of being a suretor was not respected by neither Ms. Rolle or Ms. Moxey. This non- adherence/ negligence to fully grasp the weight of the important position they signed onto, does not make them any less culpable for the Defendants failure to attend. The suretors had a casual disregard for their obligations. It is clear to this Court that neither suretor made any constant checks to confirm the whereabouts of the Defendant or sought to confirm that he was adhering to the set bail

conditions. It was not until the Defendant went missing or to use the modern terminology “went off the grid”, did the suretors attempt to contact him.

18. As outlined within the case of **Wells Street Magistrates' (supra)** “*Failure to fulfil the condition (that is to say, non-appearance of the man bailed) gives rise to a debt which is enforceable like a fine. At common law, if the condition was not fulfilled, the surety automatically forfeited the sum secured by the bond*”. Taking this into consideration, this Court has not been persuaded that any of the suretors acted in a way which would have discharged them of their legal duties as suretor. They did not put their best foot forward to ensure the Defendant appeared before the Court on his mentioned dates, or that the Defendant was adhering to the terms and conditions of his bail. As a result of this, the suretors would have automatically forfeited the sum secured by the bond.

There is no apparent reasonable cause for his failure to appear such as to cause the Court to exercise its discretion not to forfeit.

### **Forfeiture of Security**

19. **Section 14 of the Bail Act, Chapter 103**, of The Bahamas states that:

*“(1) Where a person has given security in pursuance of section 9(4), and the Court is satisfied that the person failed to surrender to custody, then, unless it appears that he had reasonable cause for his failure, the Court may order the forfeiture of the security.*

*(2) Where a Court orders the forfeiture of a security under subsection (1), the Court may declare that the forfeiture extends to*

*such amount less than the full value of the security as it thinks fit to order”*

20. When it comes to determining what is considered to be reasonable cause the case of **Alexander Beckles v. The Magistrate, Mag. App. No. 253/67** denotes the standard which a suretor must attain in order to show good and sufficient cause why the amount of the recognisance should not be forfeited. In this case Wooding CJ stated that:

*“In matters such as the present, it would be almost impossible for a bondsman successfully to show cause why his bond should not be forfeited when in fact the condition for the vacation of the bond was breached, and even now nothing has been put forward before us to suggest that there will be the remotest hope of any real cause being shown. If, for example, it could have been shown that the person bailed or any one of them had died some time previous to the matter coming on in court and his death was the reason for his non-appearance, there would then be something which would require us to give the appellant an opportunity to put that before the magistrate. But in the absence of some such compelling circumstance, it would be impossible to show any cause which would be valid in law. It has not been suggested that the appellant may be able to show any such exceptional cause.”*

21. This Court finds no compelling reason provided by either suretor here. The Defendant has not been shown to be dead- rather missing. The suretors have not tried to find him. They gave no account of checking his favorite hangout, or drink spots, church, recreational areas, or even his girlfriend’s place of residence. They have rested on their laurels, so they will pay for their non-action.

22. However, before a Court can order the forfeiture of the recognisance, it must first allow the suretor an opportunity to make representations to the Defendant to surrender himself, in accordance with their obligations, and also to make representations to the Court, as to why the Court should not order the forfeiture of the security. This was seen in the case of **R v Uxbridge Justices, ex p Heward-Mills [1983] 1 All ER 530**, where the Applicant entered into a recognisance in the sum of £7,000 to secure the Defendant's appearance in Court. The Defendant failed to surrender to his bail and the Applicant was summoned to show cause as to why the recognisance of £7,000 should not be forfeited. At the hearing the Magistrates heard evidence regarding the Applicants culpability for the Defendants non-appearance in Court, but declined to hear evidence or submissions regarding the Applicants means. **This Court has on six (6) separate occasions asked the suretors to produce the body of the Defendant** (29/01/2024; 31/01/2024; 07/02/2024; 13/02/2024; 19/02/2024; 24/02/2024).

23. The Magistrates, in the above case, ordered the Applicant to forfeit £5,000 of his recognisance and stated that the Applicants means would be considered when the mode of payment was determined. The Applicant applied for certiorari to quash the forfeiture order on the ground (i) that the Magistrates lacked jurisdiction to make the order because they failed to inquire into, or admit evidence of, the Applicants means before making the Order and (ii) that in exercising their discretion under Section 120(3) to remit part of the recognisance they failed to exercise that discretion judicially because they failed to take into account the Applicants means. In this matter it was held that a surety under a bail recognisance, in discharging the burden of satisfying the Magistrates that the full amount of a recognisance should not be forfeited, was entitled to put before the

Magistrates evidence of his means, as well as evidence that he was not culpable for the Defendants non-appearance. It followed that the Magistrates were mistaken in refusing to hear the surety's evidence regarding his means before making the forfeiture order and certiorari would be issued to quash the order.

24. The following was stated McCullough J. in **Uxbridge Justices, ex parte Howard-Mills (supra)** with respect to the principles governing forfeiture of a suretors recognizance:

*“When a defendant for whose attendance a person has stood surety fails to appear, the full recognizance should be forfeited, unless it appears fair and just that a lesser sum should be forfeited or none at all. The burden of satisfying the court that the full sum should not be forfeited rests on the surety and is a heavy one, it is for him to lay before the court the evidence of want of culpability and of means on which he relies.”*

25. In adherence to the principle outlined within the case of **R v Uxbridge Justices (supra)** this Honourable Court has in fact afforded the suretors the opportunity to explain to the Court why they should not be made to pay the security on behalf of the Defendant. Moreover, in determining whether the suretors should be made to pay the security, the Court takes judicial notice of the dictum of **Alexander Beckles v. The Magistrate (supra)**. Though it gives somewhat of an extreme analogy, this Court is of the view that this case is successful in drawing home the point that there should in fact be shown a good and sufficient cause why the amount of the recognisance should not be forfeited, and not some frivolous reasoning. In their explanation to the Court, the suretors indicated to the Court that whilst within and outside of the jurisdiction of The Bahamas, they should not be

penalized as they did not fully understand what signing the Bail Bond truly meant. In addition to this one of the suretors also stated that the contents of the Bond were never explained to them. This is not a sufficient explanation to exonerate the suretors from their legal duty. **Further their testimony carried the exact words of the Bond so it would appear that the Registrar did explain it.**

26. Further, this Court has also taken into consideration the means of both Ms. Rolle and Ms. Moxey. According to job letter produced by Ms. Rolle she is employed at the Department of Environment Health Services as a janitor, where her annual salary is Eight Thousand, Six Hundred and Fifty Dollars (\$18,650). According to Ms. Moxey, she is employed as a Straw Vendor where she does not earn an annual salary, but on a high week can make anywhere between Six Hundred Dollars to Eight Hundred Dollars (\$600 - \$800). This is Three Thousand Two Hundred Dollars (\$3,200) a month, and an annual salary of roughly Thirty-Eight Thousand Dollars (\$38,000). They are of a lower middle-income level and may not be able to pay the entire sum, short of mortgaging their home in the case of Ms. Moxey. However, they admitted that they can make arrangements to pay in installments. The DPP also asked the Court to consider that the Defendant may not be far and may be supplying the financial means for the payments as he has been funding Ms. Rolle's lifestyle.

27. This Honourable Court takes notes of the case of **Zambar Baksh v The Magistrate First Court (unreported) Magistrate Appeal No 107/82**. In this case the Trinidad and Tobago Court of Appeal considered an appeal by a bailor (suretor) against an order of forfeiture of recognisance in the sum of \$5,000 for failure to produce a Defendant at the relevant date of hearing. In dismissing the appeal, the Court held that the test in determining whether

the bond should be forfeited was whether the bailor was guilty of ‘due diligence’ in attempting to secure the appearance of the Defendant. While the bailor did make efforts to secure the appearance of the Defendant, he did not do all that he could, **such as to keep personally in touch with her, to bring her before the court. There has been no due diligence by the suretors in this case.**

28. In applying this test to the current circumstances, this Honourable Court finds that the suretors did not perform their due diligence in this matter. As previously stated, the suretors failed to ensure that the Defendant was checking into the Police Station, was adhering to his curfew, was not interfering with the witnesses of the Prosecution, or was attending his required Court dates. As a result of their actions, this Court of view that the suretors did not manage their obligations to the best of their abilities or at all.

29. Lord Denning M.R.in *R v Southampton Justices, ex parte Green [1957]2 All ER at page 173* or Lord Widgery C.J. in *R. v Horseferry Road Magistrates' Court ex parte Pearson [1976] 2 All ER at page 264* noted the following with respect to the legal obligation of sureties:

*“I content myself with observing that what sureties enter upon is a legal obligation and not a social convenience: accordingly, there are consequences which must be seen to flow from this obligation if it is not to be eviscerated of this effect”*

**In this case- to stand as surety is no social convenience. From the failure of the suretors to act, consequences must flow.**

30. Furthermore, in the case of *R. v. Southampton Justices. ex parte Green* [1975] 2 All E.R. 107 Lord Denning, M.R. (at 1077j - 1078a) stated that:

*“By what principles are the justices to be guided. They ought, I think, to consider to what extent the surety was at fault. If he or she connived at the disappearance of the accused man, or aided or abetted it, it would be proper to forfeit the whole of the sum. If he or she was wanting in due diligence to secure the appearance, it might be proper to forfeit the whole or a substantial part of it, depending on the degree of fault. If he or she was guilty of no want of diligence and used every effort to secure the appearance of the accused man, it might be proper to remit it entirely.”*

31. In examining the words uttered by Lord Denning in the **Southampton** case, this Court verily believes that though the suretors may not have connived at the disappearance of the Defendant, they did not perform their due diligence to secure his appearance. Therefore, this Court finds that the entirety of the Thirty Thousand Dollar (\$30,000) bond should be paid by the suretors all of the amount.

32. On the 13<sup>th</sup> of February, 2024, Counsel for the suretors, Mr. Donald Saunders, and Counsel for the Crown, Madam Director of Public Prosecutions, provided this Honourable Court with additional oral submissions.

### **Plea In Mitigation**

33. In his oral submissions Mr. Saunders submitted that the suretors “*made attempts ... as best as humanly possible ... in finding the whereabouts of the defendant.*”. Further, Mr. Saunders implored this Court to take into



consideration the contents of Section 14(1) & (2) of the Bail Act. Section 14 of the Bail Act states that:

*“(1) Where a person has given security in pursuance of section 9(4), and the Court is satisfied that the person failed to surrender to custody, then, unless it appears that he had reasonable cause for his failure, the Court **may** order the forfeiture of the security.*

*(2) Where a Court orders the forfeiture of a security under subsection (1), the Court **may** declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order”*

34. Mr. Saunders submitted that this Court should take into consideration the fact that Section 14(1) of the Bail Act, which states that the Court may order the forfeiture of the security. In addition to this, Section 14(2) of the Bail Act provides that the Court may declare that the forfeiture extends to such amount less than the full value of the security. Given that both provisions include the term “may”, Mr. Saunders humbly requested that this Court exercise its discretion in either, not requiring that the suretors pay the bond or reducing the value which they would have to pay.

35. Moreover, Counsel for the suretors also submitted that Ms. Moxey should not be held responsible for her property papers being valued at a lesser amount of the face value of the Bail Bond. Mr. Saunders stated that *“They only could surrender it to the registrar, a document that they wish to put for security. It's up to the registrar and his office to accept that, and apparently appears, my Lady, that the registrar did consider may be what I'm presenting to you, that the value would have exceeded the \$30,000”*. Following this Mr. Saunders submitted that *“Ms. Moxey presented a paper*

*and Ms. Rolle presented whatever documents they required. The bail was granted. They presented themselves, my Lady, when summoned to this Court when the defendant abscond”.*

36. In his plea on behalf of the suretors, Mr. Saunders continued to stress that the suretors had nothing to do with the Defendant absconding. In fact they would have played their part in making sure that the Defendant attended his Court hearings and was adhering to the terms and conditions of his bail.

37. Lastly, Mr. Saunders also drew the Courts attention to the employment and financial status of both of the suretors. Mr. Saunders reminded this Court that both suretors are not persons of high means *“They are both working individuals, and jobs as I said, of not any high -- In fact, I would submit to you on the lower level of income in the country”*. Mr. Saunders then went on to submit that instead of the suretors having to pay the full Thirty Thousand Dollars (\$30,000), the Court should reduce the amount to Fifteen Thousand Dollars (\$15,000). Each suretor would then be responsible for Seven Thousand Five Hundred Dollars (\$7,500), which they then would be able to pay in installments.

38. In response to Mr. Saunders plea in mitigation Madam Director of Public Prosecutions, Ms. Cordell Frazier, submitted that the Defendant is charged with the offence of Murder and both suretors willfully agreed to stand as sureties for him in the amount of Thirty Thousand Dollars (\$30,000). Madam DPP submitted that:

*“My Lady, the Court is empowered under Section 14 of the Bail Act to forfeit the entire sum if a reasonable excuse is not proffered by the accused. No such excuse has been proffered why he has failed to appear before this Court.*

*The sureties in their attempt to proffer an excuse, we say that the excuse is not reasonable. The evidence of both sureties would have been that they basically had neglected their obligation to secure the attendance of the accused.*

*According to Ms. Moxey, she was working so hard that she barely saw her grandson. According to Ms. Rolle, she would have indicated that majority of times she would have spoken to him, it was in reference to their child.”*

39. Madam DPP also sought to rely on the dicta published in the case of **Southampton Justice ex parte Green (supra)**, which this Court has outlined in paragraph 30 of this judgment. Ms. Frazier also submitted that:

*“According to Ms. Rolle, the Deputy Registrar would have explained the obligations under the bond. According to Ms. Moxey everything was so fast she don't recall whether he in fact did explain, but we know from Ms. Rolle's evidence is that the Deputy Registrar would have explained the obligation, and from both of their evidence, they would have both stated what the conditions of the bails were... However, to date, they are unable to present The Accused who is charged with a very serious offense before this Court. So in the circumstances, my Lady, we say that the Court ought to exercise its discretion in forfeiting the entirety of the security.”*

40. The Court is loathe to make an eighty (80) year old grandmother who is an honest straw vendor pay or make similar order in respect of the forty (40) year old baby mother. However, should the Court fail to take effective action in the face of this blatant disregard to adhere to the rules and duties of the suretor, it would send the wrong message to society. The message sent to society would be that suretors can ignore their obligations, cry when

summoned, be spanked on the wrist and sent home unscathed to stand as a suretor yet again- willfully ignoring their duties and obligations. The suretors failed to act so they must pay all of the bond. Since the 29<sup>th</sup> of January, 2024, the Court has given them four (4) additional weeks to produce the Defendant who has been missing since the 6<sup>th</sup> of January, 2024. They have neither produced the Defendant nor paid the funds. The suretors are liable to pay the entire Thirty Thousand Dollar (\$30,000). Fifteen thousand dollars (\$15,000) to be paid by each suretor. Each suretor will pay Seven Thousand Five Hundred Dollars (\$7,500) by the 29<sup>th</sup> of February, 2024. Following this each suretor will pay the second installments as suggested by Mr. Saunders by the 29<sup>th</sup> of March, 2024, again in the amount of Seven Thousand Five Hundred Dollars (\$7,500) each. The cheques should be made payable to the Public Treasury of The Bahamas.

41. The Court received certified copies of ownership of the house of one of the suretors. She will decide if she wishes to mortgage same. This is a serious matter, the police alleged that whilst “off the grid” the Defendant allegedly committed another Murder. They should seek to find their grandson and baby father.

### **Conclusion**

42. Having reviewed the oral arguments, this Court is of the view that Ms. Marissa Rolle and Ms. Allerdice Moxey did not perform their legal obligations as a suretor with due diligence.

43. In making its decision this Honourable Court has considered whether the suretors should be made to pay the security in its entirety or partially. In the view of the Court there was culpability on the suretors to ensure that

Mr. Rashad Paul was present at his Court hearings. Therefore, for their failure to ensure the Defendants presence this Court finds that Ms. Marissa Rolle and Ms. Allerdice Moxey shall be made to pay the agreed security. However, this Courts exercises its discretion to decide that they should be allowed to pay same in two (2) installments to the entire amount of Thirty Thousand Dollars (\$30,000).

44. This Court hereby orders **Ms. Marissa Rolle** shall be responsible for the payment of **Fifteen Thousand Dollars (\$15,000)** and **Ms. Allerdice Moxey** shall be responsible for the payment of **Fifteen Thousand Dollars (\$15,000)** to be paid and receipts provided to the Criminal Registry of The Bahamas and the Court. This should be paid immediately on the prescribed dates.

i. It is hereby ordered that;

- a. On the 29<sup>th</sup> of February, 2024, **Ms. Marissa Rolle** is ordered to produce to The Public Treasury of The Bahamas a total of **Seven Thousand Five Hundred Dollars (\$7,500)**, by way of cheque or cash;
- b. Further, on the 29<sup>th</sup> of February, 2024 **Ms. Allerdice Moxey** is ordered to produce to the Public Treasury of The Bahamas a total of **Seven Thousand Five Hundred Dollars (\$7,500)**, by way of cheque, or cash;
- c. On the 29<sup>th</sup> of March, 2024 Ms. Marissa Rolle is ordered to produce to The Public Treasury of The Bahamas the remaining **Seven Thousand Five Hundred Dollars (\$7,500)**, by way of cheque or cash; and
- d. On the 29<sup>th</sup> of March, 2024, Ms. Allerdice Moxey is ordered to produce to The Public Treasury of The Bahamas the remaining

**Seven Thousand Five Hundred Dollars (\$7,500),** by way of cheque or cash.

45. I promised to put my reasons in writing, this I now do.

**DATED this 19<sup>th</sup> day of February A.D., 2024**

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**The Honourable Madam Senior Justice Mrs. Cheryl Grant-Thompson**