

IN THE SUPREME COURT

Criminal Division

B E T W E E N

DIRECTOR OF PUBLIC PROSECUTIONS

AND

GREGG ISRAEL PINDER

Appearances: **Mrs. Ashley Carroll c/o Director of Public Prosecutions**
 Mr. K. Brian Hanna c/o of Gregg Pinder

Hearing Date: **5th September, 2024**

SENTENCING

BACKGROUND

[1.] On the 2nd May, 2024 the Convict was found guilty of Robbery by a verdict of 8-0. Counsel for the Convict, Mr. K. Brian Hanna indicated that he should be provided with a Probation Report to aid in sentencing. A probation Report dated 30 July, 2024 was, in fact, prepared by Chief Probation Officer Ms. Wynelle Goodridge along with Trainee Probation Officer Mr. Laish Boyd Jr.. The report sourced information from the Convict's Probation Report was sourced from the Convict, his father – Ted Pinder, his stepmother – Angela Pinder, and his paramour – Shantel Carey. The Report sought to rely on information from the Criminal Records Department. Counsel for the DPP made recommendations as to an appropriate sentence and Counsel for Mr. K Brian Hanna made no arguments.

FACTS

Trial

[2.] The brief facts obtained from the trial transcripts, reports of the various witnesses and the Record of Interview of the convict are that Gregg Israel Pinder who was 46 years at the time of the allegations was charged with Armed Robbery contrary to section 339(2) of the Penal Code.

[3.] It was alleged that on Tuesday, September 15th 2020 at Freeport Grand Bahama, the Convict while armed with an offensive instrument to wit a firearm, robbed Stephanie Doland of an iPhone Max, one pair of diamond earrings, one rose gold necklace, one rose gold ring, four Pandora bracelets, one pair of Pandora earrings, and a gold necklace. What was proved during the trial is that the Convict entered the residence of the virtual complainant and went upstairs, it was at this time according to the virtual complainant she arrived at home and heard the noise and called out for what she assumed to be her significant other; However, the Convict descended her stairway. She claims he pointed a gun at her and ordered upstairs where he started grabbing her jewellery and placed them in pillow case. That some point the Convict became distracted and she made good her escape and alerted her neighbour and the Police were contacted. The Police observed several pieces of jewellery strewn about and photos were taken. That they received information from the Migrafill security systems regarding GPS location and the residence. This led the Officers to arrest and question the Convict.

[4.] On the 16th September 2020, Officer Delano Adderley interviewed the Convict under caution where he recounted going to the address and going upstairs where he saw the jewelry box and secured these items. He recalls a lady coming home and running out after seeing her. He denied having a firearm at the time, he also admitted taking the cellphone of the virtual complainant. That he then went downtown to a jewelry repair establishment and asked the owner to repair some pieces. The Owner informed him they were costume but the Pandora bracelets were able to be repaired. He then left and went home and put the cell phone in his ceiling. The Convict, when invited, elected not to participate in Identification Parade. As a consequence, Officers relied upon a photo lineup in which the virtual complainant successfully selected the convict as the individual who robbed her.

[5.] As a consequence of the information received, Officers attended the jewelry establishment and retrieved certain items left by the Convict and received a statement from him which he later corroborated from the witness stand. Acting on the information, Officers executed a search warrant at the residence of the accused and retrieved the cell phone in the

ceiling. Officers also conducted a recorded ride-along inquiry where the Convict took Officers on his route from home to the residence where the robbery occurred to the jewellery establishment.

[6.] The position of the Convict evolved over time. Initially, there was a blanket denial *it wasn't me; I was not there to well I wasn't armed* and, at the conclusion of the trial, the Jury convicted the Convict on the Offence of Robbery contrary to section 339(1) of the Penal Code.

BACKGROUND

[7.] The Convict (also known as Shawn Knowles) was born in McClean's' Town, Grand Bahama on the 3rd August, 1974 to Ms. Petrena Thomas (deceased) and Mr. Ted Pinder. The Convict is the third of four children born to his mother. He claims to have suffered from par suicide and was hospitalized the last occasion being 2007. The Convict received his education at McClean's Town Primary School, Grand Bahama, Seventh Day Adventist Academy of Adventists Junior High School and St. Paul's Methodist College. He discontinued attending St. Paul's in ninth grade after running away from home in an attempt to locate his mother. He has attained no academic qualifications. Upon leaving school he was sent to reside with relatives in New Providence and, it is at this time, commenced engaging in criminal activities. Again according to the Convict, he was initially employed as a teenager as a pump attendant at Shell Service Station in New Providence. He then left on a quest to locate his mother. He then secured employment as a helper at National Battery and Mosko's carpentry he relinquished both jobs. He began working as a helper with his friend's father but again discontinued the employment. He then returned to the streets and resumed his criminal activities. He was subsequently convicted and sentenced for Housebreaking and Stealing and served two (2) years in Prison. The Convict relocated to Grand Bahama and commenced working as a helper with his brother; after the job was concluded his brother relocated to New Providence and the convict remained in Grand Bahama where he again commenced his criminal activities.

[8.] Although the Convict's employment history appears spotty it could be representative of a very troubled man who was uncertain as to his future. The Convict also acknowledged he uses marijuana, but states he does not use alcoholic beverages. That he is not affiliated with any gangs. He indicates he is of the Judaism faith. However, he occasionally attends services at Church of God of Prophecy. The Court also learnt that the convict is the father to a minor child who resides in Abaco. He does communicate with the child, however, plays no other active role in the child's life. The convict indicates that he former paramour and the mother of his child allegedly encouraged him to do foolishness. However, the current paramour reportly

provides financial assistance by placing funds on his commissary account at Bahamas Department of Correctional Services (BDOCS).

[9.] Mr. Ted Pinder described his son as a normal child as he was placed in his care at the age of four or five. That his son commenced his negative behaviors at the age of ten. He recalls being called on many occasions to pay bail for the Convict. He reports he hadn't seen his son in several years and believes that his drug use contributed to his current predicament. Mrs. Angela Pinder is the stepmother of the Convict and recalls him running away from home several times. Noting she had not spoken to him in several years and hopes that the Court will show the Convict mercy. Mrs. Donna Pinder-White is a maternal Aunt indicated that Convict lived with her briefly and contended that she was of the view that the Convict was not normal but didn't elaborate when questioned. Finally, Ms. Shantel Carey, the current paramour, indicates that she has known the Convict for twenty (20) years prior to them becoming intimate and that they have been engaged for two (2) years. She contends that the Convict's past haunts him as he would often be arrested on multiple matters. She notes that the Convict is a very secret person. However, he has strong spiritual beliefs and believes had he not been outfitted with the electronic monitoring device that he might have accomplished more in landscaping or painting. She was unaware that the Convict had been convicted and was likely going to be serving a sentence.

[10.] The Court notes that there are multiple convictions for Housebreaking and Stealing commencing from July 2003, August 2006, October 2011 & December 2011. There are some minor offences for Vagrancy, Disorderly Behavior and Causing Damage. There were also matters related to the Convict when he was a juvenile and are not relevant for consideration. It is perhaps time that the Criminal Records Office of the Royal Bahamas Police Force commence an exercise where a number of juvenile records are expunged.

[11.] The summation, by Ms. Goodridge & Mr. Boyd Jr. was that the Convict was a young man reared in an environment where positive values were instilled. Attempts were made to provide the necessary structure needed for positive long-term development. The behaviors discussed by those interviewed particularly when the Convict was a youth indicated he required a deeper invention. The lack of intervention regarding his mental health early in his life along with his unresolved relationship with his mother likely contributed to his tumultuous path. It was noted that he was engaging well in BDCOS and had no infractions. That he was trending in positive directions prior to the current incident and perhaps he can continue that process.

[12.] That the Convict maintained his innocence and stated that he had accompanied a friend to clean an apartment and his friend left and went next door and returned and indicated that

they needed to leave. However, his friend gave him jewelry in lieu of money and he borrowed money to purchase the iPhone which was found at his residence. The Court finds this recounting far more intriguing as it speaks to a pathology, given what was said to the Police under caution on his record of interview which wasn't challenged as obtained by oppression. The evidence of the virtual complainant who positively identified the convict as the person who robbed her, or the Owner of the jewellery establishment who confirmed that the convict came in with multiple pieces of jewellery.

LAW

[13.] The Penal Code prescribes as follows: "339. (1) *Whoever commits robbery shall be liable to imprisonment for fourteen years.*"

[14.] In deciding the appropriate sentence consideration must be given to the general principles of sentencing Halbury's Laws Third ed. Vol 11(2) at paragraphs 1188 notes:

"The aims of sentencing are now considered to be retribution, deterrence, protection and modern sentencing policy reflects a combination of several of all of these aims. The retributive elements is intended to show a public revulsion of the offence and to punish the offender for his wrong conduct. Deterrent sentences are aimed at deterring not only the actual offender from further offences but also potential offenders from breaking the law. The importance of reformation of the offender is shown by growing emphasis laid upon it by much of modern legislation. However, the protection of society is often overriding consideration. In addition reparation is becoming an important objective in sentencing." Each case must depend on its own circumstances and various factors must be considered by the court in deciding which of the principles should predominate"

[15.] In the Court of Appeal case of **Prince Hepburn v. Regina** SCCrApp. No. 79 of 2013 *Adderley JA* (Retired) offered the following guidelines as to sentencing where he said at paragraph 36:-

"In exercising his sentencing function judicially the sentencing Judge must individualize the crime to the particular victim so that he can, in accordance with his legal mandate identify and take steps into consideration the aggravating as well mitigating factors applicable to the particular perpetrator in the particular case. This includes but not limited to considering the nature of the crime and the manner and circumstances in which it was carried out, the age of the convict, whether he has past convictions of a similar nature and his conduct before and after the crime was committed. He must ensure that having regard to the objects of sentencing, retribution, deterrence, prevention and rehabilitation that the tariff is reasonable and the sentence is fair and proportionate to the crime."

SUBMISSIONS

[16.] Mr. Hanna, on behalf of the convict, suggested and argued relying on a presentation of Professor Bruce P. Archibald QC, given in Halifax Nova Scotia, Canada in June 2008 where he suggested: "Judges and prison officials elude responsibility for the abysmal failure of incarceration by shifting the blame to the system." He argues that the incarnation of the person the first option creates more challenges for society. As once the person is released, he or she is thrust back into Society ill-prepared. Mr. Hanna then recommended that Mr. Pinder be placed on probation. He offered no further written submissions to assist the Court.

[17.] Mrs. Carroll, on behalf of the Director of Public Prosecutions, noted that the Convict accepted responsibility when interviewed. However, when he met the Probation Officer he attempted to cast the blame elsewhere. He was cast as a serial fabricator. A full Trial was thus required. What emerged is an individual who was present when other persons made plans to rob the Virtual Complainant. And that the Convict was seeking to diminish his responsibility. That the Convict has a criminal history related to serious and misdemeanour offences. That the Virtual Complainant was a single female who felt that this matter could have escalated further. That the Virtual Complainant was adamant and resolute that the Convict had a firearm; however, the jury was not convinced and convicted of Robbery. The Crown relied upon the cases of **Daniel Coakley v. R SCCrApp No.15 of 2017**, here the appellant was convicted on two (2) counts of Kidnapping, Conspiracy to commit Armed Robbery and Attempted Armed Robbery and was sentenced 8, 10 and 15 years respectively. He appealed the conviction and sentence which were upheld. **Harrison Wilkins v. R SCCrApp No. 24 of 2015** again a similar offence of Conspiracy to commit Armed Robbery and the defendant was sentenced to fifteen (15) years.

ANALYSIS AND DISCUSSION

[18.] In individualizing this case to the present convict, Mr. Pinder cooperated with the investigation, he did; however, elect to not plead guilty although that was his choice. The undeniable fact is that the Convict has a substantial criminal history which was accounted for in 2023 (although this related to bail violations) and multiple incidents of the Convict entering the residences of individuals and stealing. The Convict has served multiple prison sentences and they appear not to have deterred the behavior.

[19.] The Convict does not appear to demonstrate remorse, but here again the Convict does not have to have remorse. The Court takes note of the learned authors of Halsbury where they note that the protection of society is an overriding consideration. The Probation report seems

to paint the picture of a very troubled young man and that may all be very true, what seems to be overlooked, however, is self-responsibility and instead places the entire responsibility for a person's conduct and choices on the State or other individuals. There must be self-responsibility otherwise all can say 'well my upbringing disadvantaged me and hence I behave the way that I do'.

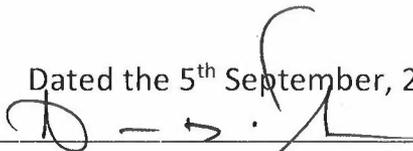
[20.] The Court takes notes of that the convict said he was in the wrong place at the wrong time. Although as the Court notes when questioned the convict provided a comprehensive and detail account of his activities on that day. That information is further buttressed by the GPS device. This new iteration now being pedaled by the convict suggest that he is clearly pathological and is seeking to rewrite or garner some empathy or sympathy neither are effective tools as far as this Court perceives it. The Court is thankful for the submissions and arguments advanced by both Counsel.

[21.] The Court considered the Authors of Blackstone Criminal Practice [2004] edition and specifically page 299. Here the authors noted that where the victims are attacked in their own homes, sentences vary according to the degree of violence used and the value of the property stolen. A six (6) year sentence was upheld in the case of Waddingham v. R (1983) 5 Cr. App. R.66. Although it's acknowledged that the statute notes that a person can be sentenced to fourteen (14) years for Robbery.

[22.] That notwithstanding, the passionate arguments advanced by Counsel Hanna on behalf of the Convict, the court notes the very nature in which the robbery occurred. The fact that the complainant was accosted in her own residence and there's now a craven and cavalier attempt to now deflect any responsibility. The Court will impose a custodial sentence in lieu of any probation. In the circumstances of this particular crime and the involvement which the Jury has accepted that this convict was involved, the Court will impose a custodial sentence of Six (6) years commencing from 2nd May, 2024 accounting for the time spent upon Remand awaiting Sentence.

[23.] Parties aggrieved by the conviction and sentence may Appeal to the Court of Appeal by filing and service of the required Notice. That any exhibit retained in relation to this trial may be returned to the Owner upon presentation of appropriate documentation and subject the final appeal outcome.

Dated the 5th September, 2024



Andrew Forbes

Justice of the Supreme Court