

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

2014/CRI/BAL/00164

Between

THE DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

AND

JADRE EVANS

Respondent

Before: The Honourable Madam Justice Guillimina Archer-Minns

Appearances: Ms. Cashena Thompson for the Applicant
Ms. Cassie Bethell for the Respondent

Hearing Date: 15 May 2024

RULING – BAIL REVOCATION DECISION

Criminal Law – Bail – The Constitution – Bail Act, Chapter 103 (as amended) – Inherent Jurisdiction of the Court – Application for bail revocation – Manslaughter contrary to section 293 of the Penal Code, Chapter 84 (as amended) – Whether the Respondent’s purported non-compliance with his bail condition renders him no longer a fit and proper candidate for the admission of bail and warrants his further remand into custody – Application for bail revocation denied

INTRODUCTION

1. The Respondent, Jadre Evans, is a 28-year-old Bahamian male charged with Manslaughter contrary to section 293 of the Penal Code, Chapter 84 (as amended). The offence purportedly occurred on Thursday 28 November 2014.
2. The Respondent applied for and was granted bail in relation to the offence by The Honourable Mr. Senior Justice Jon Isaacs (as he then was) and subject to the following conditions, that –

- i. bail is granted in the sum of fifteen thousand dollars (\$15,000.00) with two suretors;
- ii. the Respondent is to report to the East Street South Police Station every Monday, Wednesday, and Friday on or before 6 pm;
- iii. the Respondent is not to interfere with any of the Prosecution's witnesses; and
- iv. **a breach of any of the conditions renders the Respondent liable to further remand.**

[Emphasis added mine]

3. Since being granted bail for the offence, the Respondent has been charged with two subsequent offences, particularly, Murder and Abetment to Murder contrary to the relevant provisions of the Penal Code, Chapter 84 (as amended). The offences purportedly occurred on Friday 11 March 2016 and Sunday 25 February 2023, respectively.

4. The Respondent applied for and was granted bail in relation to the Murder charge by the Honourable Mr. Justice Gregory Hilton on Thursday 30 May 2019 and subject to the following conditions, that –

- i. bail is granted in the sum of twenty thousand dollars (\$20,000.00) with two suretors;
- ii. the Respondent is to surrender his passport (if he has one);
- iii. the Respondent is to report to the Central Police Station every Monday, Wednesday, and Friday on or before 6 pm;
- iv. the Respondent is to be electronically monitored;
- v. the Respondent is to have no contact with the prosecution's witnesses; and
- vi. **a breach of any of the conditions renders the Respondent liable to further remand.**

[Emphasis added mine]

5. The Respondent's bail in relation to the Murder charge was varied and his electronic monitoring device was ordered to be removed by the Honourable Madam Justice Cheryl Grant-Thompson (as she then was) on Thursday 5 May 2022.

6. The Respondent made an application for the admission of bail before the Honourable Madam Justice Joyann Ferguson-Pratt in relation to the Abetment to Murder charge and awaits the hearing and/or determination of the application. Until the hearing and/or determination of the application, the Respondent is remanded at The Bahamas Department of Correctional Services.

7. The Applicant has moved the Court for the revocation of the Respondent's bail in relation to the Manslaughter and Murder charges. The Applicant moved the Court by way of a Summons filed on Tuesday 30 April 2024. The Summons was supported by an Affidavit-In-Support and Supplemental Affidavit-In-Support both sworn by Shaneka Carey, Counsel and Attorney attached to the

Applicant's Office, and filed on Tuesday 30 April 2024, and Thursday 9 May 2024, respectively.

8. The Applicant purported that the Respondent has violated his reporting bail condition in relation to both the Manslaughter and Murder charges. The Applicant further purported that the Respondent, since being granted bail in June 2014, was charged with subsequent offences and is a threat to public safety and order. Consequently, the Applicant is no longer a fit and proper candidate for bail, and ought to remain in custody. In the circumstances, the Respondent's bail ought to be revoked.
9. The Respondent opposed the present application but filed no evidence before the Court in support of the opposition.
10. The Court has reviewed and considered the Applicant's Affidavits and has heard the submissions made by Counsel for the Applicant and Respondent.

THE APPLICANT'S AFFIDAVIT EVIDENCE

11. The Affidavit of Shaneka Carey stated, that –

- i. I am an Attorney at the Office of the Director of Public Prosecutions and I am duly authorized to make the Affidavit on behalf of the Applicant from information received by me in my capacity aforesaid;
- ii. the Respondent, Jadre Evans, is charged with the offence of Manslaughter, contrary to section 293 of the Penal Code, Chapter 84;
- iii. the Respondent was granted bail by the Honourable Justice Isaacs sometime in June 2014 in the amount of Fifteen Thousand Dollars (\$15,000.00) with one or two suretors and the following conditions:
 - a. report to the East Street South Police Station every Monday, Wednesday, and Friday before 6 pm; and
 - b. not to interfere with the prosecution's witnesses;Attached hereto and marked "**SC-1**" is a true copy of the bail bond;
- iv. the trial for that matter was set to commence on 13 May 2019 but the Respondent was unrepresented on that date. As a result, the trial date was vacated;
- v. the trial was then re-fixed to 21 February 2022. On that date, the Court was engaged in another matter. As a result, the trial date was vacated and re-fixed to 15 May 2023;
- vi. on 3 May 2023, Ms. Cassie Bethell indicated to the Court that she was presently engaged and would be unable to proceed with the matter on 15 May 2023. The trial was therefore vacated and re-fixed for 27 October 2025;
- vii. since being granted bail for the offence of Manslaughter, the Respondent has been charged with the offence of Murder contrary to section 291(1)(b) of the Penal Code, Chapter 84; Attached hereto and marked "**SC-2**" is a true copy of the Voluntary Bill of Indictment;
- viii. the Respondent applied for and was granted bail by the Honourable Mr. Justice Gregory Hilton in the amount of Twenty Thousand Dollars (\$20,000) with one or two suretors and the following conditions:

- a. report to the Central Police Station every Monday, Wednesday, and Friday before 6 pm;
 - b. to be fitted with an electronic monitoring device;
 - c. to surrender his passport until the completion of the matter; and
 - d. not to interfere with the prosecution witnesses;
- Attached hereto and marked “**SC-3**” is a true copy of the bail bond;
- ix. the trial for that matter was set to commence on 11 December 2023. The prosecution was ready to proceed to trial and prepared its Anonymous Witness Application. However, that Court raised a legal issue regarding the Application, vacated the trial date, and re-fixed a trial date for 9 June 2025;
 - x. the Applicant to date is still awaiting a ruling on the Anonymous Witness Application;
 - xi. since being granted bail for Murder, the Respondent has been charged with the offence of Abetment to Murder contrary to sections 86(1) and 291 (1)(b) of the Penal Code, Chapter 84
Attached hereto and marked “**SC-4**” is a true copy of the Voluntary Bill of Indictment;
 - xii. the Respondent has now made an Application for bail before the Honourable Madam Justice Ferguson-Pratt. The matter is set to be heard on 9 May 2023;
 - xiii. I am reliably informed by the Criminal Registry that the Respondent has not been fingerprinted in the Kiosk System in order to sign in. Consequently, he has never signed in at either East Street South Police Station or Central Police Station;
 - xiv. I make this Application for the revocation of both the Respondent’s bail for the following reasons, that:
 - a. the Respondent has not been compliant with his bail conditions;
 - b. the Respondent since being granted bail in June 2014 has been charged with subsequent offences; and
 - c. the Respondent is a threat to public safety and order;
 - xv. the Respondent is no longer a fit and proper candidate for bail, and ought to remain in custody;
 - xvi. in the circumstances the Respondent’s bail should be revoked; and
 - xvii. the contents of this Affidavit are true and correct to the best of my knowledge, information, and belief.

12. The Supplemental Affidavit of Shaneka Carey stated, that –

- i. I am an Attorney at the Office of the Director of Public Prosecutions and I am duly authorized to make this Affidavit on behalf of the Applicant from information received by me in my capacity aforesaid;
- ii. I am advised by Chief Superintendent Tess Bastian Newbold that the Respondent, Jadre Evans, has not been compliant with the terms and conditions of his bail granted by the Honourable Justice Isaacs in June 2014. The Respondent was required to report to the East Street South Police Station every Monday, Wednesday, and Friday before 6 pm. However, between 2014 – 2019 the Respondent has not reported to the East Street South Police Station on several occasions
Attached hereto and marked “**SC-1**” is a true copy of the letter from Chief Superintendent Tess Bastian Newbold of the East Street South Police Station advising of the dates that he has signed in.
- iii. I am advised by Chief Superintendent Kenrid Newbold that the Respondent has not been compliant with the terms and conditions of

his bail condition granted by the Honourable Mr. Justice Gregory Hilton in 2019. The Respondent was required to report to the Central Police Station every Monday, Wednesday, and Friday before 6 pm. Since being granted bail, the Respondent has never signed into the Central Police Station.

Attached hereto and marked “**SC-2**” is a true copy of the letter from Chief Superintendent Kenrid Neely of the Central Police Station indicating that the Respondent has never signed in.

iv. the Applicant believes that the evidence against the Respondent in Information Number 54/2/2014 is cogent;

v. Jameiko Russell reports that on Thursday 28 November 2014, he was at his friend Roger’s house with the deceased, Sylvester Woodside, when Mice left. Moments later Mice returned on a motorcycle with a firearm and pointed it at Mr. Russell’s head. As a result, Mr. Russell ran, that is when he heard a single gunshot go off. Upon Mr. Russell’s return, he saw the deceased lying on the floor bleeding from what appeared to be a gunshot wound;

Attached hereto and marked “**SC-3**” is a true copy of the statement of Jameiko Russell.

vi. Albert Darville reports that on Thursday 28 November 2014, he witnessed as the deceased and Mice had an exchange of words. Shortly thereafter he saw Mice return on a motorcycle, at which time he heard a gunshot go off. Mr. Darville reports that he was not in the corner that Mice was. However, once he heard the motorbike leave he went to the area. That is when he saw the deceased lying on the floor with an apparent gunshot wound.

Attached hereto and marked “**SC-4**” is a true copy of the statement of Albert Darville.

vii. Storm Ferguson reports that he witnessed as Mice “gun but” the deceased in his head and fired a gunshot which caused the deceased to drop on the floor;

Attached hereto and marked “**SC-5**” is a true copy of the statement of Storm Ferguson;

viii. Hermanique Johnson reports that she is the girlfriend of the Respondent known as Jadre Evans and that he is also known as “Mice”; Attached hereto and marked “**SC-6**” is a true copy of the statement of Hermanique Johnson;

ix. the Applicant also believes that the evidence against the Respondent in Information Number 194/8/2017 is cogent;

x. the Applicant has secured a witness who indicates that he/she saw when the Respondent came out of a vehicle and ran towards the deceased, Stephon Horton. The Respondent then started shooting. The witness also identified the Respondent in a 12-man photographic lineup at position 7;

Attached hereto and marked “**SC-7**” is a true copy of the statement of Alpha;

xi. D/Sgt. 2675 Strachan reports that he prepared a 12-man photographic lineup of the Respondent placing him at position 7. Thereafter, he showed the witness the photographic lineup, said witness viewed the lineup placing him at positively identified the Respondent;

Attached hereto and marked “**SC-8**” is a true copy of the statement of D/Sgt. 2675 Strachan;

xii. the Applicant also believes that the evidence against the Respondent in Information Number 170/5/2023 is cogent;

- xiii. the Respondent has secured a witness who indicates that on Sunday 5 February 2023 sometime around 9:30 pm, he/she went by Smokey Bar through Douglas Road, Gambier where he/she saw a male known to him/her as Strap there with this son. Sometime later he/she observed a male known to him/her as "Mice" pulled up on a motorbike. Mice stopped in front of Strap and stared at him for a few seconds. Thereafter "Mice" rode off but before doing so he gave to another male a handgun who used the handgun to shoot Strap. Alpha reports that he has known Mice for over three (3) years and on 28 February 2023 he/she went to CID where he/she positively identified the male known to him/her as Mice at position number 2;
Attached hereto and marked "SC-9" is a true copy of the statement of the evidence of Alpha;
- xiv. D/Sgt. 2688 Brian Coakley reports that on Tuesday 28 February 2023, he prepared a twelve-man photographic lineup placing the Respondent at position number 2;
Attached hereto and marked "SC-10" and "SC-11" are true copies of the statement of D/Sgt. 2688 Brian Coakley and the 12-man photographic lineup;
- xv. I maintain the Application for revocation for the reasons indicated in the previous Affidavit and on the basis that the Respondent is no longer a fit and proper candidate for bail, and ought to remain in custody;
- xvi. in the circumstances the Respondent's bail should be revoked; and
- xvii. the contents of this Affidavit are true and correct to the best of my knowledge, information, and belief.

THE RESPONDENT'S SUBMISSIONS

13. Notwithstanding not filing any evidence in opposition to the present application, the Respondent, through his Counsel, submitted essentially, that –

- i. the Respondent was granted bail for the Manslaughter and Murder charges in 2014 and 2019, respectively;
- ii. while the Court has the discretion to grant and/or revoke bail, there are alternative routes to the revocation of bail. Reliance was placed on **Bartholomew Pinder v The Queen SCCrApp No. 29 of 2022** and **Damargio Whymms v The Director of Public Prosecutions SCCrApp No.148 of 2019**;
- iii. the matter for the Manslaughter charge occurred in 2013 and there was an attempt to bring the matter on for trial in 2019. That did not occur. At that time, some six (6) years would have lapsed;
- iv. to date, some eleven (11) years have lapsed and the Respondent has not been brought to trial. Had the trial occurred and/or a conviction been returned, the Respondent's awaiting trial period, in essence, would be a reasonable sentence for the offence. Reliance was placed on the **Director of Public Prosecutions v Don Brennen SCCrApp & CAIS No. 24 of 2014**;
- v. in the circumstances of this case, it would be unreasonable for the Applicant to seek to further justify the revocation of the Respondent's bail and by extension seek his continued remand;
- vi. similarly for the 2016 Murder matter, there would have been some nine (9) years that would have lapsed between the date of the offence and the Respondent's trial date;

- vii. the Respondent is currently remanded for the offence of Abetment to Murder which is not the subject of these proceedings. There is a bail application pending before another court in respect of the same. As such, all the factors advanced by the Applicant in respect of these proceedings ought to be advanced in the pending bail application;
- viii. between 26 September 2017 – 21 May 2019, the Respondent was in custody and not released until 2019 for the offence of Murder, which is one of two offences the subject of this revocation application; and
- ix. in all the circumstances of this case, the Court ought not to exercise its discretion to revoke the Respondent's bail.

ISSUE

14. The determination of this Application mandated the Court to consider one salient issue, namely, whether the Respondent's purported non-compliance with his bail condition renders him no longer a fit and proper candidate for the admission of bail and warrants his further remand into custody.

LAW AND DISCUSSION

15. Bail refers to the right of an accused person to be released from custody pending his trial and/or proceedings preliminary thereto provided the ends of justice are not thwarted by his flight to avoid trial, perverted by his potential interference with witnesses or the risk of him committing further offences if admitted to bail. An accused person may be admitted to bail subject to conditions, if any, the Court deems fit and proper having regard to the circumstances of the case.
16. The discretion of whether to grant or refuse bail is vested with the Court. The Court, as the superior court of record, is seized with the inherent jurisdiction to grant bail to persons charged with committing a criminal offence (even the most heinous criminal offence).
17. Notwithstanding, parliament has provided guidelines, through the Bail Act, Chapter 103 (as amended), for the Court to consider when exercising its judicial function in deciding whether bail ought to be granted or otherwise.
18. The Court's jurisdiction in relation to the grant or refusal of bail extends equally to its jurisdiction to revoke bail.
19. With respect to the Court's jurisdiction to revoke bail, the Court is guided by the Court of Appeal decision of **Bartholomew Pinder v The Queen SCCrApp No. 94 of 2020** wherein Barnett P (as he then was) at paragraphs 21, 22 and 26 adeptly surmised the following –
 - "21. We agree with Mr. Farquarson (and the Crown concedes) that the application to revoke the bail could not properly be made to a Supreme Court judge under section 12 of the Bail Act.

22. But that is not the end of the matter. Whether or not section 12 existed there has always been an inherent jurisdiction in the Supreme Court to grant and revoke bail...
26. ... there is ample jurisdiction in a judge of the Supreme Court to revoke bail by that Court. The fact that section 12 was recited in the summons is inconsequential. If this issue of jurisdiction had been raised by the appellant before Justice Turner he could have readily granted leave to the Crown to amend the summons to refer to the court's inherent jurisdiction. This ground has no merit and cannot be the basis for allowing an appeal against the judge's decision to revoke bail if the decision was otherwise correct."

[Emphasis added mine]

20. The Court's position on its jurisdiction to revoke bail is further substantiated by the clear and unambiguous wording of section 8A(1) of the Bail Act. **Section 8A(1) of the Bail Act** reads as follows –

"8A. (1) Where the Supreme Court grants or refuses a person bail, or refuses to revoke bail, the prosecution or the person, as the case may be, shall have a right of appeal to the Court of Appeal..."

[Emphasis added mine]

21. The Applicant's Summons advanced that the present application was made pursuant to section 8 of the Bail Act. **Section 8 of the Bail Act** reads as follows –

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- "8. (1) Where a Magistrate's Court grants or refuses bail in criminal proceedings or imposes conditions in granting bail, the Supreme Court may, on application by an accused person or the police, grant or refuse bail or vary the conditions.
- (2) Where a Magistrate grants bail to an accused person or a convicted person he shall where notice is given by or on behalf of the police of the intention to apply to the Supreme Court for a review of the decision remand the accused person or convicted person, as the case may be, into custody and order him to be brought before a judge at such time and place as the Registrar may direct for the hearing of the review by the Supreme Court which shall not be later than the next two sitting days of that Court.
- (3) Where the Supreme Court grants an accused person bail under subsection (1), the Court may direct that person to appear at a time and place which the Magistrate's Court could have directed, and the recognizance of any surety shall be conditioned accordingly.
- (4) Where the Supreme Court refuses an accused person bail under subsection (1) and the accused person is not then in custody, the Court shall issue a warrant for the arrest of the accused person, who shall be brought before a Magistrate's Court and shall be remanded into custody.

(5) The powers of the Supreme Court under this section are without prejudice to the jurisdiction vested in the Supreme Court under any other law.

22. The Respondent did not challenge (and rightfully so) the jurisdiction of the Court in relation to the present application. Notwithstanding the Court being satisfied that it is vested with the inherent jurisdiction to revoke bail, the Court is equally satisfied that section 8 of the Bail Act is not relevant for the purposes of the present application. The fact that section 8 was mentioned in the Applicant's Summons is inconsequential.
23. An application for the revocation of the bail of an accused person is reserved for circumstances where there has been or continues to be a breach of the bail condition(s) imposed on the accused person. The Court jealously guards its process to ensure that there is no blatant breach and/or defiance of its judgments and/or orders.
24. An application for the revocation of the bail of an accused person should not be used as a mechanism to adduce new evidence and/or provide further advancements on the cogency of the evidence in the accused person's case. Such a course of action is wholly inappropriate and best reserved for an appeal of the bail decision. Otherwise, it would amount to an abuse of the process of the Court and/or the prosecution seeking to have a second bite at the cherry. The judge seized with the bail application was well and capable of considering the evidence presented therein and exercised his/her discretion to grant the accused person bail.
25. The burden rests on the Applicant to show cause why the Respondent's bail should be revoked. The burden is discharged with the production of sufficient and cogent evidence relevant to the purported breach of the bail condition(s).
26. In an application for bail revocation, the Court shall have regard to the circumstances of each case, particularly, the breach in question, the length of time of the breach, the explanation for the breach, and/or the length of time the prosecution knew or ought to have known about the breach. The latter circumstances are by no means decisive. Each application will turn on its own merits.
27. An application for bail revocation should be made as soon as reasonably practicable. Evidence of a purported breach should not be used as a grenade wheeling over the accused person's head and waiting to be deployed at the prosecution's leisure. On the other hand, an accused person released on bail must be fully aware of the bail conditions imposed on him/her and must comply with the bail conditions. It is settled law that the breach of a bail condition(s) would not only subject the accused person to having his/her bail revoked but may also subject him/her to further criminal liability.

28. Sections 12A and 12B of the Bail Act make it abundantly clear that an accused person who breaches one or more of his bail conditions commits a criminal offence. These provisions provide as follows –

“12A. Any person who, having been released on bail in criminal proceedings and who breaches any conditions of bail, commits an offence”

“12B. (1) An offence under section 12A is punishable on summary conviction to a fine not exceeding \$50,000.00 or to a term of imprisonment not exceeding five years or to both such fine and term of imprisonment.

(2) In criminal proceedings for an offence under section 12A, a document purporting to be a copy of the part of the prescribed record which relates to the granting of bail of the accused person, and duly certified to be a true copy of that part of the record, shall be evidence of the conditions of bail”

29. In *Riclaude Tassy v The Director of Public Prosecutions MCCrApp No. 129 of 2022*, Barnett P (as he then was) at paragraphs 14, 15, 18, 24, 25, and 35 provided the following commentary on sections 12A and 12B of the Bail Act –

“14. The section applies to any person released on bail in any criminal proceedings. That is so whether the proceedings are in the Magistrates Court, the Supreme Court, or the Court of Appeal. The section also applies to any condition whether the condition relates to attending court on the date(s) fixed for attendance, curfew, area restriction, reporting requirements, or the wearing of an electronic monitoring device.

15. The offence created by section 12A is a summary offence. It is triable only in the Magistrates Court, notwithstanding that the bail and conditions may have been imposed by the Supreme Court or Court of Appeal. The penalty for committing the offence is a fine not exceeding \$50,000.00 or imprisonment for a term not exceeding 5 years or to both a fine and imprisonment. By any reference, these are heavy penalties and reflect a desire by Parliament that a breach of bail conditions be regarded as a serious offence, and one that should be dealt with quickly by the courts...

18. Therefore, a breach of bail conditions may give rise to both criminal liability, as well as the risk that bail may be revoked...

24. Although the statutory provisions are different in various jurisdictions, each provide that in certain circumstances a breach of conditions or undertakings of bail may not only result in a revocation of bail, but, in addition, may amount to a substantive criminal offence.

25. In our judgment, it is imperative that persons on bail fully understand that the conditions upon which they are released on bail must be complied with by them. Prior to the 2016 amendment, a breach of conditions could only result in the revocation of their bail; but by the 2016 amendment, not only can bail be revoked but they can be further punished for the breach as a

criminal offence. The severity of the punishment prescribed by Parliament reflects the gravity which Parliament and the society on whose behalf it enacts laws regard a breach of bail conditions. The courts must reflect that gravity in the punishment it imposes for a breach of conditions...

35. **Persons on bail must comply with the conditions upon which bail was granted. If they do not, not only may their bail be revoked, but they are also liable to incarceration for a criminal offence.** The period of incarceration for the offence under section 12A will not be taken into account if the accused is convicted of the offence for which he was on bail as it may be if the accused was incarcerated on remand.”

[Emphasis added mine]

30. The Court is reminded that bail ought not to be withheld as a pre-trial punishment against an accused person. The accused person has not yet been convicted of the criminal offence for which he stands charged and is no doubt entitled to the fundamental right and freedom of the presumption of innocence and protection not to be detained without just cause. The Court will seriously consider granting bail and/or not revoking bail from an accused person where he/she is likely not to be or has not been tried within the reasonable timeframe established by law. This is particularly the case where there are no extenuating circumstances for withholding bail or revoking bail. The Court is further reminded of the timely dicta of De La Bastide CJ (as he then was) in the Trinidad and Tobago Court of Appeal decision of **Sookermany v The Director of Public Prosecutions TT 1996 CA 14**, which states as follows –

“It has repeatedly been stressed that while delay in bringing accused persons to trial may or may not be prejudicial to the interest of such persons, it is invariably detrimental to the interest of the community in that such delay not only impairs the chances of convicting the guilty, but also greatly reduces the effectiveness of any punishment imposed on them following conviction. If a person's constitutional right not to be deprived of his liberty except by due process of law is infringed by his being imprisoned pending trial for an unduly protracted period, **it would seem that that infringement would be adequately remedied (assuming the offence is bailable) by granting him bail, without going so far as to prohibit his further prosecution.**”

[Emphasis added mine]

31. The Court makes no findings on the purported breach of the reporting bail condition imposed on the Respondent in relation to the Murder charge. This Court is not seized with carriage of the Respondent's Murder charge nor did this Court grant him bail relative to that Murder charge. Consequently, if the Applicant seeks to have the Respondent's bail revoked in relation to the Murder charge, it ought to make an application for bail revocation before the court that granted the bail and/or that has carriage of the matter. The Court is only seized with carriage of the Respondent's Manslaughter charge.

32. Moreover, the Court makes no findings on the strength of the evidence in relation to the Respondent's Manslaughter, Murder, and Abetment to Murder charges. The advancements regarding the strength of the evidence against the Respondent are best reserved for an appeal of the respective bail decisions and/or the Respondent's pending bail application in relation to the Abetment to Murder charge.

33. In the present application, the Applicant advanced that the Respondent has not been compliant with the reporting bail condition imposed on him in relation to the Manslaughter charge. The Respondent was ordered to report to the East Street South Police Station every Monday, Wednesday, and Friday on or before 6 pm. The Applicant advanced that the Respondent between 2014 – 2019 did not report to the East Street South Police Station on several occasions. In support of its advancements, the Applicant exhibited to the Supplemental Affidavit of Shaneka Carey a letter from Chief Superintendent Tess Bastian Newbold, the Officer-In-Charge of the Southern Division of the Royal Bahamas Police Force, evidencing the Respondent's purported non-compliance with the bail reporting condition. A portion of the letter reads as follows –

"Reference is made to the above captioned. Jadre Evans was granted bail by the Supreme Court sometime in June 2014, on the condition that he sign in at East Street South Police Station every Monday, Wednesday, and Friday before 6:00 pm.

After checking our sign-in register, our findings were that Jadre Evans has not been fully compliant and is in breach of the instructions ordered by the Supreme Court. In addition to the days that he has not signed in, there was a period of 26th September 2018 to 31st May 2019 that showed no record of him signing in for this period at all.

Please find on the attached sheet the list of days that Evans signed in at the East Street Police Station.

Forwarded for your information."

34. The Applicant further advanced that it had been reliably informed by the Criminal Registry of the Supreme Court of the Commonwealth of The Bahamas that the Respondent had not been fingerprinted in the Kiosk System in order to sign in. Consequently, he has never signed in at the East Street South Police Station.

35. The Respondent filed no evidence to controvert the advancements made by the Applicant. Consequently, it must be accepted that the Respondent has not been compliant with his reporting bail condition. The Respondent has further offered no explanation for the breach of his reporting bail condition. However, the Court takes judicial notice that the Respondent was arrested, charged, and remanded into custody in relation to the Murder charge on Monday 15 May 2017. The Respondent was not granted bail in relation to the Murder charge until Thursday 30 May 2019. He was not released on the said bail until Tuesday 4 June 2019. Additionally, the Respondent was arrested, charged, and remanded into custody in relation to the Abetment to Murder charge on Tuesday

7 February 2023. The Respondent remains remanded at The Bahamas Department of Correctional Services and awaits the hearing and/or determination of the bail application in relation to the charge. Consequently, during the periods of the Respondent's incarceration, he was unable to comply with his reporting bail condition. Notwithstanding, there still exist periods in which the Respondent was at large and still did not comply with the reporting bail condition for which no explanation was advanced.

36. The Respondent must be made aware that the breach of a bail condition imposed on him by the court is a serious matter and the bail condition must be complied with. A breach of any bail condition imposed on the Respondent without just cause subjects him to the possibility of having his bail revoked and/or being charged with a further criminal offence. The Court does not take lightly the blatant breach and/or defiance of its judgments and/or orders and will deploy every measure available to it to prevent the abuse of its process.
37. The Applicant must equally be made aware that the timing in which it brought the present application is rather disingenuous. The Respondent is currently remanded for a subsequent offence and awaiting a bail hearing and/or determination relative thereto. Moreover, the evidence being relied upon to support the present application ought to have been in the contemplation and/or knowledge of the Applicant. The Applicant did advance that the Respondent between 2014 – 2019 did not report to the East Street South Police Station. The Respondent appeared before a court albeit not this Court for an application for bail in relation to the Murder charge on three separate occasions, namely, March 2018, January 2019, and May 2019. There is no evidence before the Court that the evidence of the Respondent's breach of his reporting bail condition in relation to the Manslaughter charge was ever used to oppose his bail application in relation to the Murder charge.
38. Perhaps, if the Applicant is aggrieved by the Respondent's breach of the reporting bail condition in relation to the Manslaughter charge, it ought to have the Respondent brought before the Magistrate's Court and charged for the breach of the reporting bail condition and/or seek to advance the breach of the reporting bail condition in the Respondent's pending Abetment to Murder charge bail application. It must be noted that seeking to have the Respondent charged for the breach of the reporting bail condition is not to be confused with seeking to have his bail revoked for the breach of the reporting bail condition. With respect to the latter position, the Court finds solace in the dicta of Barnett P (as he then was) in **Riclaude Tassy (supra)** wherein it was stated at paragraphs 26 and 35 as follows –

"26. ... It must be noted that incarceration for an offence under section 12A of the Bail (Amendment) Act, 2016 is not the same as incarceration as a result of a revocation of bail...

35. ... The period of incarceration for the offence under section 12A will not be taken into account if the accused is convicted of the offence for which he was on bail as it may be if the accused was incarcerated on remand.”

CONCLUSION

39. Consequently, the Court, having regard to the foregoing reasons, is satisfied that the revocation of the Respondent's bail is not the best course of action nor is it appropriate at this time.
40. As previously iterated, the Respondent's Manslaughter charge stems from an event that purportedly occurred on Thursday 28 November 2014. The Respondent's trial date is set to commence on Monday 27 October 2025 – some eleven (11) years from the point of his arrest and charge. The evidence being relied upon by the Applicant to support this present application occurred between 2014 to 2019 – some five (5) plus years prior to the date of the present application. The evidence ought to have been within the contemplation and/or knowledge of the Applicant. More importantly, the Applicant is currently remanded at The Bahamas Department of Correctional Services and awaiting the hearing of a pending bail application and/or determination in relation to the Abetment to Murder charge. The factors advanced by the Applicant in this application may be better utilized in the Respondent's pending bail application.
41. The application for the revocation of the Respondent's bail in relation to the Manslaughter charge is hereby denied. Should the circumstances change in the interim, the Applicant is at liberty to reapply to the Court for the reconsideration of bail revocation.

Dated this 26th day of June 2024



**Guillimina Archer-Minns
Justice of the Supreme Court**