

IN THE SUPREME COURT

Criminal Division

BETWEEN

THE DIRECTOR OF PUBLIC PROSECUTIONS

Crown

AND

MATTHEW CAPRON

Convict

Before: The Honourable Madam Justice Joyann Ferguson

Appearances: Janessa Murray and Miashyia Saunders for the Crown
Keith Seymour for the Convict

Hearing Date: 22nd January, 2025; 25th March, 2025;

SENTENCING JUDGMENT

FERGUSON, J

1. The Convict, Matthew Capron has been convicted with the Offence of Attempted Murder, contrary to section 292 of the Penal Code, Chapter 84.
2. The trial for the Defendant commenced on 22nd January, 2025 and ended on 25th March 2025. After deliberations the nine (9) member jury found the Convict guilty of Attempted Murder 9 to 0.

Factual Matrix

3. On 3rd September 2023, the Police Control Room received a report of a male having been stabbed in the area of #9 Sunwood Drive and dispatched a unit to investigate. Upon arrival, the officer observed a male in a kneeling position, bleeding and suffering from apparent stab wounds to the upper right area of his back. The male identified himself as Andy Barnett.
4. The Officer further stated that, while on the scene, he was approached by the Convict, who informed him that he had become involved in an altercation with the victim and had stabbed him about the body.
5. The Convict was subsequently charged with the Offence of Attempted Murder, contrary to section 292 of the Penal Code, Chapter 84.
6. On Friday 21st March, 2025, the Jury, returned a unanimous verdict of guilty 9-0.

The Law

7. The Convict was charged with one count of Attempted Murder, contrary to **Section 292** of the Penal Code, Chapter 84 which provides as follows:

“Whoever attempts to commit murder shall be liable to a certain penalty.”

8. Furthermore, **Section 83(2)** of the Penal Code states that:

“Whoever attempts to commit an offence shall, if the attempt is frustrated by reason only of accident or of circumstances or events independent of his will,

be deemed guilty of an attempt in the first degree, and shall, except as in this Code otherwise expressly provided, be punishable in the same manner as if the offence had been completed.”

9. Section 291 (1) (b) Penal Code, Chapter 84 provides the following:

(1) Notwithstanding any other law to the contrary-

(a).....

(b) every person convicted of murder to whom paragraph (a) does not apply-

- i. shall be sentenced to imprisonment for life; or
- ii. shall be sentenced to such other term given the circumstances of the offence or the offender as the court considers appropriate being within the range of thirty to sixty years imprisonment....”

Sentencing Provisions

10. Section 185 of the Criminal Procedure Code, Chapter 91 makes provision for the Court to receive and consider information for the proper passing of a sentence and provides:-

“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.”

Purpose of Sentencing

11. Sentencing must always be proportionate to the gravity of the offence and promote a sense of accountability and responsibility of the offender for the offence he has committed. The object of sentencing is to promote a respect for the law, maintain order, a peaceful, safe society, and discourage criminal activity by the imposition of sanctions. Sentencing should also be aimed at rehabilitating the offender so that he may reform his ways, to become a contributing member of society.

12. I am guided by the four classical principles of sentencing namely retribution, deterrence, prevention and rehabilitation.

- i. Retribution – In recognition that punishment is intended to reflect society’s and the legislative’s abhorrence of the offence;
- ii. Deterrence – to deter potential offenders and the offender himself from recidivism;
- iii. Prevention – aimed at preventing the offender through incarceration from offending against the law and thus protection of the society; and
- iv. Rehabilitation – aimed at assisting the offender to reform his ways as to become a contributing member of society.

13. The Court is of the view that the Convict should be deterred from these types of offences and other members of society who are like minded should also be deterred. In the circumstances, the Court finds that a custodial sentence is warranted.

14. Further in **Prince Hepburn v Regina SCCrApp. No. 79 of 2013**, Mr. Justice Adderley described at paragraph 36 of the judgment the sentencing function and the factors to be considered in arriving at an appropriate sentence:

“36. In exercising his sentencing function judicially the sentencing judge must individualize the crime to the particular perpetrator and the particular victim so that he can, in accordance with his legal mandate, identify and take into consideration the aggravating as well as the mitigating factors applicable to the particular perpetrator in the particular case. This includes but is 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 or not he pleaded guilty at the first opportunity, whether he had 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. Each case is considered on its own facts.”

Probation Report

15. The report of Trainee Probation Officer Mrs. Sharon Brennen dated 1st July, 2025 revealed that the following persons were interviewed on behalf of the Convict. His mother, Mrs. Sophia Deveaux-Mackey, his mother, Mr. Matthew Capron, his father, McCardia Capron-Fawkes, his sister, Mr. Roscoe Heastie his employer and the virtual complainant Mr. Andy Barnette. Additional information was obtained from the Criminal Records Office of the Royal Bahamas Police Force and the Records Office at the Bahamas Department of Correctional Services (BDOCS).
16. Mathew Capron was described by the persons interviewed as a quiet, humble, calm, loyal, non-violent, and family-oriented person, who does not carry on and get drunk. However, it was further reported that the convict, maintains his innocence. He does not take any responsibility for the offence and therefore does not have any remorse for the injuries occasioned on the victim.
17. The virtual complainant stated that the attack was an unprovoked attack which has left him with lingering stomach pains and thousands of dollars in medical expenses. He appeals to the Court to impose a Compensation Order. The Court has made enquiries of the Crown regarding compensation for the victim, which is within the ambit of the Courts sentencing power. However the Court has not been furnished with any submissions from the Crown which will particularize any consideration in this regard. Accordingly, the Court relies solely upon the documented submissions which were laid over by the Crown.

Crown’s Submission relative to Matthew Capron

18. Crown Counsel relied on the case **James Miller v. Regina SCCrApp No. 106 of 2009**, where the Appellant James Miller was convicted of Attempted Murder and other offences and sentenced to life in prison. He appealed against sentence on the ground that the sentences imposed, were unduly severe. The Court of Appeal stated the following at page 9 paragraph 35:

“It is trite that the sentence for an attempt is the same as that for the substantive offence.”
19. In **The Attorney General v. Larry Raymond Jones et al, which ruling the Court of Appeal followed in Angelo Poitier v. R SCCrApp No.95 of 2011** and many other cases involving murder the Court of Appeal substituted James Miller’s life sentence to 40years for attempted murder, which fell in the range of sentence of 30 to 60 years. The Court at pages 4-5 stated:

“In our judgment, where, for one reason or another, a sentencing judge is called upon to sentence a person convicted of a depraved/heinous crime of murder and the death penalty is considered inappropriate or not open to the sentencing judge and where none of the partial excuses or other relevant factors are considered weighty enough to call for any great degree of mercy, then the range of sentences of imprisonment should be from thirty to sixty years, bearing in mind whether the convicted person is considered to be a danger to the public or not, the likelihood of the convict being reformed as well as his mental condition. Such a range of sentences would maintain the proportionality of the sentences for murder when compared with sentences for manslaughter.”
20. Additionally, **Neil Cordell Ingraham aka “Turtle “SCCrApp No. 173 of 2019**, was convicted of Attempted Murder on the 29th April, 2019. On the 14th May, 2019, he was sentenced to 34 years imprisonment.
21. Counsel for the Crown avers that the actions of the Convict amounted to a cold-blooded attempted murder, in that the victim was stabbed five times in the back. As a result of these actions, the victim now faces lifelong injuries and accordingly, has been compelled to change his career. In the circumstances, the Convict can be said to have displayed not only a lack of reasoning skills, but a level of rage so profound that it renders him a danger to society.

22. Counsel for the Crown submits to the Court to consider that a custodial sentence of thirty (30) years is appropriate for the Convict.

Defence's Submission relative to Matthew Capron

23. Defence Counsel invited the Court to consider that the Convict was only thirty-three (33) years of age at the time the offence was committed. He was employed as a maintenance worker and is the father of four (4) children, one of whom was an infant at the material time. The Convict has experienced a troubled childhood through no fault of his own. The Convict has expressed remorse for the inconvenience caused in this matter and for the severe injuries sustained by the victim. That it was never his intention to cause those injuries and that he did not intend to kill the victim.

24. Throughout the trial, the Convict maintained his innocence and asserted from the inception that he was acting in self-defence.

25. The mitigating factors advanced on behalf of the Convict are that he has no prior criminal history and no pending charges. He cooperated fully with the Police and provided a statement from the outset. He was himself a victim of serious violence, having been shot twice in June 2014, which resulted in his hospitalization for approximately one month. The injuries required surgical repair involving two screws and a steel rod, and the Convict continues to experience pain, particularly when the weather changes. Despite these factors, the Defence submits has lived a law-abiding life and has had no further encounters with the law.

26. Defence counsel submits that the Convict is a person of good character and has the support of his father, who assists him from time to time. He acknowledges that his relationship with his father could have been better, as his father was emotionally unavailable during his upbringing.

27. Counsel for the Convict further submits that a reasonable custodial sentence would be appropriate in the circumstances. That the Convict is a person who has learned from this experience. The Convict has met his family obligations and has directly supported his partner and young children. Mr. Capron respectfully seeks the opportunity to continue raising and supporting his children, thereby ensuring their care and protection under the joint guidance of himself and his girlfriend.

28. Further Counsel for the Convict submits, that the Convict is capable of rehabilitation and has taken accountability for his actions from the onset. It is further submitted that upon his release, he can make a positive contribution to society.

29. Counsel on behalf of the Convict is seeking the Courts leniency under the circumstances and asks that the Convict be given an opportunity to love and support his children. Counsel for the Convict further asks the Court to consider a custodial sentence in the area of eight (8) years for the Convict and relies on the case of ***R v Miller*** BS 2012 SC 55, Mr. Miller was convicted of the offence of attempted murder of Derek Walters and was sentenced to seven (7) years imprisonment. However, the Court of Appeal in ***The Director of Public Prosecutions v Ernesta Butler*** BS 2020 CA 74, while referencing ***Miller*** concluded that attempted murder is considered a very serious offence. The penalty should be reflective of the seriousness of the offence and that seven years for attempted murder on the facts of the case was unduly lenient.

30. In coming to my decision in this matter, the Court has considered the submissions of both the Crown and the Defence and further case law on the offence of Attempted Murder namely:

1. ***Aaron Lindsay v R SCCrApp No. 229 of 2017***
2. ***Bernard Knowles v The Director of Public Prosecutions (2019) CRI/VBI/150/7***

31. In **Aaron Lindsay v R SCCrApp No. 229 of 2017**, Mr. Lindsay was convicted of the offence of attempted murder of Jerome Smith and was sentenced to 30 years imprisonment in October 2017. He appealed against conviction and sentence which were affirmed.

32. In **Scavella v R SCCrApp No. 124 of 2009**, Scavella was found guilty on one count of attempted murder of Officer Nathaniel Lloyd. The trial judge sentenced him to thirty (30) years imprisonment for attempted murder. Scavella appealed and his appeal was dismissed. His conviction and sentence were affirmed.

Decision

33. In exercising my discretion on sentencing, I remind myself that sentencing should be proportionate to the gravity of the offence and should prompt a sense of responsibility in the offender for the offence committed. I have kept in my purview the four classical principles of sentencing namely **retribution, deterrence, prevention, and rehabilitation**.

34. The Court is of the view that the Convict should be deterred from this type of offence and also other would be offenders, likewise should be deterred. Having said that I am of the view that this Convict is capable of rehabilitation. Particularly having regard to his relatively young years. I have heavily considered as a mitigating factor the fact that the Convict's age at the time of the offence was 33 years of age. The Court has also given due regard to the fact that the Convict admitted to committing the offence and cooperating with the Police from the beginning of the investigation.

35. In the instant case, The Court has kept in its purview the victim, Mr. Barnett, sustained injuries of such gravity as to result in the loss of his capacity to work. He has incurred substantial medical expenses and endured significant hardships as a direct consequence of the Convict's actions, having been stabbed five times with a knife. The Court is mindful that the Convict has denied, *ab initio*, any intention to kill Mr. Barnett. However, it is difficult for the Court to comprehend how a person acting with such recklessness, indifference, and heightened malice could fail to foresee that conduct of this nature carried a clear and obvious risk of causing serious harm or ultimately the loss of life.

36. In the exercise of my discretion, I have considered the mitigating factors as follows:

- a) The Convict has no previous convictions and is a man of unblemished character.
- b) The Convict is relatively young man, being age 35 years at present and was 33 years of age at the time of the offence.
- c) The Convict confessed to committing the offence at the earliest opportunity

37. The Court has identified the aggravating factor as follows:

- a) The Convict has committed a serious offence.
- b) The Convict lack of remorse for the victim and the impact of this crime on the victim's health and livelihood
- c) Prevalence of Offences in the Bahamas of this nature.
- d) The offence has threatened the life of the victim, but for the quick medical intervention life was likely to have been lost.

38. I have referred extensively to the case law cited above as well as the relevant statutory provisions. I have also considered the submissions of Counsel on both sides.

39. In adopting the dictum of Adderley JA in **Prince Hepburn v. Regina** at paragraph 36

"the sentencing judge must individualize the crime to the particular perpetrator...so that he can in accordance with his legal mandate, identify and take into consideration the aggravating as well as the mitigating factors applicable to the particular perpetrator in the particular case."

40. In the circumstance of this instant case I find that a custodial sentence is required sufficient to send a strong message to the community at large that if we are to advance as a modern society, this type of behaviour as portrayed by the Convict is reprehensible. The sentence must also however provide the convict with an opportunity having paid his price to society for his involvement in this unfortunate incident, to return to his family and society at large and contribute as a productive member.

41. The behaviour of the Convict was a cold blooded Attempted Murder where the victim was stabbed five times in the back. As a result, the victim faces life long injuries which has necessitated him having to change his career and lifestyle. The Convict displayed not only a lack of reasoning but a rage so great that makes him a danger to society. This is not a matter to evoke the leniency of the Court.

42. I am mindful of the range of sentences for Attempted Murder (up to 30 years). In weighing up all the relevant factors and placing a premium on the potential impact that this incident could have resulted in the loss of Mr. Barnette's life, I consider that justice in this case will require a custodial sentence as follows: on the count of Attempted Murder **twenty-five (25) years.**

43. The Convict was remanded on the 8th Sept. 2022 to 5th October 2022 and thereafter further remanded on 21st March, 2025 to today's date which amounts to six (6) months and one (1) week. The sentence is to take effect from today's date 28th January, 2026 and the time spent on remand is to be deducted.

Dated this 28th day of January, A.D. 2026



The Hon. Madam Justice Joyann Ferguson

