COMMONWEALTH OF THE BAHAMAS CASE NO. 2014/ CRI/BAIL/FP/000135

IN THE SUPREME COURT

Criminal Side

BETWEEN

STEVE DEROSIER

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honorable Mr. Justice Andrew Forbes

Appearances: Mr. Sean Novel Smith c/o Director of Public Prosecutions

Mr. Steve Derosier Pro Se

Hearing Date: 6th October, 2026

RULING ON BAIL

FORBES, J

BACKGROUND

1. The Court, having heard the application and rendered its decision, indicated the intention to provide the written reasons and does so now. The Applicant self-filed an application seeking the Court's consideration on bail on 29th April 2026. During the hearing, the Applicant stated that he was remanded on the charge of Murder (1 Count), and that he has close ties to the local area at # 3 Limewood Lane, Freeport, Grand Bahama. He also stated that he is prepared to comply with any and/or all conditions should bail be granted, and that he was previously released on bail for Armed Robbery, Burglary, and Causing Harm. The Applicant is awaiting trial on this matter. The Court has set 24th November 2026 as the case management date. On which a new trial will be scheduled.
2. The Respondent filed an affidavit in response on 28th September 2026, sworn by Sargent 2943 Aurelio Hanna. He avers that the Applicant was arraigned before Justice Forbes on 30th July 2026, pleaded not guilty, and that the trial is set for the 2nd to the 13th September 2030.
3. That Sargent Hanna avers that there is cogent evidence, as there was an eyewitness who observed the fatal shooting of the deceased, and that the Applicant was the occupier of the vehicle. He further avers that the Applicant has a pending matter for Armed Robbery and Causing Harm, and that the trial is scheduled to commence on 24 November 2026. Further, the eyewitness provides cogent evidence of the Applicant's firing several shots from a black firearm into the body of Deangelo Wilson aka Ducky.
4. That Sargent Hanna further avers that the Applicant has a previous conviction for Housebreaking in June 2012, where he was convicted and ordered to compensate the virtual complainant or to serve two (2) years at the Bahamas Department of Corrections Services (BDCOS). He was further convicted and sentenced for shopbreaking and stealing on 19 March 2024 to eighteen (18) months. The antecedents further showed that the Applicant is not a fit and proper person to be released on bail.

SUBMISSIONS

5. The Applicant, being unrepresented, was unable to provide any submissions other than to deny the allegation contained in the Affidavit filed by the DPP and to reiterate that he is innocent of the alleged crime. The Court, however, notes the Court of Appeal decision in Stephon Davis and the Director of Public Prosecutions, SCCrApp No. 108 of 2020.

6. The DPP handed over its submissions on the 5th October 2026 and noted the serious nature of the allegations against the Applicant and whether there are any conditions this Court can impose that will restrain this Applicant from committing additional crimes. The DPP refers the Court to the Judge's comments in the Court of Appeal in **Stephon Davis v the Director of Public Prosecutions (supra),** where he noted the following**:** ***"A judge hearing a bail application cannot simply refuse an application for bail merely on the fact that the new offense is alleged to have been committed while the defendant was already on bail for a similar offense. The judge must assess the evidence on which the Crown intends to rely at the hearing of the new charge."*** and the comments in paragraph 24 of **Treyvar Taylor v. Director of Public Prosecutions** *SCCrApp. No. 134 of 2024*, where the Court adopted Justice Turner's comments from the Court of Appeal in which he said the following: ***"In the Court's view, in the present appeal, the appellant's alleged commission of serious offences whilst on bail and under an EMD order provides us with clear evidence that the appellant is a threat to public order and is also a relevant factor to consider pursuant to paragraph 11 (f) of the First Schedule of the Bail Act. The combination of pending charges for violent offences and the appellant's conduct whilst on bail justifies the decision by the Judge to refuse bail and to support his continued incarceration pending trial. .."*** Counsel for the DPP submits that the Applicant is an unfit person for bail and ought to be kept in custody pending the outcome of his trial.

THE LAW

7. The Court must now consider the rationale for the denial of bail to the Applicant and consider whether he will refuse or fail to surrender for trial. The Court must also consider that the Trial is more than three years away from this application and the profound implications. The Crown never addressed this point: that this clearly violated the Bail Act provisions and the Applicant's right to a fair trial, including the reasonable time provision in the Constitution. See Articles 19(3) & 20 of the Constitution, which say as follows: ***"(19)No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases (3) Any person who is arrested or detained in such a case as is mentioned in subparagraph (1)(c) or (d) of this Article and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in the said subparagraph (1)(d) is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial…."*** "***20. (1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law….."***
8. The above point was further discussed by the Court of Appeal in **Kyle Farrington v. The Director of Public Prosecutions** *SCCrApp. No. 80 of 2019* by both Justice Sir Michael Barnett (as he then was) and Justice of Appeal Evan (As he then was) from paragraphs 61 et seq., which is informative on the point and is as follows: ***"61. I do not propose to repeat the discussions on the issue of bail found in many judgments of this court including the majority decision of this court in Richard Hepburn v The Attorney General SCCrApp.***

No. 276 of 2014 and the more recent decision in Duran Neely v The Attorney General SCCrApp. No. 29 of 2018, but I respectfully agree with the views of Allen, P in Richard Hepburn, where she said at paragraph 23: '23. However, when one considers the authorities and, indeed, the wording of section 4(2) (a), it is clear that a reasonable time must be determined on a case-by-case basis, without regard to hard-and-fast rules or mathematical formulae. Consequently, the deeming provision of section 4 (2A) must be construed as a marker and not a limitation of what is a reasonable time. The Court must still consider whether, in all of the circumstances, the time which has elapsed or will elapse between arrest and trial is unreasonable…..63. <u>However, three years is an important marker and courts should be loath to deny an accused bail if an accused has not been and/or cannot be tried for more than three years.</u> As Hilton J said in Williams v Attorney General [2016] 2 BHS J No 207: 'I am of the view that the setting of a trial date some three years after the arrest of the Applicant potentially breaches his constitutional right to trial 9 within a reasonable time. The fact of the Applicant having a trial date in 2015 vacated and another trial date in 2016 vacated in each case without his fault must have created a real expectation that the Applicant would be tried within a reasonable time and certainly prior to three years removed from the date of his arrest. This, through no fault of his own, has not occurred but rather is a result of operational delay in the court system in this particular case.'" Justice Evans echoed the comments and said as follows: ***"135. In my view a trial judge in setting a trial date must have in mind Article 19(3) of the Constitution as well as the provisions of Section 4(2) of the Bail Act. Mr. Munroe submitted that Section 4 provides that once it became evident the applicant could not be tried within three years, the judge was obliged to grant him bail. I do not agree. Section 4, in my view, is a marker which requires the judge to be aware of the accused person's rights under Article 19(3) of the Constitution…"(Emphasis added)***

9. Section 4 (1) of the Bail Act provides:-

> ***"(1) Notwithstanding any other enactment, where any person is charged with an offence mentioned in Part B of the First Schedule, the Court shall order that that person shall be detained in custody for the purpose of being dealt with according to law, unless the Court thinks that his detention is not justified, in which case, the Court may make an order for the release, on bail, of that person and shall include in the record a statement giving the reasons for the order of release on bail: Provided that, where a person has been charged with an offence mentioned in Part B of the First Schedule after having been previously convicted of an offence mentioned in that Part, and his imprisonment on that conviction ceased within the last five years, then the Court shall order that that person shall be detained in custody.***

10. Sections 4(2) and (3) of the Bail (Amendment) Act, 2011 provide:-

> ***"(2) Notwithstanding any other provision of this Act or any other law, any person charged with an offense mentioned in Part C of the First Schedule shall not be granted bail unless the Supreme Court or the Court of Appeal is satisfied that the person charged - -***
>
> ***(a) has not been tried within a reasonable time;***
>
> ***(b) is unlikely to be tried within a reasonable time; or***

(c) should be granted bail having regard to all the relevant factors including those specified in Part A of the First Schedule and subsection (2B), and where the court makes an order for the release, on bail, of that person it shall include in the record a written statement giving the reasons for the order of the release on bail.

(2A) For subsection (2) (a) and (b) ---

(a) without limiting the extent of a reasonable time, a period of three years from the date of the arrest or detention of the person charged shall be deemed to be a reasonable time;

(b) delay which is occasioned by the act or conduct of the accused is to be excluded from any calculation of what is considered a reasonable time.

(2B) For subsection (2) (c), in deciding whether or not to grant bail to a person charged with an offense mentioned in Part C of the First Schedule, the character or antecedents of the person charged, the need to protect the safety of the public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offense, are to be primary considerations.

(3) Notwithstanding any other enactment, an application for bail by a person who has been convicted and sentenced to a term of imprisonment in respect of any offense mentioned in Part D of the First Schedule shall lie to the Supreme Court or the Court of Appeal. (3A) Notwithstanding section 3 or any other law, the Magistrates Court shall not have jurisdiction to grant bail in respect of any person charged with an offense mentioned in Part C or Part D of the First Schedule.

DISCUSSION/ANALYSIS

11. It appears that the Respondent's submissions are that the Applicant has antecedents; that he has pending matters, the said matter being a murder case for which the Court of Appeal granted bail; and that the evidence adduced is cogent and powerful, are grounds to deny the Applicant bail.
12. The Applicant faces a charge involving Murder. This is an offences that has been included in Part C of the First Schedule of the Bail Act and the Bail (Amendment) Act, 2011 which states as follows: "***Kidnapping—section 282, Conspiracy to commit Kidnapping—sections 282 and 89(1), Murder—section 291, Conspiracy to commit Murder—sections 291 and 89(1), Ch. 84; Abetment to Murder—sections 86 and 307, Armed Robbery—section 339(2), Attempted Murder–section 292, Conspiracy to commit Armed Robbery—sections 339(2) and 89(1), Abetment to Armed Robbery—sections 86 and 339, Treason—section 389, Conspiracy to commit Treason—sections 389 and 89(1),……."***. Sections 4(2) and (3) of the Bail (Amendment) Act, 2011 permit bail for those charged with a Part C offense (as stated in paragraph 10 above). Additionally, a Judge hearing an application for the grant or denial of bail for an applicant charged with a Part C offense shall have regard to the following factors as found in Part A of the Bail (Amendment) Act, 2011:-

"(***a) whether there are substantial grounds for believing that the defendant, if released on bail, would-***

(i) fail to surrender to custody or appear at his trial;

(ii) commit an offense while on bail; or

(iii) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;

(b) whether the defendant should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;

(c) whether he is in custody in pursuance of the sentence of a Court or any authority acting under the Defense Act;

(d) whether there is sufficient information for the purposes of taking the decisions required by this Part or otherwise by this Act;

(e) whether having been released on bail in or in connection with the proceedings for the offense, he is arrested pursuant to section 12;

(f) whether having been released on bail previously, he is charged subsequently either with an offense similar to that in respect of which he was so released or with an offense which is punishable by a term of imprisonment exceeding one year;

(g) the nature and seriousness of the offense and the nature and strength of the evidence against the defendant.";

13. Thus the question is whether this Applicant would surrender for trial. The Respondent offered no evidence to suggest that he would not have appeared, and the Affidavit contains no suggestion that the Applicant might not surrender for trial. Instead, they focused on the Applicant being a safety concern to the community.
14. As stated by the Court in **Stephon Davis v the DPP (supra),** there is no evidence before this Court that the Applicant will refuse to surrender. However, as this Court has noted, events have now moved beyond the abstract, as this Applicant was already on bail with this Court, with stringent conditions imposed, specifically curfew conditions. The Court is therefore satisfied that the evidence supports the view that the Applicant appears not to be taking this Court's conditions seriously and seeks to avoid continual alleged criminal violations. The Court recognizes that although the Applicant was previously on bail and somewhat recalcitrant, he contends he has an airtight alibi because he was elsewhere when this offense allegedly occurred. That is a matter for trial. The Court is again reminded that a previous bail history does not preclude the Court from considering the Applicant now. (**See the Stephon Davis case)** . The Court notes the comments made by the Court of Appeal in **Riclaude Tassy and Director of Public Prosecution** *MCCrApp. No. 129 of 2022*, where the Court said: **"A breach of bail conditions may give rise to criminal liability, as well as the risk of revocation of bail."**
15. The Court takes note of the comments of the Court of Appeal in **Cordero McDonald v. The Attorney General** *SCCrApp. No. 195 of 2016*, where the President of the Court of Appeal, Dame Anita Allen, said as follows:

"18. As noted in Richard Hepburn v The Attorney General SCCrApp. 276 of 2014, there is a constitutional right to bail afforded by articles 19(3) and 20(2)

(a) of the Constitution; and as the right pursuant to article 19(3) is not triggered since there is no element of unreasonable delay in this case, consequently this application is grounded in the provisions of article 20(2) (a).

19. In that regard, the appellant is presumed innocent and has a right to bail, unless after a realistic assessment by the judge of the matters prescribed above, the appellant's right to remain at liberty is defeated by the public's interest in seeking to ensure " that the course of justice is not thwarted by the flight of the suspect or defendant or perverted by his interference with witnesses or evidence and that he does not take advantage of the inevitable delay before trial to commit other offences…" 8 (per Lord Bingham in Hurnam v The State [2006] 3 LRC 370, at 374).

20. The balancing of the applicant's right to the presumption of innocence and that of the public to be protected is reflected in the above-mentioned factors recognized and prescribed by the Bail Act as matters to be weighed against the grant of bail, and, in so far as they are relevant to the particular application for bail, they must, as previously noted, be assessed by the judge before exercising the discretion. Indeed, section 2B prescribes that in relation to Part C offenses: '…the character or antecedents of the person charged, the need to protect the public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offense, are to be primary considerations.' *(Emphasis added)*

DISPOSITION

16. This Court, given the circumstances, will grant the application for bail for the current offense. The Court refers to the comments of then Acting Justice of Appeal Evans in **Duran Neely v. The Attorney General** *SCCrApp. No. 29 of 2018* at paragraph 17, he said the following: **"It** ***should be noted that Section 4 of the Bail Act does not provide the authorities with a blanket right to detain an accused person for three years. In each case, the Court must balance the accused's right to freedom against the need to protect society. In my view, the three-year period protects the accused, not a trump card for the Crown. As I understand the law when an accused person makes a bail application the Court must consider the matters set out in Section 4(2) (a), (b) and (c). This means that if the evidence shows that the accused has not been tried within a reasonable time or cannot be tried in a reasonable time, he can be admitted to bail as per (a) and (b). In those circumstances where there has not been unreasonable delay, the Court must consider the matters set out in (c). If after a consideration of those matters the Court is of the view that bail should be granted the accused may be granted bail…"*** The Court notes that the Applicant was already on bail and, while on bail, cogent evidence has been presented that this Applicant has not only violated the terms of his bail, but allegedly committed another offense. This Court is fully aware of the comments of Justice of Appeal Evans and the President of the Court of Appeal, Sir Michael Barnett, in the **Stephon Davis case (supra).** Those comments are as follows: "***A judge hearing a bail application cannot simply refuse an application for bail merely on the fact that the new offense is alleged to have been***

committed while the defendant was already on bail for a similar offense. The judge must assess the evidence the Crown intends to rely on at the hearing of the new charge."…: "This court has on more than one occasion repeated the principle that bail should not be denied as a punishment for a crime for which a person has not yet been convicted. This principle applies even when the crime is alleged to have been committed whilst a person was on bail. The burden is on those opposing the grant of bail to show why there are good reasons to deny bail to a person charged with an offense." Having considered the circumstances of this case and the evidence presented, the Court will accede to the Application.

17. The Court notes that the projected trial date is 2030, meaning that the Applicant will be in custody for a period of at least five (5) years before a likely trial, and that was not intended either by the Constitution or by the dicta in multiple Court of Appeal decisions.
18. The Court will grant bail in the amount of twenty-five thousand ($25,000.00) dollars with one (1) or two sureties.
19. Applicant is to be outfitted with an Electronic Monitoring Device (EMD) and comply with all terms and conditions.
20. Applicant is to report to Central Police Station each Monday, Wednesday & Friday by 7 pm at the latest.
21. Applicant to have no contact with any Prosecution Witnesses, whether directly or indirectly; any violation could result in possible revocation of bail.
22. Applicant to surrender all travel documents and seek the prior approval of the Court should travel become necessary, and only after ensuring that an itinerary is provided and approved before any travel.
23. Applicant is to have no contact with any co-accused with respect to this matter save for the presence of the Court.
24. Parties aggrieved may appeal to the Court of Appeal.
25. Parties are at liberty to reapply.

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Justice Andrew Forbes

Dated the 20th day of October 2026