COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

15/1/2025

B E T W E E N

THE DIRECTOR OF PUBLIC PROSECUTIONS

AND

JAVON FORBES

Before: The Honourable Madam Justice Renae McKay

Appearances: Ms. Desiree Ferguson for the Prosecution
Mr. K. Melvin Munroe for the Convict

Hearing Dates: 19th February, 9th March and 13th August 2026

SENTENCING DECISION

INTRODUCTION

1. On 19 February 2026, at a case management hearing, Javon Forbes ("Forbes" or "the Convict") informed the Court that he wished to change his plea from not guilty to guilty. Accordingly the matter was adjourned to 9 March 2026.

2. On that date, the charges were put to the Convict, who pleaded guilty to the following:

    i. Murder, contrary to sections 290(1) and 291(1)(b) of the Penal Code, Chapter 84;
    ii. Rape, contrary to section 6(a)of the Sexual Offences Act, Chapter 99; and
    iii. Burglary, contrary to section 363 of the Penal Code, Chapter 84.

3. The Prosecution then recited the facts, which the Convict accepted.

4. The accepted facts were:-

   i. On Friday, 22 November 2024, Vernentia Butler (the "deceased"), aged 72, attended a birthday celebration at the Regatta Restaurant at Baha Mar with her sister, Adwilda Deveaux, and other relatives. At about 11:30 p.m., relatives dropped the deceased off at her homeand ensured she entered safely. Shortly thereafter, the deceased telephoned her sister to confirm that he was safe.

   ii. At about 2:00am on Saturday, 23 November 2024, upon arrival at the residence the deceased's son, Jermaine Williams Sr., noticed that a window screen was missing. Having received no response at the door he contacted another family member, his son Jermaine Williams Jr., to assist with entry.

   iii. Once inside, the father and son found the deceased body lying naked on the floor and found a piece of her pyjama bottoms nearby. They encountered the Convict asleep naked on a bed in a room of the house. When confronted, he attacked the two men, and a struggle ensued. Police were called, and when they arrived about 20 minutes later, the struggle was still ongoing.

   iv. Police determined that the Convict had entered the house through the front living-room window to the north after damaging the screen.

   v. After receiving hospital treatment for injuries sustained during the struggle, the Convict was arrested. Jermaine Sr. and Jermaine Jr. each identified him in a 12-person identification parade.

   vi. In his recorded interview, the Convict admitted going to the deceased's home. He said that he had used drugs, became sexually aroused upon seeing the deceased, and had sexual intercourse with her. He said that she struggled and made noise, and that he placed his hand over her mouth and nose to prevent her from making noise

   vii. The autopsy conducted on the 25th November 2024 certified the deceased's cause of death as asphyxia due to strangulation.

5. Counsel for the Convict, Mr. Munroe, requested that a Probation Report be prepared to assist the Court with sentencing. The Court heard submissions with respect to sentencing on 13 August 2026.

6. I reserved my decision, and I now deliver it.

The Law

Murder

7. **Section 290(1) of the Penal Code, Chapter 84,** provides that:-

> **"whoever intentionally causes the death of another person by any unlawful harm is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of partial excuse, as in this Title hereafter mentioned.**

8. **Section 291(1)(b)(2)** further provides that:-

> **Notwithstanding any other law to the contrary—**
>
> **(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: provided that where a person under eighteen years of age is convicted of murder he shall not be sentenced in accordance with this subsection but instead subsection (4) shall apply to the sentencing of such person.**

9. **Section 23(2) of the Penal Code** also provides that:-

> **(2) Where death, caused by harm, takes place within a year and a day of the harm being caused, the special provisions, relating to homicide, under Title xx. of this Code may become applicable.**

10. **Section 24 of the Penal Code** provides a definition for unlawful harm as follows:-

> **Harm is unlawful which is intentionally or negligently caused without any of the justifications mentioned in Title vii. of this Code.**

Rape

11. **Section 6(a) of the Sexual Offences Act, Chapter 99** provides that:-

> **6. Any person who —**

(a) commits rape;
(b) attempts to commit rape; or
(c) assaults any person with intent to commit rape,

is guilty of an offence and liable to imprisonment for a term of fifteen years to life imprisonment.

12. **Section 3** provides the following definition for rape:-

Rape is the act of any person not under fourteen years of age having sexual intercourse with another person who is not his spouse —
(a) without the consent of that other person;
(b) without consent which has been extorted by threats or fear of bodily harm;
(c) with consent obtained by personating the spouse of that other person; or
(d) with consent obtained by false and fraudulent representations as to the nature and quality of the act.

13. **Section 4** provides the following definition for sexual intercourse:-

For the purposes of this Act, "sexual inter course" includes —
(a) sexual connection occasioned by any degree of penetration of the vagina of any person or anus of any person, or by the stimulation of the vulva of any person or anus of any person, by or with —
(i) any part of the body of another person; or
(ii) any object used by another person, except where the penetration or stimulation is carried out for proper medical purposes; and
(b) sexual connection occasioned by the introduction of any part of the penis of any person into the mouth of another person,
and any reference in this Act to the act of having sexual intercourse includes a reference to any stage or continuation of that act.

Burglary

14. **Section 363 of the Penal Code, Chapter 84** provides that:-

Whoever commits housebreaking by night in the case of a dwelling-house is guilty of burglary, and shall be liable to imprisonment for twenty years.

Sentencing Provision

15. In determining the sentence to be imposed, I have had regard to section 185 of the Criminal Procedure Code, Chapter 91 ("the CPC"), which provides that:-

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.

Probation Report

16. Ms. Matrena Carey, a Probation Officer with the Department of Rehabilitative/Welfare Services, prepared a comprehensive probation report ("the Report") dated 21 May 2026 concerning the Convict.

17. The Report records that the Convict is the fifth of seven children, raised in a single-parent home by his mother. His mother died when he was eleven, after which he was separated from his siblings and went to live with his father. The Convict obtained three Bahamas Junior Certificates ("BJCs") but dropped out of school before completing Grade 12.

18. The Convict reported that he smokes cigarettes, uses drugs, and consumes alcoholic beverages.

19. The Convict's father, Mr. Michael Forbes, reported that he and the Convict share an amicable relationship. He described the Convict as humorous, non-troublesome, and hardworking. Before his incarceration for the present offences, the Convict worked for his father as a construction worker. Mr. Forbes stated that he was shocked to learn of the Convict's involvement in the present offences, as such conduct was out of character.

20. A sister of the Convict similarly described her relationship with the Convict as amicable. She characterised him as humble, uncomplicated, and a "gentle human being" and stated that she became aware of the Convict's drug abuse in or about 2022 and knew that he was using cocaine before the commission of the present offences. She too expressed shock upon learning that he had been implicated in them.

21. The Convict admitted his guilt. He stated that he had been under the influence of drugs at the time of the offences and claimed that he had no recollection of his violent actions.

Statement from the deceased's family member

22. Ms. Lelia Hanna, the deceased's niece, addressed the Court on the family's behalf for approximately twelve minutes. She spoke of the deceased's strength, her love for her family, and the profound and continuing effect of her violent death on her children, grandchildren, and family.

23. Ms. Hanna said the family's lives changed forever on 23 November 2024. Only hours before the deceased's death, she had celebrated her sister's birthday with the family. The evening had been filled with laughter, stories, songs, and joy, with no one knowing it would become their final memory of her. Ms. Hanna described the deceased's death as a cruel and violent act that had permanently altered the family.

24. She explained that the family now mourned not only the deceased's life but also the future moments taken from her: birthdays, holidays, family gatherings, conversations, and the comfort of her continued presence. The deceased would not see her grandchildren—whom she affectionately called her "angels"—graduate, help with their prom preparations, or make dresses for them. Ms. Hanna described her as a devoted mother and a grandmother deeply loved by her grandchildren.

25. Ms. Hanna also recalled the deceased's resilience in surviving cancer earlier that year, after spending about three months at Ms. Hanna's home while undergoing treatment. During that period, she endured illness, pain, and the loss of close relatives, including her father, sister, and sister-in-law. Ms. Hanna said it was especially difficult for the family to comprehend that, after overcoming cancer, the deceased's life was later taken by violence. She also recalled that after leaving the birthday celebration, the deceased returned home to finish alterations to a wedding dress, which the bride received the following morning.

26. She said the family's grief remained acute. Some relatives had withdrawn from family gatherings because of the deceased's absence; others struggled with sleeplessness, traumatic memories, and guilt when they were happy. Although forgiveness was part of the family's faith, Ms. Hanna said that healing and forgiveness could not be demanded on another person's timetable.

27. Finally, she urged that the sentence reflect the seriousness of the offender's deliberate conduct and the need for accountability. While recognising that no sentence could erase the family's grief, she submitted that it should affirm the immeasurable value of the deceased's life, acknowledge the family's pain, and demonstrate that those responsible for crimes of this gravity will be held fully accountable.

Submissions by Defence's Counsel

28. Mr. Munroe, Counsel for the Convict, commenced his submissions by reminding the Court of the purposes of sentencing - namely deterrence, retribution, rehabilitation and prevention. Mr. Forbes accepted responsibility for his conduct and pleaded guilty thereby avoiding the need for a trial, thereby saving the Court's time and resources.

29. Counsel further submitted that the Convict was remorseful for his actions, notwithstanding that remorse was not recorded in the probation report. He also submitted that the Convict was affected by substance abuse at the time of the offences.

30. In closing, Counsel submitted that the Convict, who is 27 years old, has prospects of rehabilitation. He contended that the offences did not fall within the category of the "worst of the worst." Concluding Counsel submitted that although the Convict has antecedents, those are not similar in nature to the present offences.

Submissions by Prosecution's Counsel

31. Ms. Ferguson, Counsel for the Prosecution, submitted that the aggravating factors substantially outweighed the mitigating factors. Although the Convict pleaded guilty and was 25 years old when the offences were committed, she contended that those mitigating matters carried limited weight when assessed against the gravity and circumstances of the offending.

32. Counsel identified several aggravating factors namely that the Convict broke into the deceased's home between approximately 11.00 p.m. and 2.00 a.m., knowing that it was occupied. Once inside, he raped and strangled the deceased causing her death in such a manner. Counsel relied on the summary of the injuries documented by the pathologist, as well as the Convict's recorded account that, after the deceased resisted, he placed his hands over her mouth and nose.

33. Yet still another factor submitted as aggravating by the Prosecutor is the manner which the deceased was found. Her children upon entry found her lying naked and exposed on the floor and discovered the Convict naked and asleep in her bed. Further, the Convict had antecedents for stealing, assault and receiving. She submitted that he had demonstrated a lack of remorse and relied on his conduct after he was discovered, including his struggle with and attack upon the deceased's son and grandson.

34. Counsel characterised the murder as cold-blooded, emphasising that the deceased was alone and defenceless in her own home when the Convict broke in, raped her and strangled her to death. The prosecution submitted that the seriousness of the offences, the Convict's antecedents and the contents of the probation report justified a substantial custodial sentence.

35. Ms. Ferguson placed reliance on **Attorney-General v Larry Jones and others SCCrApp.Nos. 12, 18 and of 2007, Angelo Poitier SCCrApp No. 95 of 2011, Pachano Lundy v Regina SCCrApp & CAIS No. 20 of 2013, Lewis Williams v R SCCrApp No.75 of 2014 , and Prince Hepburn v Regina SCCrApp No.79 of 2013**. Counsel

submitted that sentencing requires an individualised assessment of the offender, the victim, the nature and circumstances of the offence, the applicable aggravating and mitigating factors, and the purposes of sentencing, namely retribution, deterrence, prevention and rehabilitation.

36. Having balanced those considerations, Ms. Ferguson submitted that a sentence of 30 to 40 years' imprisonment was appropriate.

Principles of Sentencing

37. The Trinidadian case of **Benjamin v R (1964) 7 WIR 459**, propounded by Wooding CJ, set out the principles of sentencing as follows:-

    i. **Retribution**: recognising that punishment should mark society's and the legislature's denunciation of the offence;

    ii. **Deterrence**: seeking to deter both the particular offender from reoffending and others from committing similar offences;

    iii. **Prevention:** seeking, where necessary, to protect the public by incarcerating the offender, thus preventing further offence against the law by the offender or potential offender; and

    iv. **Rehabilitation:** aimed at assisting the offender to reform his ways so as to become a contributing member of society.

38. Guided by these sentencing principles, I am mindful that sentencing is an individualised exercise, undertaken on a case-by-case basis, as each case turns on its own facts and circumstances. I must therefore give due regard to the offences committed in this case and to the offender.

39. In this regard, **Prince Hepburn v R SCCrApp No. 79 of 2013** is instructive. At paragraph 36, Adderley J.A. identified the factors to be considered in determining an appropriate sentence as follows:-

> **"36. In exercising his sentencing function judicially 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. 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.

Decision

40. The Convict was 25 years old at the time of the offences. He pleaded guilty, thereby sparing the deceased's family the burden of a trial and conserving judicial resources. The probation report disclosed that he had experienced a difficult upbringing, including the loss of his mother during his childhood. His father and sister described him as humble, hardworking, and gentle. These are mitigating factors in his favour.

41. The Convict asserted in his record of interview and probation report, and Mr. Munroe repeated at the sentencing hearing, that he was under the influence of cocaine when the offences were committed. The Convict therefore relies on cocaine use as a mitigating factor. Since that assertion is advanced in mitigation, the Convict bears the burden of establishing it on a balance of probabilities. No medical or other independent evidence was adduced in support of it.

42. Moreover, the Convict's guilty pleas were unequivocal. By entering those pleas, he accepted the Prosecution's factual basis for the offences. That factual basis did not include any assertion that he had consumed cocaine at the relevant time. The assertion made at sentencing does not displace the factual foundation the Convict accepted when he pleaded guilty. In the absence of medical or other reliable evidence that he was intoxicated by cocaine when the offences were committed, I am unable to treat that assertion as a mitigating factor.

43. The Convict has previous convictions of a summary nature for stealing, receiving, assault, and vagrancy. However, those offences are not similar to the present offences. I therefore attach no weight to them for sentencing purposes.

44. The aggravating factors are substantial. The Convict forcibly entered the deceased's home at night, shortly after she returned from her sister's birthday celebration. He did so while the deceased was alone and vulnerable.

45. A dwelling house is a sanctuary, a place where persons are entitled to feel safe and secure. The Convict violated the deceased's security within her own home. He raped her and applied force sufficient to cause her death by strangulation.

46. The Convict's assertion that he was under the influence of cocaine is also an aggravating factor herein.

47. His conduct after the murder was equally disturbing. He lay down in the deceased's bed. When confronted by her son and grandson, he attacked them. These matters significantly aggravate the seriousness of the offences.

48. I have also considered Ms. Hanna's statement on behalf of the family. She described the deceased as a woman deeply loved by her family. Despite having survived cancer, the deceased's life was brought to an end by the Convict's senseless acts, not by the disease.

49. Murder is among the gravest offences known to the law because it results in the irreversible loss of human life. Rape is likewise a grave violation of bodily autonomy, dignity, and personal security. These offences were committed in the home of an elderly and vulnerable member of society. The Convict, a young man, ought to have protected the deceased from harm rather than perpetrating violence against her. The sentence must therefore reflect the objectives of denunciation, deterrence, protection of the public, and punishment proportionate to the particular circumstances of the offences and the Convict.

50. I have considered the submissions of both Counsel and the relevant statute and case law. I have also considered the mitigating and aggravating factors in this case. I have also had regard to the Probation Report and Ms. Leila Hanna's statement on behalf of the deceased's family. I have considered the facts that are peculiar to this case and that the Convict is a 27-year-old Bahamian national, who pleaded guilty on 9 March 2026.

51. Having weighed the mitigating and aggravating factors, I find that the aggravating factors substantially outweigh the mitigating ones. A lengthy custodial sentence is necessary to mark the gravity of the Convict's conduct, denounce violence against vulnerable persons, deter others from committing similar offences, and protect the public.

52. Accordingly, I accept the Convict's guilty plea herein and hereby impose the following sentences: -

    i. With respect to the offence of murder, contrary to sections 290(1) and 291(b) of the Penal Code, Chapter 84, a custodial sentence of **39 years**;
    ii. With respect to the offence of rape, contrary to section 6(a) of the Sexual Offences Act, Chapter 99, a custodial sentence of **25 years**; and
    iii. With respect to the offence of burglary, contrary to section 363 of the Penal Code, Chapter 84, a custodial sentence of **20 years** at the Bahamas Department of Correctional Services.

53. All sentences shall run concurrently. The Convict shall receive credit for the two years already spent on remand.

Dated this 2nd day of October A.D., 2026

Honourable Madam Justice W. Renae McKay