COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

142/6/2025

B E T W E E N

THE DIRECTOR OF PUBLIC PROSECUTIONS

AND

JAVALO BRICE

Before: The Honourable Madam Justice Renae McKay

Appearances: Mr. Terry Archer, Mrs. Shaneca Carey, and Ms. Betty Wilson, Counsel for the Prosecution
Mrs. Sonia Knowles, Counsel for the Convict

Hearing Date: 24th July 2026

SENTENCING RULING

Background

1. A jury was empanelled on 20th July 2026 for the trial of Javalo Brice ("Brice" or "the Convict"), who was charged with murder contrary to sections 290(1) and 291(1)(b) of the Penal Code, Chapter 84.

2. The trial was adjourned to 23rd July 2026 for commencement. Before the trial commenced, following discussions between counsel for Brice and the Prosecution, Brice elected to resolve the matter by way of a plea agreement. He pleaded not guilty to murder but guilty to the lesser offence of manslaughter. Thereafter, the jury was directed to return a unanimous verdict of guilty of manslaughter, with a majority of 9-0.

3. The Prosecution read the facts, which the Convict accepted. The matter was thereafter adjourned to 24th July 2026 for the hearing of sentencing submissions from counsel for the Convict and the Prosecution.

4. The accepted facts giving rise to the manslaughter offence occurred on Sunday, 2 February 2025. The Convict was searching for his wallet at his residence and did not find it. The wallet contained at least $300.00 in cash, which he intended to use to purchase a pair of tennis shoes.

5. The Convict confronted Mr. Falcon Clarke, the neighbourhood vagrant known as "Clarky about his missing wallet. Believing that Clarky had taken it, he demanded its return. Clarky denied taking the wallet. He repeatedly struck Clarky about the head with a mop stick, causing it to break in two.

6. The Convict then went to the kitchen, retrieved a knife and stabbed Clarky once in the back. Clarky subsequently succumbed to that stab wound.

The Law

Manslaughter

7. **Section 289 of the Penal Code, Chapter 84** provides a definition for manslaughter as follows:-

> **Whoever causes the death of another person by any unlawful harm is guilty of manslaughter. If the harm was negligently caused, he is guilty only of manslaughter by negligence.**

8. **Section 293 of the Penal Code, Chapter 84**, details the provisions concerning the offence of manslaughter:-

> **Whoever commits manslaughter by negligence shall be liable to imprisonment for five years; and whoever commits manslaughter in any other case shall be liable to imprisonment for life.**

Sentencing Provision

9. Before passing sentence, the Court is guided by **section 185 of the Criminal Procedure Code, Chapter 91 ("the CPC")**, which provides as follows:-

> **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

10. Counsel for the Convict did not request a probation report being prepared in this matter.

Submissions by Defence Counsel

11. Counsel for the Convict, Mrs. Knowles, relies on section 293 of the Penal Code, Chapter 84, which provides:-

> **"Whoever commits manslaughter by negligence shall be liable to imprisonment for five years; and whoever commits manslaughter in any other case shall be liable to imprisonment for life."**

12. Mrs. Knowles further relies on **Black v R SCCrApp No. 40 of 2014**, particularly paragraph 79, in which the Court considered the appropriate sentence for persons convicted of manslaughter. In **Black v R (supra)**, Counsel submits that the Appellant (wife) and the deceased, who were married, argued and fought at their apartment. After the deceased briefly left and returned asking for his gun, a gunshot was heard. The Appellant said the shotgun discharged during a struggle for it. Following a trial, the Appellant, who was of previous good character, was convicted of manslaughter by reason of provocation. She was sentenced to 12 years, which the Court of Appeal upheld.

13. She also relies on **AG v Larry Jones SCCrApp Nos. 12, 18 and 19 of 2007**. Counsel submits that, in that case, the Court upheld a sentencing range of 18 to 35 years' imprisonment for manslaughter, having regard to the convict's character, the circumstances of the offence, and the presence or absence of remorse. Counsel particularly relies on paragraph 80, in which the Court observed that a sentencing judge may impose a sentence above or below the suggested range for manslaughter, provided cogent reasons are given.

14. Mrs. Knowles also relies on **AG v Lawson Gray SCCrApp No. 115 of 2018**. Counsel submits that, in that case, Gray stabbed his friend five times with a screwdriver during a dispute over the purchase of cocaine rocks. Following a trial, Gray was acquitted of murder but convicted of manslaughter.

15. Counsel submits that, in sentencing Gray, the Court took into account his age (31 years), the absence of previous convictions, the absence of intention, his marital status, and the use of a screwdriver during the commission of the offence.

16. Against that backdrop, counsel submits that a sentence of seven years' imprisonment is appropriate in the present case. She relies on the Convict's lack of previous convictions, his age of 20 years at the time of the offence, his gainful employment at Coco Cay as a trained scuba diver, the absence of intention, his remorse, and his status as the father of a child born while he was on remand.

17. Counsel acknowledges the aggravating violence involved: Clarky was struck with a mop stick, stabbed once, and a life was lost. However, she distinguishes Lawson Gray on the basis that the Convict inflicted a single stab wound and entered an early guilty plea.

18. Counsel accordingly submits that the appropriate sentence is seven years' imprisonment, less time spent on remand.

Submissions by Prosecution Counsel

19. Mr. Archer, Counsel for the Prosecution, distinguished **Lawson Gray (supra)**, upon which counsel for the Convict relied in submitting that a sentence of seven years was appropriate. He submitted that Sir Michael Barnett P had described that sentence as lenient. He further noted that **Lawson Gray (supra)** involved the use of a screwdriver in the course of an altercation.

20. Counsel accepted the sentencing range enunciated in **Larry Raymond Jones (supra)**. However, he submitted that the present case did not fall within the exception that would justify a sentence at the lower end of that range. Counsel also distinguished **Black (supra)**, where there was evidence that the husband had been beating the wife and that she may therefore have acted in self-defence.

    Counsel submitted that the present matter was not an altercation in the relevant sense. The deceased was 61 years old. Whatever description may have been used of him, counsel submitted that he was entitled to the protection of the law.

21. The Prosecution contended that there was no evidence that the deceased had stolen the Convict's wallet. One witness stated that the deceased denied moving or taking it. Counsel submitted that the Convict, being irate, confronted the deceased and beat him about the body with a broomstick until it broke. Although witnesses sought to intervene and admonished the Convict to stop, he continued to pursue the deceased.

22. Counsel further submitted that, when the deceased attempted to flee, the Convict went into the house, obtained a kitchen knife, returned, and chased the deceased. The Convict then kicked the deceased and stabbed him in the back. The deceased later died. Counsel contended that, in those circumstances, the case could well have resulted in a conviction for murder had it proceeded to trial.
23. The Prosecution submitted that the knife was a significant aggravating factor. Counsel characterised it as a dangerous weapon and emphasised that the Convict retrieved it after the initial assault. He also relied on the Convict's role as the aggressor, the deceased's age, the seriousness of the offence, and the fact that a life was lost.

24. Counsel accepted that the Court could exercise its discretion to impose a sentence below the applicable threshold, having regard to the Convict's youth, guilty plea, remorse, gainful employment, previous good character, and the fact that he did not waste the Court's time. Nevertheless, he submitted that the sentence must denounce this type of violence and maintain an appropriate deterrent effect.

25. In addressing the Convict's youth, counsel submitted that the Court should have regard to his age at sentencing, when he was just under 22, rather than solely to his age at the date of the offence.

26. Counsel submitted that a sentence of 10 to 12 years' imprisonment would be reasonable and appropriate. He referred to historic sentences of 50 years in **Roger Watson v R 2023 UKPC 32,** 30 years in **Robinson v R No. 38 of 1996**, and 20 to 25 years in other cases. Although he accepted that this case fell at the lower end of the range, he submitted that the sentence should not be so low as to undermine its deterrent effect.

Principles of Sentencing

27. The well-established principles of sentencing were articulated by Wooding C.J., in **Benjamin v R (1964) 7 WIR 459**. He identified the classical purposes 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.

28. Sentencing is an individualised exercise, requiring the Court to have regard to the particular circumstances of both the offence and the offender. In **Prince Hepburn v R SCCrApp No. 79 of 2013**, Adderley J.A. identified the factors to which a sentencing court must have regard. At paragraph 36, His Lordship stated:-

> **"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.**

29. The Court must balance the sentencing principles identified in **Benjamin v R (supra)** with the aggravating and mitigating factors and the particular facts and circumstances of the case, in order to impose a sentence that is just, reasonable, and proportionate.

30. There are no statutory sentencing guidelines prescribing a range for manslaughter. The common-law authorities nevertheless demonstrate that the Court has a wide discretion when sentencing for that offence. That discretion must be exercised judicially, with due regard to the particular circumstances of the offence and the offender.

31. Both counsel referred the Court to **Lawson Gray**, in which the offender was sentenced to seven years' imprisonment. Counsel for the Convict relied on that decision as supporting the sentence in the present case, whereas Counsel for the Prosecution submitted that it is distinguishable. It is therefore necessary to consider that authority, particularly because **Larry Raymond Jones** has been regarded as providing a proposed sentencing range for manslaughter and **Lawson Gray** fell below that range. The Lawson Gray case was subsequently appealed by the Prosecution as being too lenient in a sentencing for manslaughter.

32. It is unnecessary to repeat the facts of **Lawson Gray**. The relevant issue is the reasoning of the Court of Appeal Justices. The Justices placed emphasis upon **Larry Raymond Jones**, which has has been relied upon as a yardstick for a sentencing range of between 18 and 35 years' imprisonment in manslaughter offence. However, they held that it should not be slavishly followed as a binding precedent, since sentences well below that range have been imposed and upheld by their Court.

33. Sir Michael Barnett P stated, at paragraphs 32 and 33:-

> **32. But, even if we were to regard the decision in Larry Raymond Jones as providing some kind of authoritative 'guideline' for sentences for manslaughter of howsoever authority, it is settled law that a sentencing judge has the power to impose a sentence that is outside the range set out in the 'guidelines' contained in Larry Raymond Jones. Although many authorities state that when departing from guidelines a judge in his sentencing ruling should explain why he is imposing a sentence outside the range; the fact that**

the judge may not explain his departure does not automatically make the sentence imposed unduly lenient or unduly harsh.

33. Guidelines are not the ten commandments. The failure to adhere to them or to identify exceptional circumstances to explain departure does not automatically result in a sentence being set aside by an appellate court. The principle upon which the appellate court acts remains the same. It is not whether the sentence falls within the guidelines, it is whether the sentence is so lenient or so harsh that no reasonable judge could have imposed such a lenient sentence. Or, to use the language of Lord Lane in Attorney General's Reference (No. 4 of 1989) 90 Cr. App. R 366, whether the sentence "falls outside the range of sentences which the judge, applying his mind to all the relevant factors, could reasonably consider appropriate."

34. Endorsing that view, Crane-Scott JA (as she then was), stated at paragraph 188:-

"188. In any event, as Sir Michael has so cogently explained, even if the 18 to 35 year range in Larry Raymond Jones was intended to lay down a firm "guideline" for manslaughter, it is in effect no more than a guide and certainly does not rise to the level of a binding principle of law. Simply put, "guidelines" do not fetter the sentencing discretion of a Supreme Court judge, whose role alone it is to determine the appropriate sentence to be passed in individual cases, having applied his or her mind to all the relevant material, including reported cases, any relevant sentencing guidelines and other matters which could reasonably be considered appropriate in the circumstances."

35. Under the statutory framework, the maximum penalty for manslaughter is life imprisonment. That maximum reflects Parliament's recognition of the gravity of an offence involving the unlawful loss of human life, even where there was no intention to kill. It underscores the need for a sentence that properly reflects denunciation, deterrence, rehabilitation, and the protection of the public. The maximum sentence, however, is reserved for the most serious cases and does not displace my duty to impose an individualised sentence that is just and proportionate in all the circumstances.

36. I am grateful to Counsel for the Convict and the Prosecution for the authorities provided, which have assisted me in arriving at a just, reasonable and appropriate sentence in this case.

Decision

37. The agreed facts establish that, on Sunday, 2 February 2025, the Convict's wallet containing approximately $300.00 was removed from his residence. He accused the deceased, Clarky, of taking the wallet and its contents. Believing that the deceased had done so, he confronted him.

38. During that confrontation, the Convict struck the deceased repeatedly with a mop stick to the head, causing it to break. He then entered the house, retrieved a knife, and stabbed the deceased in the back. The deceased died as a result of the single stab wound.

39. The repeated assault, the escalation from a mop stick to a knife, and the use of the knife to inflict the fatal injury are aggravating factors of the offence. I have taken them into account in determining the sentence that should be imposed.

40. I accept that the Convict was angered by his belief that his wallet had been taken from his home and that the money in it had been saved from his work to purchase a pair of tennis shoes. That circumstance may explain his anger, but it did not justify his conduct. He was required to exercise self-control and was not entitled to take the law into his own hands. Lawful alternatives were available to him, including reporting the matter to the police.

41. I do not consider that the sentencing range referred to in **Larry Raymond Jones** is appropriate on the facts of this case. That conclusion does not minimise the gravity of the offence. Equally, I do not consider that the seven-year sentence imposed in **Lawson Gray** is appropriate in the circumstances of this case.

42. The Convict was not certain that the deceased had taken his wallet. Nevertheless, he escalated the confrontation from striking the deceased with a mop stick to retrieving and using a knife. The deceased, who was approximately 61 years old, died as a result.
43. The sentence must be individualised. It must reflect both the seriousness of the offence and the circumstances in which it occurred.

44. At the time of the offence, the Convict was 20 years old; he is now 22. He was employed at Coco Cay as a certified scuba diver and had no previous convictions. Before the trial commenced, he pleaded guilty, thereby conserving judicial time and resources. He also cooperated with the investigating officers: he admitted stabbing the deceased and, during a video inquiry, directed them to the location of the incident.

45. While on remand, the Convict had a child and has not yet had an opportunity to bond with that child. At the sentencing hearing, he expressed remorse, stating: “I am very sorry for the deceased and sad that he passed away. I really feel upset, like I didn’t really mean to do it.” He thereafter begged the Court for mercy.
46. I have taken these matters into account in mitigation. Having regard to his youth, previous good character, employment history, cooperation with the police, early guilty plea, remorse, and the mitigation advanced by his counsel, I consider that he has reasonable

prospects of rehabilitation and may, upon his release, return to society as a positive and contributing member.

47. The sentence to be imposed must denounce the use of violence in response to a perceived wrong and deter others from taking the law into their own hands. Those who believe that they have been wronged must exercise self-control and pursue lawful means of redress. The law provides proper avenues for resolving disputes. Resort to violence is wholly unacceptable.

48. Having balanced the mitigating factors against the aggravating factors, and having regard to the seriousness of the offence and the need for an individualised and proportionate sentence, the Convict is sentenced to nine years' imprisonment, less time spent on remand.

49. I further order that, during his imprisonment, he undergoes counselling for anger management and enrols in carpentry and electrical classes.

Dated this 4th day of August A.D., 2026

Honourable Madam Justice W. Renae McKay