SAINT LUCIA

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

(CRIMINAL)

CASE NO. SLUCRD2021/0720

THE KING

vs.

KIMROY JOHN

Defendant

Before:

The Hon. Mde. V. Georgis Taylor-Alexander — High Court Judge

Appearances:

Mr. David Francis for the Defendant
Mr. Linton Robinson for the Crown
The Defendant present

2025: November 24;

JUDGMENT ON SENTENCING

[1] **TAYLOR-ALEXANDER J**: The Defendant is to be sentenced for Diminished Responsibility Manslaughter. after causing the death of Malcolm Sherman Kurt Edward by slamming a large stone to his head crushing his skull. After a period of psychiatric treatment and stabilization on medication at the Bordelais Correctional Facility, he was

determined to be fit to plead whereupon he entered a plea of not guilty to Murder but guilty to Manslaughter, a plea the Crown accepted.

Social Inquiry

[2] This report informs that the Defendant is a thirty-nine-year-old single man of the Babonneau community in St. Lucia. He was raised in a nuclear family, which was reportedly an abusive home with frequent acts of domestic violence by his father against his mother that left the Defendant feeling helpless to assist. His parents separated when he was twelve (12) years old, and his mother left the home, leaving him and his siblings with the father. He left his father's home when he was fourteen (14), never to return. At twenty-three (23), he started living with a partner in a relationship that lasted five (5) years. He states that his girlfriend was also abusive and she consumed alcohol excessively forcing him to end the relationship. He next began residing with a friend who subsequently committed suicide.

[3] The Defendant's family reports that the Defendant has always suffered with mental illness, and was frequently admitted to the St. Lucia National Mental Wellness Centre. This illness is exacerbated when he consumes alcohol. Community members described him as loving and helpful except when he consumes alcohol. The Defendant's family described him as someone who had a decent upbringing and was raised in a loving household. They state that he has struggled with mental health issues from a very young age, and was often admitted to a mental health institution for treatment. The Defendant's family revealed that he is for the most part non-confrontational and respectful but after consuming alcohol he would often become confrontational. A licensed Social Worker at the Millennium Heights Medical Complex confirmed that the Defendant is a client on record.

[4] Residents from Girard Cacoa Community described the Defendant as helpful. He conducts errands in exchange for money. They state that he is honest and hardworking. Community members disclosed that he is known to suffer from mental health issues and consumes alcohol frequently, which would result in him being intoxicated and unstable.

Community members from the Marchand community, where the Defendant has also lived, describes the Defendant as someone helpful and hard-working. They disclosed that he would often engage in activities such as fishing to earn a living. Residents of Marchand revealed that the Defendant had no prior encounters with violence and was not known to instigate trouble. They did disclose that he consumed alcohol often and appeared to suffer from mental health issues.

[5] The Defendant states that he started working in construction at the age of fourteen (14) years, working as a tradesman with an unregistered business venture. He noted that his first formal place of employment was with Skelly Construction Services as a Steel-bender. He recalled being employed there for five (5) years, earning roughly three thousand dollars ($3000) monthly. He stated that due to a subsisting health condition, he left the job. The Defendant states that when he was twenty-one (21) years old, he was employed with Rayneau Gajadhar Construction for six (6) years, as a steel bender, earning one thousand five hundred dollars ($1,500.00) monthly. He, however, fell sick and left the job. The Defendant revealed that he was later employed by a Mr. Cadasse as a landscaper on his private property for three (3) years, earning one thousand four hundred ($1,400.00) dollars monthly. He disclosed that following the death of Mr. Cadasse, he started doing part-time construction work to earn a living.

[6] Regarding the incident that is currently before the Court, the Defendant indicated that following a hard day of work, he returned home to Riverside Road, Marchand to rest. He stated that he was dreaming about someone trying to kill him when he felt someone shaking him. The Defendant states that he got up and punched that individual, after which he grabbed a stone and slammed it on the individual's head. He disclosed that during this chain of events, he was unaware of his actions and only awoke to reality after slamming the boulder on the victim's head. The Defendant recalled being in a state of shock and remaining on the scene of the crime until the police arrived. He was then arrested and taken to the police station without any resistance. The Defendant disclosed that he was disappointed in himself and feels sorry about his actions. He stated that he could have avoided the situation if he was taking his medication. He disclosed that he

would like the opportunity to apologise to the victim's family for his actions. The Defendant states that he and the victim had no issues prior to that incident, and they had a good relationship. He revealed that the situation ruined his life.

[7] Based on the investigations, some of the protective factors identified for the Defendant are his work ethic and not being perceived as a threat to the community. Additionally, the Defendant acknowledges his misuse of alcohol and is aware that he has a mental illness. The risk factors are the seriousness of the offence, his lack of academic qualifications and disinterest in enrolling in school in any advancement courses.

Psychiatric Reports

[8] The Defendant was assessed by Psychiatrist Dr. Julius Gilliard over a continued period. Dr. Gilliard generated three (3) reports for the court: -

Report dated July 28, 2022

[9] **Mental Status Examination of Kimroy John carried out on July 10, 2022**

The Defendant had poor eye contact, but was co-operative on the interview. When asked about his mood, he stated that he was “feeling normal”. His affect was sad. His speech was low toned and rational. His exhibited no formal thought abnormality. He expressed no delusions. He was preoccupied with thoughts of having killed his friend. He denied having suicidal or homicidal thoughts. He denied having any hallucinations. He was oriented to time, place, and person. His abstract thinking was intact. His attention and concentration were impaired. His judgement was intact, and his insight was good. The Defendant had no difficulty understanding court processes, duties of different functionaries present in the courtroom, the concept of guilt, how to give evidence and exercise his right to challenge, how to instruct counsel, and follow the course of court proceedings.

[10] Dr. Julius Gilliard offered an opinion on assessment using the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM 5) diagnosis, he found: -

1. Likely History Substance Induced Psychotic Disorder; Cannabis and Alcohol Use Disorder, severe, in remission, in a controlled environment; Possible Intellectual Disability, mild.

2. With a reasonable degree of medical certainty, at the time of the incident, the Defendant was under the influence of a psychotic disorder, most likely induced by his persistent and excessive alcohol and marijuana use prior to the incident.

3. At the time of his interview on July 10, 2022, the Defendant was found to be fit to plead in a Court of Law. He was at that time able to:

    a. understand the nature of the charges,
    b. decide whether to plead guilty or not,
    c. exercise his right to challenge,
    d. instruct counsel,
    e. follow the course of court proceedings, and
    f. give evidence in his own defence.

[11] Dr. Julius Gilliard recommended that the Defendant undergo a full psychological assessment, in order to determine his level of intellectual disability; to determine whether he was feigning his psychotic symptoms at the time of the incident; to determine his risk for future violence; and to ascertain the presence of a personality disorder.

Report dated March 5, 2024

[12] In this report, the following was Dr. Julius Gilliard's opinion: -

1. The Defendant has remained asymptomatic since he was last seen. There was nothing at the last interview that suggested relapse of his illness. He remains unaware of the risks that his marijuana use poses to his mental health.

2. At the time of his interview on February 11, 2024, the Defendant was found to be fit to plead in a court of law.

[13] Dr. Julius Gilliard recommended that the Defendant continue to use the low dose antipsychotic medications indefinitely, especially in light of his continued marijuana use which he does not intent to curb.

Report dated May 9, 2025

[14] In this report the following was Dr. Julius Gilliard's opinion: -

1. The Defendant remains asymptomatic from the last time that he was last seen. He appeared at this interview to exhibit symptoms of depression, very likely due to the upcoming sentencing proceedings. These are expected to remit after the sentencing proceedings, but it may be prudent that the visiting psychiatrist assess him for this over the next year if he continues incarcerated.

2. At the time of his interview on April 22, 2025, the Defendant was found to be fit to participate in court proceedings.

[15] He recommended that the Defendant continue to use the low dose antipsychotic medications, and if his depressive symptoms persist after sentencing, he may benefit from being referred to a counsellor.

Psychological Report

[16] Ms. Alina Auguste, Forensic Psychologist assessed the Defendant from April 02, 2025, during three clinical interviews.

[17] She noted that he experienced physical discipline as a child and had violent conflicts with his brothers, including being wounded twice with a cutlass. Academically, the Defendant struggled with literacy, failed the Common Entrance Examination, and eventually dropped out of school. Though initially studying joinery, he preferred working various construction jobs. He described himself as calm and quiet, enjoying lotto, painting, fishing, and joinery.

[18] She noted that the Defendant has a history of mental health struggles, first experiencing auditory hallucinations at sixteen. He has been to the St. Lucia National Mental Wellness Centre multiple times and is on prescribed medication, which he believes prevents hallucinations and helps him remain calm. He previously suffered from insomnia but now sleeps well with medication. He has no known family history of mental illness. Medically, he experiences pain from a past wound and occasional headaches from a head injury at thirty-two (32).

[19] The following assessment tools were used to gather that relevant information:

1. Clinical Interview
2. Wechsler Adult Intelligence Scale (WAIS)
3. Minnesota Multiphasic Personality Inventory (MMPI-2)
4. Hare Psychopathy Checklist – Revised (PCL-R)
5. Historical Clinical Risk Management-20 (HCR-20)
6. Test Of Memory Malingering (TOMM)
7. Fitness Interview Test-Revised (Fit-R)

Results of Tests

[20] The Defendant's WAIS-IV results indicate significant cognitive weaknesses, particularly in verbal comprehension and overall intellectual functioning.

[21] **MMPI-2**

a. The Defendant answered consistently
b. There is no strong evidence of overreporting
c. No strong evidence of underreporting
d. The test results appear valid and interpretable; however, some exaggeration of symptoms may be present

The following subscales were considered very high:

- Hypomania
- Hypochondriasis
- Paranoia
- Schizophrenia

The following subscales were considered High:

- Hysteria
- Psychopatic Devaite
- Psychasthenia

The following subscale was moderate:

- Depression

[22] **HCR-20**

The Defendant presents a moderate risk of future violence, primarily due to his history of reactive violence, prior wounding and manslaughter charges, and past family conflicts involving weapons. Additionally, his long-standing hallucinations and auditory disturbances, if left unmanaged, could contribute to future violent behavior. While he is currently compliant with psychiatric medication, his regular marijuana use may interfere with treatment effectiveness, raising concerns about stability. His risk of serious physical

harm is also moderate, with escalation possible if he discontinues medication, faces high-stress situations, or increases substance use. However, his current medication adherence, good institutional behavior, and motivation to reconnect with his child serve as protective factors. The risk of imminent violence (in the short term) is low, as he has shown peaceful conduct in prison for four years, has no reported conflicts with inmates or staff, and remains compliant with treatment.

[23] **PCL-R**

The Defendant received a 5 out of 40. This means that he did not meet the cut-off score to be diagnosed with psychopathy. However, the PCL-R views psychopathy as falling on a spectrum where higher scores mean the presence of more psychopathic traits or behaviours.

[24] The Defendant obtained a maximum score of "2" in the following categories:

- Promiscuous Sexual Behaviour
- Many Short Term Martial Relationships

[25] He also obtained a maximum score of "1" in the following categories:

- Impulsivity

[26] **TOMM**

The Defendant scored 50/50 on Trial One and 50/50 on Trial Two. This indicates that there is no evidence of memory malingering.

[27] **FIT-R**

The Defendant was deemed competent to stand trial. There was minor impairment in his understanding of the nature or object of the proceedings, no impairment in his ability

to communicate with counsel, or his ability to understand the possible consequences of the proceedings.

Overall Recommendations of Psychologist

[28] Ms. Alina Auguste made the following recommendations to best serve the Defendant:-

- Continued Psychiatric Treatment – The Defendant should remain compliant with his prescribed medication to manage auditory hallucinations and related symptoms. Regular follow-ups with a psychiatrist are important in his case.

- Substance Use Management – The Defendant should receive psychoeducation on the impact of marijuana on his psychiatric medication. A gradual reduction plan, with support from medical professionals, should be encouraged.

- Anger Management & Conflict Resolution Programs – Given his history of reactive violence, participation in structured anger management programs is recommended.

- Literacy Support – While he has expressed disinterest in remedial education, structured literacy training in practical contexts (e.g., work-related reading skills) may be beneficial.

- Vocational Training & Employment Support – Given that the Defendant has worked as a server on his unit for more than one (1) year, he shows the potential and desire to work. He has past experience in construction and joinery, but has no formal qualifications in these areas. Participation in programs focusing on these trades could aid his eventual reintegration to society. Cognitive-Behavioral Therapy (CBT) – Therapy targeting paranoia, hypomania, and psychopathic deviate tendencies would help him develop better emotional regulation strategies. During the legal process, the client will require clear, simple language and extra time to process information.

[29] The Defendant was also seen by Ms. Jeanée Duprey, Consultant Clinical Neuropsychologist and she produced a Neuro-Psychological Report. Ms. Duprey made the following recommendations: -

- Psychotherapy and Drug Rehabilitation: The Defendant may benefit from psychotherapy specifically Cognitive Behavioural Therapy (CBT). CBT helps people learn how to identify and change the destructive or disturbing thought patterns that have a negative influence on their behaviours and emotions. It also teaches new skills which may be beneficial to the Defendant; for example, in dealing with substance abuse (drug and alcohol addiction) he might practice new coping skills (such as, problem solving skills) and rehearse ways to avoid or deal with social situations that could potentially trigger a relapse.

- Anger management sessions or an anger management program/plan using Dialectical Behavioural Therapy (DBT) may also assist the Defendant in learning to manage his anger (recognize, cope with and express) in healthy and productive ways so arguments/fights are minimized. DBT teaches emotion identification and regulation skills as well as, distress tolerance skills which can help in understanding and successfully coping with intense emotions. DBT has also proven to be effective in managing and treating self-harming and suicidal behaviours and substance use disorder.

Victim Impact Statement

[30] The loss of their son and brother is an indescribable pain for the family of the deceased **Malcolm Sherman Kurt Edward**. He was loving, loyal and a support for his family. He was physically impaired yet nothing was too much for him. He had suffered a stroke after falling from a tree, which left him with a limp and constant shaking. He became a ward of his sister. His vice was drinking they acknowledge, but this did not diminish his character. The call of his death left his sister shattered. She came to the scene of the incident to see her brother's body, his head busted open with his eye hanging out and

the block that ended his life covered with blood. She is aggrieved that he lay on the ground for five (5) hours. She agonised over having her brother's face reconstructed before being viewed by her mother.

[31] The deceased's mother was unable to go close to the viewing of his body, unable to bear the pain of losing her son in that manner. Their family was disappointed with the way in which the Royal Saint Lucia Police Force handled the case. His mother submits that Murder should be the appropriate charge as opposed to Manslaughter. Malcolm was her firstborn. He was the one at home who helped her with her sister with special needs. She thinks of her son constantly. She is having difficulty coping with the loss of her son. His brother feels it is difficult to trust the justice system and prays for a fair system of justice.

Allocution

[32] On allocution, the Defendant offered an apology for his actions. His attorney says he is a quiet and soft-spoken person, who was suffering from psychosis at the time of the incident. He reminded the court that Dr. Julius Gilliard said his IQ is so low that it affects his impulse control, and his inability to control his alcoholic and marijuana consumption; the psychosis when induced can last for over one month.

SENTENCE

[33] The Defendant's long history of mental illness, requiring admission to the St. Lucia National Mental Wellness Centre, have all been triggered by non-compliance with medication and by abuse of marijuana and alcohol. Dr. Gilliard acknowledged that a Defendant with low or mild intellectual disability would be challenged to control his substance abuse.

[34] The Defendant entered a plea of Manslaughter by Diminished Responsibility. This jurisdiction has not yet promulgated guidelines for Diminished Responsibility

Manslaughter, however, I have relied on the United Kingdom guidelines. In the UK Manslaughter by Diminished Responsibility also carries a sentence of life imprisonment.

STEP ONE

[35] **Harm**

The consequence of Manslaughter is always death.

STEP TWO

[36] **Assessment of the Offender's Culpability:-**

1. A conviction for Manslaughter by Reason of Diminished Responsibility means that the Defendant's ability to understand the nature of his conduct, form a rational judgment and/or exercise self-control was substantially impaired.

2. The Defendant has a long history of mental illness, admission to the St. Lucia National Mental Wellness Centre, all triggered by non-compliance with medication and by abuse of marijuana and alcohol. The evidence of Dr. Gilliard that a Defendant with low or mild intellectual disability would be challenged to control his substance abuse. The question for the court is to what extent was the Defendant's responsibility diminished by the mental disorder. The reports of the experts state that the Defendant suffers with borderline mental disorder.

3. At time of the incident giving rise to the matter at bar, he had been off his medication and had been consuming alcohol heavily on the day. His voluntary and excessive consumption of alcohol on the day in question combined with his voluntary failure to adhere to his prescribed medication exacerbated his mental disorder, thus increasing his responsibility. I am satisfied that the level of responsibility retained by the Defendant in High. The extent to which his conduct was compromised by the mental disorder is determined to be medium. An appropriate starting point is twenty (20) years.

[37] **Aggravating Factors**

- The extreme violence of the attack on the Deceased.
- The Deceased was a vulnerable person having suffered a stroke.
- The offence was committed while under the abuse of alcohol.
- The offence involved the use of a weapon.

[38] **Mitigating Factors**

- No previous convictions.
- The Defendant has expressed genuine remorse.
- Lack of premeditation.

[39] **Mitigating Factors**

- No previous convictions.
- The Defendant has expressed genuine remorse.
- Lack of premeditation.

I have one (1) year increase or decrease to each factor as the case may be and after cancelling out, an upward adjustment to twenty-one (21) years is appropriate.

[40] **STEP 3 – CONSIDERATION OF DANGEROUSNESS**

This step is not applicable.

[41] **STEP 4 – CONSIDERATION OF MENTAL HEALTH DISPOSALS**

This step is not applicable.

[42] **STEP 5 – FACTORS THAT MAY WARRANT AN ADJUSTMENT TO SENTENCE**

This step is not applicable.

[43] **STEP 6 – ASSISTANCE TO PROSECUTION**

This step is not applicable. The Defendant had been identified by someone as the perpetrator, despite his telling the police he was the perpetrator.

[44] **STEP 7 – GUILTY PLEA**

The Defendant is entitled to a one-third (1/3) discount, which is equivalent to seven (7) years. The plea was entered at first available opportunity. The Defendant has a remaining fourteen (14) years to serve.

[45] **STEP 8 – TOTALITY**

This step is inapplicable.

[46] **STEP 9**

Time spent on remand. The Defendant was remanded from the 22nd of December, 2021, a total of four (4) years and eight (8) days. He is to be imprisoned for the remaining calendar time of nine (9) years, eleven (11) months and twenty-two (22) days. Remission in so far as the Defendant qualifies is to be applied in accordance with the Prison Rules from the date of first admission.

Disposition

Ancillary Orders - Family of the Deceased

[47] The family members are to receive counselling from Mrs. Rumelia Dalphinis-King, the cost of which is to be borne by the state.

Ancillary Orders - The Defendant

[48] Continued Psychiatric Treatment – The Defendant should remain compliant with his prescribed medication to manage auditory hallucinations and related symptoms. Regular follow-ups with a psychiatrist are important in his case; should he fail to remain compliant with his medication deliberately, the Defendant is to serve an additional twelve (12) months' imprisonment.

[49] Substance Use Management – The Defendant should receive psychoeducation on the impact of marijuana on his psychiatric medication. If the Defendant is offered the psychoeducation and fails to take advantage, he is to serve an additional twelve (12) months' imprisonment.

[50] Anger Management & Conflict Resolution Programs – Given his history of reactive violence the Defendant is to undertake a structured anger management program during incarceration. Should he fail to do so, he will serve an additional twelve (12) months' imprisonment

[51] Literacy Support – While he has expressed disinterest in remedial education, structured literacy training, if he qualifies, the Defendant is to be assigned to an education program. Should he be offered and he fails to take advantage of the program, he is to serve an additional twelve (12) months' imprisonment.

[52] . Vocational Training & Employment Support – Given that the Defendant has worked as a server on his unit for more than one (1) year, he shows the potential and desire to work. He has past experience in construction and joinery, but has no formal qualifications in these areas. Participation in programs focusing on these trades could aid his eventual reintegration to society. The Defendant is to continue with the assigned work program. If he fails to take advantage, he is to serve an additional twelve (12) months imprisonment.

[53] An appropriate sentence before the deduction for the Guilty plea is twenty-seven (27) years Imprisonment.

[54] The Defendant is entitled to a one-third (1/3) discount, which is equivalent to nine (9) years. The plea was entered at first available opportunity. The Defendant has a remaining eighteen (18) years to serve.

[55] **Time spent on remand.** He was remanded from the 22nd of December, 2021, a total of four (4) years and eight (8) days. He is to serve a remaining calendar time of thirteen (13) years, eleven (11) months and twenty-two (22) days imprisonment. Remission, in so far as he qualifies, is to be applied in accordance with the Prison Rules from the date of first admission.

[56] A copy of this order is to be served on Mrs. Rumelia Dalphinis-King.

Justice V. Georgis Taylor-Alexander
High Court Judge

BY THE COURT

REGISTRAR