



1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL DIVISION**

3 **Neutral Citation Number: [2025] CIGC (Crim) 58**

4 **INDICTMENT NO: 93 of 2023**

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7 **R**

8
9 **V.**

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11 **GEORGE ORLANDO SENIOR**

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15 **Appearances: Mr. Barnaby Jameson KC and Ms. Sarah Lewis for the Prosecution**

16 **Mr. David Jeremy KC and Ms. Amelia Fosuhene for the Defence**

17
18 **Before: The Hon. Justice Cheryll Richards KC**

19
20 **Submissions Heard: 24th September 2025**

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22 **Sentence Judgment: 3rd October 2025**

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27 *Criminal Law - Sentencing for Murder contrary to section 181 of the Penal Code (2022 Revision), The*
28 *Conditional Release Act (2019 Revision), Mandatory Minimum Term, Exceptional Circumstances.*



SENTENCE JUDGMENT

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3 1. The defendant was convicted on the 14th April 2025 after trial by jury for the offence of Murder,
4 contrary to section 181 of the *Penal Code* (2022 Revision). The particulars are that he on the
5 29th day of September 2023, at Sound Way, George Town, Grand Cayman, Cayman Islands,
6 murdered Divonte Hernandez.
7
- 8 2. By s.183 of the *Penal Code* the maximum sentence for the offence of Murder is life
9 imprisonment.
10

11 **THE FACTS**

- 12
13 3. The facts may be briefly summarised. At about 10:21am on the morning of Friday, the 29th
14 September 2023, Mr. Hernandez and his two year old daughter were in an outside area by some
15 picnic tables in the vicinity of Reflections Liquor for Less store in Central George Town. There
16 were other members of the public present. The defendant and at least one other person drove
17 into the parking lot of the store in a Honda Fit motor vehicle. The defendant who was masked
18 and wore gloves, alighted from the passenger side walked up to Mr. Hernandez with a firearm
19 in his hand and fired a shot killing him. The defendant ran back into the vehicle, and the vehicle
20 left the area. The vehicle was a rental car which had been rented earlier in the week by the
21 defendant's girlfriend Bianca Vega. At the time of the shooting its number plates had been
22 switched. Closed Circuit Television ("CCTV") footage gathered by the police tracked the
23 vehicle to an area in Rosedale off Crewe Road where it was later found abandoned. The number
24 plates had been switched back.
25
- 26 4. The defendant was transported from the area of Rosedale by another vehicle to McField Square,
27 the work place of his girlfriend where he obtained another motor car and left the scene. He was
28 not found by the police until the 18th October 2023. Phone messages between the defendant
29 and Ms. Vega during the period, which were recovered by the police, indicated that he knew
30 that the police were looking for him and that he was in hiding from the police.
31

1 5. The CCTV footage showed that the rented vehicle had driven past the area of the picnic tables
2 three times that morning prior to the shooting. The defendant in evidence said that he was a
3 drug dealer who engaged in the sales of ganja. He said that at one stage the deceased was one
4 of his customers.
5

6 **VICTIM IMPACT STATEMENTS**
7

8 6. Two victim impact statements have been provided which make clear the deep and irreparable
9 harm and hurt which has been occasioned by this offending to the family of the deceased and
10 to all those who knew and loved him.
11

12 7. The victim impact statement of his mother Denecia Antoinette Hue is dated 2nd May 2025. Ms.
13 Hue requested and was granted permission to read out her statement in open Court. This states
14 as follows:
15

16 “I am [the] mother of Divonte Alejandro Hernandez, third born of my 6 children. It is with
17 a terribly heavy and broken heart that I write this statement. Divonte, affectionately called
18 "Vonte" by myself and our family since his birth and "Divo" in his early teenage years/high
19 school days, was the pet name he acquired from his older siblings and school mates, as he
20 aged "Divo" grew on him.
21

22 Up until his death on September 29th 2023, Divonte was the kid everyone loved and wanted
23 to hang out with. From the youngest to the oldest people, Divonte was always spoken of
24 with some much love and admiration, admired for being so kind, loving, loyal and generous
25 to all his siblings, friends, family and the first and last stranger on the streets. So, well
26 mannered to his elders, always offering a willing hand to help in any way he could. Jovial
27 fun and caring personality, anywhere he went he made friends so easily I couldn't keep up
28 with the many he kept hauling through our front door over the years.
29



1 Divonte unfortunately found himself on the wrong side of the law a few times after leaving
2 high school and over the years. He was no saint and definitely had his faults, to which we
3 always sat and talked about seriously and he would feel so bad about disappointing me and
4 would always apologize to me ... reassuring me he would make amends and right his
5 wrongs.

6
7 On August 28th 2021 at the age of 23yrs old, Divonte became a father to a beautiful little
8 baby girl, who he gave me the honor of naming Soleiyah. It was after his daughter's birth
9 that we could all clearly see how much he was expeditiously growing into the young man
10 and father I'd hoped him to be. He was crazy in love with his little girl. He adored her and
11 always went above and beyond to ensure her needs were met. They were indeed inseparable
12 since her birth and so as horrific, terribly scary and inhumane as it was for a monster to
13 murder my son with his 2yr old at his feet- it was no surprise she was even there.

14
15 On September 29th I was about 2 min drive away from the scene when my daughter Mikayla
16 called to tell me Divonte was shot and that she was not sure if he was alive. I remember
17 that morning as if it was an hour ago because I cannot forget my own scream, the manner
18 in which I drove to get there and how much I begged of God to save my child from death.
19 I cannot forget that day, no matter how much I wish to because it was on that very day I
20 imagined what Divonte would want his candlelight, his funeral and his repast to be like. It
21 was on that day I had to face my biggest fear which was to lose one of my children.

22
23 The trauma of facing my son's lifeless body on the ground at the scene, desperately
24 screaming for him to wake up, while trying to hold up my daughter from her falling to the
25 ground, and also trying to console my screaming 2yr old grand-daughter who was clearly
26 scared and confused by all the chaos around her. All this while I myself was confused and
27 in an extreme state of shock. I have relived September 29th 2023 every single day since that
28 morning without fail, want and need. It is imprinted on my brain and I hate it because
29 myself and my family don't deserve this, Divonte did not deserve this.



1 The fear and constant worry of asking myself, is the murderer going to come finish his
2 work by coming for the rest my family and I? Will he send people to murder us too? My
3 family and I did not sleep for 20 days straight after that monster murdered Divonte
4 viciously, callously and senselessly in broad daylight. We now live in constant and dire
5 paranoia, easily frightened by a simple buzz of a bee.

6
7 We are traumatized for life; there's no peace in our lives since this happened. My children,
8 my spouse, Divonte's Father and Divonte's other siblings are now living a life of hell in
9 Divonte's absence and by the constant memory of how he was killed. Immediately after his
10 death I was diagnosed with high blood pressure and irregular heart activity, I suffer terribly
11 with anxiety, and I travel around my days and nights with a huge bag of medications of
12 which I didn't before my son's death. I am chronically depressed, I am consumed by pain,
13 anger and paranoia every single day. I am no longer the social butterfly I once was and now
14 instead I prefer to spend any free time I can get, at Divonte's grave.

15
16 Our family dynamics has changed a lot, there's no joy anymore ... we laugh and we cry at
17 every conversation and memory of Divonte. I am so terribly locked away now that I barely
18 care to even see my own elderly parents who've also been tremendously devastated by this.
19 It hurts tremendously to watch my grand-daughter growing without her father, it hurts to
20 see her and it hurts to not see her. Torn apart at my core, my days begin and end with me
21 crying for my son, devastation repeats itself and reaps havoc at the start of each new day
22 of my life.

23
24 I am literally sickened by the murder of my son, and most of my time breathing I spend
25 wishing I was dead also, because life does not feel right or even fair anymore. My son
26 should be here to raise his daughter and do all the nice things fathers do with their
27 daughters. Divonte should have buried me; I was not supposed to bury him. I am getting
28 older now and weaker faster because of this. It's not fair that we were hit with such a heavy
29 loss like the loss of my child, the unexpected financial, physical and emotional burden that
30 comes with our moral obligations to support Soleiyah in every way that her father would
31 have, had he still been here.”
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8. The victim impact statement of the sister of Mr. Hernandez, Mikayla Hernandez is dated 24th April 2025. Ms. Hernandez requested and was granted permission to read out her statement in open Court. This states as follows:

“I wish to say these words on behalf of the family of Divonte Alejandro Hernandez to the Honorable Court.



We never got to say goodbye.

My brother was stolen from us, taken from our family at just 25 years old. His name was Divonte Alejandro Hernandez. While he is the one whose life was ended, he was not the only victim of this senseless act. Our entire family was shattered the day he was murdered. Divonte leaves behind a devastated mother and father, grieving siblings, close friends, and most importantly, a beautiful young daughter who will now grow up without her father.

My brother was not perfect, he was human. Like all of us, he made mistakes. But he had a good heart. He was kind, caring, funny, loyal, and full of love. He never hurt anyone. If you knew him, you'd know the light he carried in him. He would do anything for his family. And he loved us all with his whole heart. We loved him even more.

I remember the last two times I saw my brother. The first was just days before he was taken from us. He came to my apartment late one night to borrow my debit card. As always, we ended up having a long talk in the parking lot. We laughed, we talked about our kids, about life. He shared his plans to work hard and build a better life for his daughter. I remember feeling proud. I saw a man growing, trying, and loving deeply.

The next time I saw him was at the murder scene, lifeless, lying on the ground. That image is burned into my mind. It haunts me. It has changed me. I haven't been the same since.

1 But I'm not the only one who is left broken. Our mother lost her baby. No parent should
2 ever have to bury their child, let alone under such violent circumstances. She cries every
3 day. Her heart is heavy with a pain no words can ever heal. She is not the same woman she
4 once was. She's lost a part of herself forever.

5
6 This pain has spread through our entire family like a disease. Birthdays, holidays, and
7 simple everyday moments now feel incomplete. His daughter will grow up asking
8 questions we will never have the right answers for. She will never again feel her father's
9 arms around her. She will never hear him tell her how much he loves her.

10
11 We are appealing to the court not just for justice, but for recognition of the enormous pain
12 this has caused. The man who took Divonte's life didn't just take one life, he tore apart an
13 entire family.

14
15 We ask that the court consider the full weight of what has been lost, not just the life of our
16 beloved Divonte, but the emotional, mental, and spiritual toll that now follows every single
17 one of us for the rest of our lives.”



18
19 **SOCIAL INQUIRY REPORT**

20
21 9. The Department of Community Rehabilitation (“DCR”) has provided a Social Inquiry Report
22 dated 2nd July 2025, (“SIR”). Although the SIR was prepared at the defendant’s request and he
23 co-operated for the preparation of it, the Probation Officer records that when contacted to sign
24 off on the draft, he refused to do so. The Court bears this in mind in reviewing the SIR but also
25 notes that Counsel for the defence has made written submissions in reliance thereon.

26
27 10. The defendant is a thirty six year old Jamaican National. He is now the father of two biological
28 children, ages fifteen years and three years and of one adopted child. He grew up initially in
29 Jamaica where he was cared for by family members, both of his parents having migrated in
30 search of better financial opportunities. He did not have the nurture of his parents while
31 growing up. At the age of thirteen years, he and his siblings moved to Canada to live with their
32 mother.

- 1 11. Unfortunately, while there he had difficulties adjusting to the new environment and was often
2 the victim of bullying. The bullying was made worse because of his speech impediment. His
3 attempts to fight back led to fights with others and negative interaction with the criminal justice
4 system. He also became involved in the sale of drugs and the illegal activities of the drug
5 subculture.
- 6
7 12. He worked at various regular jobs from a young age and was self-employed in the entertainment
8 industry including as a music producer. This eventually became his main focus.
- 9
10 13. The defendant confirmed to the Probation Officer, that he has previous convictions in Canada,
11 the last one being in 2009, and that after serving the sentence he was deported to Jamaica.
- 12
13 14. He told the Probation Officer that at age twenty-one he was sentenced for possession of an
14 illegal firearm and possession of illegal drugs with intent to supply. He said that custody was
15 rehabilitative for him as while in custody he participated in a number of programmes and
16 completed his high school diploma.
- 17
18 15. He remained in Canada until the age of twenty-seven years. Having returned to Jamaica, he
19 continued to work in the entertainment industry. He migrated to the Cayman Islands in 2017
20 to work with his father. He did so for eighteen months until there were work permit issues. He
21 said that it was then that, being unable to work, he started to sell marijuana which was his main
22 source of income. He also made and sold music. He got married to a Cayman national in 2019
23 although they later separated.
- 24
25 16. The defendant has incurred no charges since being on remand and is generally of good
26 behaviour. He is assessed by the Probation Officer as being at high risk of re-offending with
27 four of the eight criminogenic factors found to be in the very high and high categories.
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1 **ANTECEDENT HISTORY**
2

- 3 17. The defendant has three previous convictions in the Cayman Islands, two for Making a False
4 Representation and the third for Possession of Ganja with Intent to Supply.
5
- 6 18. The prosecution has produced the defendant’s antecedent history from Canada. Defence
7 Counsel confirmed at this sentence hearing that it is not disputed.
8
- 9 19. The defendant has multiple convictions in the Youth Justice Court in Canada in 2003 and 2004
10 for assaults, drugs and carrying weapons. The weapons involved are said to be pliers and
11 scissors. There are convictions in 2008 and 2014 for marijuana, and cocaine. He was sentenced
12 to 8 months imprisonment for trafficking a schedule 1 substance.
13
- 14 20. In 2012 he was convicted and sentenced for possession of a prohibited or restricted firearm
15 with ammunition and trafficking. The weapon involved was a hand gun. The information
16 provided is that in that incident the defendant and two others were involved in a drive by
17 shooting. He and two others drove next to a vehicle, opened fire and drove off. There were no
18 injuries. He was identified through fingerprints and arrested. A firearm was located following
19 the execution of a search warrant. After conviction the defendant was sentenced to
20 imprisonment for 3 years and 6 months.
21

22 **THE STATUTORY FRAMEWORK/GUIDELINE CASES**
23

- 24 21. The ***Conditional Release Act*** (2019 Revision) provides for a minimum sentence of 30 years
25 for the offence of murder before a prisoner is eligible for conditional release. This may be lower
26 or longer depending on whether there are exceptional circumstances of an extenuating or
27 aggravating nature. Section 14 (1) states:

28

29 “Notwithstanding any other Law to the contrary, when sentencing a prisoner to a term of
30 imprisonment for life, the court shall specify the period of incarceration the prisoner shall
31 serve before the prisoner is eligible to be considered for conditional release on licence, the
32 period being such as the court considers appropriate to satisfy requirements of retribution,

1 deterrence and rehabilitation, but for murder, the period shall be thirty years before the
2 prisoner is eligible for conditional release unless there are —

3
4 (a) extenuating circumstances, exceptional in nature, in which case the court may
5 impose a lower period of incarceration; or

6 (b) aggravating circumstances, exceptional in nature, in which case the court
7 may impose a longer period of incarceration.”

8
9 22. Section 21 of the *Act* provides for Regulations to be made. Schedule 12 to the Regulations
10 provides a non-exhaustive list of aggravating and extenuating circumstances.

11
12 **“Schedule 12**

13 2. (1) Detailed consideration of aggravating or mitigating circumstances may result
14 in a minimum term of any length.

15
16 (2) Aggravating circumstances that may be relevant to the offence of murder
17 include –

18
19 (a) a significant degree of planning or premeditation;

20 (b) the fact that the victim was particularly vulnerable because of age or
21 disability;

22 (c) mental or physical suffering inflicted on the victim before death;

23 (d) the abuse of a position of trust;

24 (e) the use of duress or threats against another person to facilitate the
25 commission of the offence;

26 (f) the fact that the victim was providing a public service or performing a
27 public duty;

28 (g) concealment, destruction or dismemberment of the body;

29 (h) previous convictions;

30 (i) abduction and sexual or sadistic conduct; and

31 (j) any other circumstances which may be considered relevant.
32



1 (3) Extenuating circumstances that may be relevant to the offence of murder
2 include –

- 3 (a) an intention to cause serious bodily harm rather than to kill;
4 (b) lack of premeditation;
5 (c) the fact that the offender suffered from any mental disorder or mental
6 disability which (although not falling within section 185(1) of the Penal
7 Code (2013 Revision)), lowered the offender’s degree of culpability;
8 (d) the fact that the offender was provoked (for example, by prolonged stress);
9 (e) the fact that the offender acted to any extent in self-defence or in fear of
10 violence;
11 (f) a belief by the offender that the murder was an act of mercy;
12 (g) the age of the offender; and
13 (h) any other circumstances which may be considered relevant.
14

15 **Previous convictions**

16 3. (1) In considering the seriousness of an offence committed by an offender who has one
17 or more previous convictions, the court must treat each previous conviction as an
18 aggravating circumstance if (in the case of that conviction) the court considers that it can
19 reasonably be so treated having regard, in particular, to –

- 20
21 (a) the nature of the offence to which the conviction relates and its relevance to the current
22 offence; and
23 (b) the time that has elapsed since the conviction.
24

25 (2) Any reference in this schedule to a previous conviction is to be read as a reference to a
26 previous conviction by a court in the Cayman Islands.

27 (3) The court may treat a previous conviction by a court outside the Cayman Islands as an
28 aggravating circumstance in any case where the court considers it appropriate to do so.”
29



1 23. In the case of *Ricketts and Others v R*¹, the Cayman Islands Court of Appeal held that in
2 interpreting Schedule 12, the factor in question whether aggravating or extenuating must be of
3 sufficient weight and seriousness so as to take the case into the exceptional category and move
4 the minimum term upwards or downwards from the starting point.



5
6 24. The Court stated that: -
7

8 “Once the court is sure that one or more of the circumstances set out in para. 2(2)(a)–(i) or
9 2(3)(a)–(g), or any other relevant circumstance (para. 2(2)(j) or 2(3)(h)), is made out, it has
10 the discretion to increase or reduce the minimum term. It plainly cannot have been the
11 intention of the legislature that the judge’s discretion to adjust the minimum term can only
12 arise if there is a further degree of exceptionality or seriousness on the facts of the particular
13 case.”
14

15 25. In the case of *Ramoon v R*², the Appellate Court provided guidance on the approach to
16 sentencing in cases of Murder. The Court stated that: -
17

18 “110...Each case will depend on its own facts. The judge will stand back and make
19 an overall assessment of the circumstances as he finds them to be. He will no doubt
20 take into account, among other things, the prevalence of particular sorts of murder
21 in the Cayman Islands, the protection of the public and such aggravating or
22 mitigating circumstances as he finds in the particular case. He will then make and
23 explain his decision.”
24

25 26. In response to the argument on appeal that the possession and use of firearms in cases of murder
26 was commonplace in the Cayman Islands and would not therefore be an exceptional
27 circumstance the Court held that this would depend on all the circumstances as a whole: -

28 “108 The words of para. 2 (2) are clear. The aggravating circumstances set out
29 are not intended to be exhaustive (see s.2 (2) (j) in particular). Moreover, it cannot
30 have been the intention of the Legislative Assembly to exclude as a possible

¹ [2019] (2) CILR 666

² [2018] (2) CILR 563

1 aggravating circumstance the use of a firearm, while, (if we are right in our
2 interpretation of s.2 (2)), at the same time contemplating the use of, for example,
3 a knife as a possible aggravating circumstance.
4

5 109 In our view, whether or not in any given case the use of a particular weapon,
6 such as a firearm, amounts to an aggravating circumstance must depend on all the
7 circumstances of the case as a whole. That having been said, it does seem to us that
8 in most cases the pre-possession and use of firearms is likely to amount to an
9 aggravating feature.”
10

11 27. The principles in the judgments have been distilled into the *Cayman Islands Sentencing*
12 *Guidelines*. These provide inter alia that: -

13 “6. ...The second step will be to decide whether, in light of any exceptional
14 circumstances that had been found to exist, a minimum term of 30 years would be
15 arbitrary and disproportionate. In considering the second step, the court will keep in
16 mind the intent behind the legislation which was the protection of the public.
17

18 7. In considering the first step, in order to be “exceptional” the circumstances had to be
19 unusual or uncommon, although they do not need to be unprecedented or very rare.
20 The assessment should be holistic, taking into account all of the circumstances. The
21 test is not related to the frequency with which the circumstances occur but to their
22 seriousness. The question for the court is whether the circumstances of the murder in
23 question were so serious as to mark out the nature of the case as exceptional and to
24 justify imposing a longer period of imprisonment.
25

26 8. Where the offence was committed using a weapon such as a firearm, the use of an
27 unlicensed illegal firearm makes the offence more serious than, for example, a
28 spontaneous knife crime or drunken strangulation, since it generally involves planning,
29 premeditation and longer period of intent.
30
31



1 9. Any deliberate and calculating acquisition, storage and use of a firearm will take it well
2 beyond what would be considered to be regular, normal or routine. In most cases it is
3 likely to be an aggravating feature where the firearm was brought to the scene with the
4 intention of it being used.

5
6 10. If the weapon was illegal, the process through which it was acquired by the offender
7 may contribute to the assessment of whether there had been a significant degree of
8 planning or premeditation, one of the factors listed in schedule 12, or it may be a
9 separate aggravating factor under ‘any other circumstances’.

10
11 11. Where the murder took place in a public place where others were present and put at
12 risk, this is likely to aggravate the seriousness of the offence and to meet the test of
13 being exceptional in nature.”

14
15 **THE SUBMISSIONS**

16
17 28. In the instant case, the prosecution submits that there are eight aggravating factors that the
18 Court can take into account in considering sentence (see paragraph 47 of written submissions):

- 19 i. Significant degree of premeditation/planning
20 ii. Use of an illegal firearm
21 iii. Offence committed in a public place during working hours
22 iv. Victim shot in front of his young child
23 v. Evasion from police
24 vi. Group activity
25 vii. Financially motivated
26 viii. Previous convictions for guns and drugs



27
28 29. It is submitted that there was a significant degree of planning and or pre-meditation involved
29 because of the following eight circumstances:

- 30
31 i. The defendant brought the murder weapon to the scene;
32 ii. The defendant was driven to the scene by an accomplice;

- 1 iii. The defendant arrived in disguise wearing a balaclava, head to toe dark clothing
2 and gloves;
- 3 iv. The getaway car had been rented on the defendant’s behalf;
- 4 v. The defendant had affixed black film to the windows of the getaway car;
- 5 vi. A false number plate had been affixed to the getaway car earlier that morning;
- 6 vii. After the false number plate had been affixed to the getaway car just prior to 7am,
7 the getaway car (and Mr. Senior) drove around George Town for almost three
8 hours, passing the scene of the murder three times, before happening upon Mr.
9 Hernandez and carrying out the killing;
- 10 viii. Before the vehicle was abandoned, the vehicle’s true number plates were re-affixed
11 in a deliberate effort to mislead the police.

12
13 30. Counsel for the prosecution submits that the seven factors other than significant planning which
14 are referenced in paragraph 28 above would fall under paragraph 2 (2) (j) of Schedule 12 to the
15 *Act*, other circumstances which may be considered relevant.

16
17 31. Counsel submits that the shooting took place in a public setting in a busy area of George Town
18 where members of the public were in the vicinity. Mr. Hernandez’s daughter was in close
19 proximity to her father and would have undoubtedly witnessed his shooting. Counsel said that
20 exposure to such a traumatic event and the absence of her father will potentially impact her
21 mental and emotional development.

22
23 32. Counsel submitted that as part of the overall circumstances of the murder, and in an attempt to
24 evade prosecution and sentence, the defendant went into hiding, first in West Bay and then in
25 East End. He was assisted by his friends who brought him food and a phone and acted as a
26 conduit to the outside world.

27
28 33. Counsel said that this was a group activity where the defendant was assisted by the driver of
29 the rental vehicle and by others to escape from the scene.



1 34. Counsel submitted that the offence was motivated by financial gain. The defendant admitted
2 that he was a drug dealer and that he had met, Mr. Hernandez and others through drug dealing.
3 Counsel submitted that given these relationships, the targeted nature of the murder, the
4 involvement of others who had also been met through drug dealing, the Court is entitled to
5 infer that the shooting was drug related and motivated, directly or indirectly, by financial gain.
6

7 35. Counsel for the prosecution submits that this offence of Murder was committed when the
8 defendant had no legal right to be in the Cayman Islands and was deemed to be an overstayer
9 (an offence in its own right). The defendant was sentenced to 2 months imprisonment for two
10 offences of Failing to Declare (ordered to run concurrently). He was fined \$1500 and
11 deportation was recommended.

12
13 36. These offences arose because in his application for work permits between November 2017 and
14 November 2018 he had failed to declare to the Cayman Islands Immigration Department that
15 he had criminal convictions in Canada. He had also failed to declare that he had lived in Canada
16 for more than six months.

17
18 37. He was charged with two offences of Making a False Representation, one in relation to all of
19 the periods he answered “NO” to whether he had any convictions, and one in relation to
20 answering “NO” to living in Canada for more than six months.

21
22 38. Counsel submits that the 2008 and 2012 convictions in Canada ought to be treated as an
23 aggravating circumstance by this Court.

24
25 **SUBMISSIONS OF THE DEFENCE**



26
27 39. Counsel for the defence in written submissions submitted that the defence do not readily accept
28 that all of the factors outlined in paragraph 47 of the prosecutions' submissions are aggravating
29 factors. It is said that caution should be exercised before accepting that the offence is drug
30 related and that there was financial motivation behind the shooting. Counsel submits that the
31 Court has not had sufficient evidence to suggest that there was any drug dealing rivalry between
32 the two men.

1 40. Counsel submits that there is nothing in the evidence to show that the defendant knew that Mr.
2 Hernandez was going to be at that location on that day and at that time. There was no phone
3 evidence suggesting that there was any contact between them on that day or in the days before
4 the shooting.

5
6 41. As to group offending, Counsel submits that while the evidence against two other named
7 persons was ruled insufficient to place them on trial, it is accepted that there must have been at
8 least two people in the vehicle at the time of the offence.

9
10 42. Counsel also submitted: -



11
12 “24. The court would be entitled to find that the pre-possession of the firearm, the
13 shooting at a close proximity and the presence of others including the daughter of Mr.
14 Henandez, aggravates the offence. In addition, the use of the mask, the fact that Mr.
15 Senior was driven away from the scene and any other effort to escape detection are
16 factors which the court will obviously take into consideration in any determination as
17 to whether or not the court should increase the sentence from the 30 year starting point.

18
19 ...

20 37. It is accepted that this a serious offence as it resulted in the death of Divonte
21 Hernandez. It is accepted that there is evidence of premeditation and planning purely
22 because a firearm was brought to the scene, a facial covering and gloves were used.”

23
24 43. Leading Counsel for the defence in oral submissions submitted that the question of the
25 applicable sentence structure is uncontentious. It is accepted that the legislature provides for a
26 minimum term of 30 years before consideration can be given for release.

27
28 44. Counsel said that the purpose of the legislation is the protection of the public. Counsel asked
29 that in the application of the principles of sentencing as articulated in the case of *Ramoon* that
30 the Court undertakes a balancing exercise where there is fairness and punishment with mercy.
31 Counsel submitted that each one of the aggravating features must be truly exceptional to justify
32 an increase from the mandatory minimum. Counsel said that while there is no dispute about

1 the list of factors suggested by the prosecution as being aggravating the question is whether
2 they are truly exceptional.

3
4 45. Counsel said a similar question needs to be asked about the previous convictions for drugs and
5 firearm, can those factors in the context of this case be said to be truly exceptional.

6
7 46. Counsel submitted that the defendant was thirty-five years old when he was arrested, and that
8 even if the minimum term is imposed, he will not be considered for release until he is in his
9 middle years. Counsel said that his request of the Court is that the Court does not pass a
10 sentence without hope. Counsel said that he acknowledges the moving nature of the victim
11 impact statements and that for those who loved Mr. Hernandez there is no hope of seeing him
12 again. He was shown no mercy.

13
14 47. Counsel said that the reason that our system shows mercy to a defendant is that we demonstrate
15 the difference between the value of his act and the values of a decent society.

16
17 **THE SENTENCE**

18
19 48. The Court has considered all the submissions and finds that there are four aggravating factors
20 which are truly exceptional in nature in this case.

21
22 49. It is accepted that care has to be taken in identifying such factors and that there should be
23 evidence to the required standard, (See *R v Davies*³). To this end the attempt to evade
24 prosecution and sentence and involvement in group activity are not found to have reached the
25 high threshold of exceptionality in the instant case. There are inferences as to motivation of
26 financial gain which may be drawn from the admitted drug dealing activity of the defendant
27 but whether this was the particular motive for the killing as distinct from other drug dealing
28 circumstances is not considered sufficiently clear on the available evidence. This is not treated
29 as a factor which is exceptional.



³ [2009] 1 Cr. App. R. (S) 15

1 50. The exceptional aggravating factors identified are as follows. Firstly, the Court accepts the
2 submission of the prosecution that this was offending with a significant degree of planning and
3 or pre-meditation. This is clear from the list of circumstances outlined by the prosecution and
4 set out in detail above. It was carefully planned with preparatory steps taken before. The
5 number plates of the car had been switched between 6:45am and 7:07am that morning. There
6 was determination and persistence which included circling the area three times before finding
7 Mr. Hernandez there. It is not unreasonable to describe this as a stake out. It was chillingly
8 executed in mere seconds using a hand gun to shoot Mr. Hernandez to the chest causing a
9 perforating wound from which death was almost instantaneous. The entire sequence from the
10 arrival of the get-away vehicle into the parking lot at 10:21:33am to its departure at 10:22:48am
11 occurred in less than two minutes. There was a carefully orchestrated get-away, abandonment
12 and switching of the license plates of the vehicle and continued precision timing such that the
13 defendant was out of George Town and into West Bay and able to remain at large for days after
14 the incident. This aggravating factor serves to increase the minimum term by 12 months.

15
16 51. The second aggravating factor is the fact that a firearm was brought to the scene and used by
17 the defendant to kill the unarmed deceased at what must have been almost point-blank range.
18 This is clear from the CCTV evidence and the evidence of the witnesses who were present
19 including Shane Jackson. The reasonable and inescapable inference is that it was an illegal
20 firearm. It has not been recovered. This aggravating factor serves to increase the minimum term
21 by 12 months.

22
23 52. The third factor is the public nature of the shooting. The location was adjacent a busy
24 thoroughfare in the center of George Town in broad daylight not only in view of adults present
25 but in view of Mr. Hernandez's young daughter. It was executed blatantly without regard for
26 the presence of other persons and apparently without fear of discovery. It must have been
27 terrifyingly inexplicable to the young child who had just had her chocolate cereal and was
28 engaged in a game of picking up rocks. It must have been horrifying to those present and
29 passersby in the usually peaceful George Town to see and hear such an incident. The public
30 nature of it and the risk to the public which it occasioned is truly exceptional. This aggravating
31 factor serves to increase the minimum term by 16 months.

32



1 53. The fourth factor which is exceptional in nature and thus aggravates the offending is the
2 previous conviction in Canada for an offence in relation to use of a firearm in a drive by
3 shooting. The nature and similarity of the offending are such that it is appropriate that it be
4 treated in this way. This aggravating factor serves to increase the minimum term by 16 months.

5
6 54. Taken together, these four aggravating factors serve to increase the mandatory minimum term
7 by 56 months that is from 30 years to 34 years and 8 months.

8
9 55. There are mitigating factors in the personal circumstances outlined in the SIR and by Counsel
10 in written and oral submissions. In the Court's view there are none which are exceptional in
11 nature which would serve to reduce the sentence below the mandatory minimum term. Defence
12 Counsel has not sought to argue otherwise.

13
14 56. The Court has considered whether the proposed sentence would be arbitrary and
15 disproportionate, bearing in mind that the intent of the legislation is the protection of the public.
16 The conclusion is that it would not be.

17
18 57. Consequently, the sentence imposed on the defendant is one of life imprisonment with a
19 mandatory minimum term of 34 years and 8 months before he would be eligible for conditional
20 release.

21
22 58. The Court recommends his deportation from the Cayman Islands on his release. It cannot be
23 conducive to the public good to have such an offender remain on the Island.

24
25 **TIME SPENT IN CUSTODY**

26
27 59. The Defendant has spent time in custody since his arrest on the 18th October 2023 to today 3rd
28 October 2025 of 716 days.



1 60. This time served is to be deducted from his sentence.

2

3 **Dated this the 3rd day of October 2025**

A handwritten signature in blue ink, consisting of a series of connected loops and curves, positioned above the name of the judge.

4

5 **The Hon. Justice Cheryll Richards KC**

6 **Judge of the Grand Court**