



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

CAUSE NO. IND 39 OF 1988

R

v.

PHILLIP GLENNON EBANKS

Appearances: Ms. Lee Halliday-Davis of Brady Attorneys for Mr. Ebanks
Ms. Sarah Lewis for the Crown
Mr. Brent Hydes (Hope Foundation)
Ms. Josephine Richards (Probation Officer)

Before: Hon. Justice Richard Williams

Heard: 16 November 2023

Transcript circulated: 16 November 2023

HEADNOTE

Release on Licence hearing

PERFECTED TRANSCRIPT OF EX TEMPORE RULING

Application – Position of the parties

1. I am tasked, at the conclusion of this hearing held in Open Court, with determining whether Mr. Ebanks should now be released on licence. Having regard to the nature of the hearing, Mr. Ebanks has a right to legal representation, and he has been represented by Ms. Halliday-Davis.
2. The Crown does not oppose the application. The Crown invites the Court to consider making the conditions recommended by the Probation Officer in her report.¹

Information required by the Court and factors to be considered

3. In previous applications concerning Mr. Ebanks, guidance was given about the information required by the Court at such applications and the factors to be considered. At paragraph 6 of the Judgment delivered by Forte J (*P.G. Ebanks v R* [2009] CILR 449) on 2 September 2009, the Court of Appeal approved the approach taken by Henderson J at a case management hearing on 5 October 2007. Therefore, when an earlier licence application concerning Mr. Ebanks came before me in January 2018, I had regard to Henderson J's guidance as to what sort of evidence can and should be admitted at this type of hearing. Henderson J stated:

“Since this is a proceeding which takes place after conviction, hearsay evidence should be admissible and may be given such weight as the court thinks fit, always having regard to the source of the evidence and the way in which it was obtained. The following list, although not intended to be exhaustive, identifies many of the questions upon which evidence is needed;

- (i) *the nature and circumstances of the offence;*
- (ii) *any comments made by the sentencing judge in relation to the need to protect the public;*
- (iii) *the background of the offender, including the nature and circumstances of any previous offending;*
- (iv) *whether the offender has made positive and successful efforts to address the attitudes and behaviour problems which contributed to the commission of the offence;*
- (v) *the offender's attitude towards and behaviour with other prisoners and prison staff, including the nature of any offences against prison discipline committed by the offender;*
- (vi) *the opinion of the prison service on the degree of risk to the public which would result from the offender's release;*

¹ See paragraph 8 below.

- (vii) *a recent social enquiry report containing the opinion of a probation officer on the suitability of the resettlement plan and a dwelling where the offender proposes to live;*
- (viii) *a recent psychiatric and/or psychological examination of the offender;*
- (ix) *any indication of predicted risk as determined by a validated actuarial risk predictor model or any other structured assessment of the risk to the public which would result from the offender's release;*
- (x) *whether the offender is likely to comply with any conditions attached to his licence to be at large;*
- (xi) *any past breaches by the offender of a condition of a licence to be at large.”*

4. With the above in mind, I gave directions for further information and the following have been filed and carefully considered by me:

- *9 December 2021 - Social inquiry Report. Ms. D'Aguilar*
- *22 February 2022 - HMP Prisoner Profile*
- *14 July 2022 - Psychiatric Report Dr. McGill*
- *27 January 2023 - Psychological Report, Paulette Gayle*
- *2 June 2023 - Department of Community Rehabilitation Report - SIR*
- *7 June 2023 - Hope Foundation Report*
- *9 Nov 2023 - Department of Community Rehabilitation Report - SIR*

5. In addition to the above documents and all the earlier filed reports and written evidence placed before the Court at his previous application for release, I have also considered an affidavit from Mr. Ebanks on 20 July 2023. I do not see the need to repeat the factual background set out in the earlier filed documents or judgments of this Court.

Principles to be applied

6. At paragraph 10 of Forte J. A's above-mentioned Judgment, he noted that there were no statutory provisions relating to licence applications in the Cayman Islands. With that in mind, at a previous licence hearing for Mr. Ebanks, I found that:

“.... the Court of Appeal agreed with Henderson J that the English provisions found at s.28 (6) (b) Cr (Sentences) Act 1997 Chapter 43, as they relate to the Parole Board in the United Kingdom, would be appropriate in considering an application. Therefore, the principle is that such a prisoner shall be released if the Court is satisfied that it is no longer necessary

for the protection of the public that the prisoner should be confined. The Court of Appeal also reiterated the reference relied upon by Henderson J to the directions to the Parole Board under section 32 (6) of the Criminal Justice Act 1991 which in section 4 provides:

“the test to be applied by the parole board in satisfying itself that it is no longer necessary for the protection of the public that the prisoner should be confined, is whether the lifer’s level of risk to the life and limb of others is considered to be more than minimal.””

7. I am satisfied that I should today again follow the same principle, namely that this Court will order Mr. Ebanks’ release if I am satisfied that it is no longer necessary for the protection of the public that he should be confined. When doing so I have regard to the above-mentioned eleven items listed by Henderson J which were commended by the Court of Appeal.

Conditions to be put in place if released on licence

8. The Probation Officer on behalf of the Department of Community Rehabilitation made sensible recommendations for conditions if conditional release were granted to Mr. Ebanks. They are as follows:

Conditions of release whilst Mr. Ebanks is at Hope for Today Foundation

- That he reside at Hope for Today Foundation (“HTF”) for a minimum period of 6 months;
- That reside at HTF until deemed suitable for the move on and until an appropriate move on plan is agreed by the assigned probation officer and Mr. Hydes;
- that he adheres to all rules and regulations of HTF, including being placed under 24-hour Electronic Monitor curfew (“EM”) for the first 7 days after release;
- that he be under EM curfew from 6:00 p.m. – 6:00 a.m. for HTF for a period of 3 months, to be reviewed by the Probation Officer;
- that he attend The Counseling Center (“TCC”) for assessment and he adhere to the treatment plan recommended by TCC, including one to one counselling;
- that he consistently attend AA/Narcotics Anonymous meetings as directed;
- that he submit to mandatory drug tests at the Courthouse every Monday and Friday between 9am -10am for a period of 3 months, to be reviewed by the Probation Officer;
- that he submit to random drug testing as directed by the Probation Officer; and
- that he attend and participate in any groups and/or rehabilitative programmes, recommended by the assigned probation officer in order to address offending behaviour.

Conditions after Mr. Ebanks leave HTF:

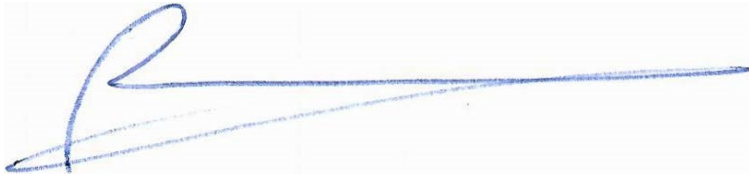
- that he be placed under EM curfew at residence approved by the Probation Officer, to be reviewed after a period of 3 months;
- that he attend TCC for assessment and he adhere to any treatment plan recommended by TCC, including one to one counselling;
- that he consistently attend AA/Narcotics Anonymous meetings as directed;
- that he submit to random drug testing as directed by the Probation Officer; and
- that he attend and participate in any groups and/or rehabilitative programmes recommended by the assigned probation officer in order to address offending behaviour.

It has been confirmed to me in Court today by the Probation Officer and Mr. Hydes from HTF that the resources required to enable these conditions will be made available when required. Mr. Ebanks has voluntarily suggested that there will be an updated Case Status Report for the Court from the Probation Officer around 3 months after the date of entry to the HTF. It is agreed that such a report should be prepared, but Mr. Ebanks should be aware that if the report raises issues about non-compliance with any of the conditions. The Court may then review whether to revoke his release on licence.

Conclusions

9. Having regard to all the recent reports filed as well as Mr. Ebanks' conduct in the prison and on the whole compliance with regulations, it does appear that he would now comply with the conditions attached to his licence. Although I am concerned about the various breaches of his licence and the nature of his reoffending when previously released on licence, it appears that he more recently has taken advantage of the opportunities made available to him.
10. Having regard to the evidence filed by the various stakeholders, if all the conditions recommended by the Probation Officer are put in place and adhered to, I am satisfied that Mr. Ebanks has been rehabilitated to the extent that he would not again be a risk to the public if he were released. I have had regard to the public interest and the need to protect the public, when reaching a decision that it is now appropriate to release Mr. Ebanks.
11. Accordingly, I will order that Mr. Ebanks be granted conditional release on licence. However, Mr. Ebanks should have no doubt that the conditions attached to my order must be fully complied with

and that any diversion from them would likely result in his licence being revoked and him returning to custody. He may not get this chance again, especially if he reoffends again whilst released on licence. The evidence shows that he has an insight relating to his offending and what is again expected of him and he has worked hard and successfully to put himself into the position in which the Court can make the orders that I make today. I truly hope that he will take this opportunity.



**THE HONOURABLE MR. JUSTICE RICHARD WILLIAMS
JUDGE OF THE GRAND COURT**

