IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL SIDE

INDICTMENT No. 79/2013

REGINA

v.

CHAD ANGLIN

Appearances:	**Ms. Simon Russell Flint Q.C. and Ms. Elisabeth Less for the Crown**
	Mr. Jonathon Hughes of Samson Law as Amicus Curiae
Before:	**Justice Alexander Henderson Q.C.**
Hearing:	**26th May 2017**

Criminal Law – Sentence *– Mandatory life sentence – Minimum term – Conditional Release Procedure – Murder for Gain – Prior convictions.*

JUDGMENT

1. The Defendant, Chad Anglin, was convicted on May 20, 2014 of murder and sentenced to imprisonment for life. At the time, our law did not provide for the setting of a minimum term of imprisonment after which the offender might apply for conditional release; it does so now in the *Conditional Release Law, 2014* (the "Law") and the *Conditional Release Regulations, 2016* (the "Regulations"), legislation that applies to all prisoners regardless of when they were convicted or sentenced: see s.3(1) of the Law. I have conducted this hearing to fix a minimum term for Mr. Anglin.

2. The guiding principles for setting a minimum term were discussed in some detail in my recent judgment in ***R. v. Ricketts***[1] and will be referred to here only in passing. The Legislative Assembly has determined that the minimum term "shall" be 30 years unless there are extenuating or aggravating circumstances that are exceptional in nature: Law, s.14(1). It is important to bear in mind that the minimum term fixes the earliest date at which an offender may apply for release but says nothing about whether he should be released on that date, at a later date, or not at all.

GRAND COURT - CAYMAN ISLANDS

[1] (unreported), February 7, 2017

FACTS

3. The victim, Frederic Bise, was homosexual. Early in the morning of February 8, 2008 he went to Undra's Jerk Chicken stand opposite Kelly's Bar in West Bay on Grand Cayman. There he met Mr. Anglin, whom he did not know. Mr. Bise, Mr. Anglin, and a third man – the Defendant's cousin, Leonard Ebanks – went to Mr. Bise's residence.

4. The next morning Mr. Bise's body was found in the trunk of his car, which was on fire. His trousers were unzipped and pulled partially down. He had suffered multiple blows with a blunt object to his head and face and had been strangled or suffered severe blows to the neck. Expert evidence suggested that Mr. Bise died before being placed in the car. The evidence also showed that another man had recently had sex with him.

5. Mr. Anglin was convicted on a mixture of direct and circumstantial evidence. His DNA was found at the scene of the homicide and a friend gave evidence of an incriminating statement by him. His alibi, related to the investigators at the time of his arrest, was contradicted by some CCTV footage taken in the area of the jerk chicken stand. He did not give evidence at his trial. Leonard Ebanks, who was tried separately, was also convicted.

GRAND COURT - CAYMAN ISLANDS

ISSUES

6. The Crown says that there are three separate aggravating circumstances that are exceptional in nature: the fact that this was a murder for gain; the concealment and destruction of the body; and the lengthy and serious criminal record of the Defendant.

7. There are no potential extenuating circumstances revealed by the evidence and argument.

PRELIMINARY PROCEDURAL ISSUE: REFUSAL TO ATTEND COURT

8. Mr. Anglin was not present during the Hearing. Crown Counsel advised me at the outset that Mr. Anglin refused to emerge from his cell at HMP Northward to attend in Court. He was asked if he was willing to participate by video link; I was advised that he refused to leave his cell to attend in a nearby room where the video equipment was set up. The same thing occurred on an earlier hearing date on December 9, 2016: Mr. Anglin refused to leave his cell either to attend in Court or to attend in a nearby room to participate by video link. In a handwritten letter dated May 25, 2017 and addressed to the Court, Mr. Anglin said he would not participate in the proceedings until he was given an attorney who "will follow instruction". Earlier, when Mr. Anglin was first given the Case Record for this proceeding, he refused to accept it.

9. An accused person's right to be present in the court room extends to the "whole of any proceedings": s. 60(1), *Criminal Procedure Code (2014 Revision)* (the "Code"); also see s.7(2) of the *Cayman Islands Constitution Order 2009*. The setting of a minimum term, even though divorced (as this hearing is) by a period of years from the conviction and imposition of sentence, is a part of the "proceeding".

Thus, a hearing to set a minimum term cannot in ordinary circumstances be conducted in the absence of the defendant. There is an exception to this in s.60(5) of the Code, the material part of which says:

> *"... the consent of the accused person to the conduct of the proceedings in his absence may be deemed to have been given ... in any case in which the court is satisfied that, having been duly summoned to appear before the court a reasonable time before the date appointed, the accused person willfully refuses to attend at any time appointed by the court."*

10. I am satisfied that the Defendant was given reasonable notice of today's hearing. He was given formal notice of the proceeding on November 11, 2016; his first hearing date was December 9, 2016; and, when he refused to appear then, the hearing was adjourned to May 25, 2017 in the hope that he would, in the interim, become reconciled to the prospect of the hearing. His refusal to attend is willful. For these reasons, I am satisfied that his consent to the proceeding being conducted in his absence is deemed to have been given.

PRELIMINARY PROCEDURAL ISSUE: LACK OF REPRESENTATION

11. A separate but related issue is the lack of legal representation. On December 6, 2016 the Court received a letter from Mr. Anglin saying he wished to instruct counsel for the December 9 hearing. He was immediately provided with a legal aid application form and a list of attorneys willing to take on legal aid cases.

GRAND COURT CAYMAN ISLANDS

12. On December 9, 2016 I directed that Mr. Anglin be told that I would appoint an attorney for him if he had not chosen one by December 16, 2016. His application was received by the Acting Director of Legal Aid on that date; he requested the assistance of Mr. Anthony Akiwumi. That request was granted. However, Mr. Akiwumi subsequently declined to act.

13. On May 12, 2017 an email message was received from the Defendant, Mr. Anglin, which stated that he wished to instruct Ms. Martha Rankine. I directed that she be given a legal aid appointment. She agreed to act and was provided with the necessary papers. In his letter to the Court of May 25, 2017 Mr. Anglin said that he was discharging Ms. Rankine because "she is obviously not willing to follow my instructions".

14. In anticipation of the possibility that Mr. Anglin would be unrepresented, I appointed Mr. Jonathon Hughes in April to act for the Defendant. Mr. Hughes set about arranging for Mr. Mark Mulholland, QC to appear at the hearing. Mr. Anglin met with Mr. Hughes but then rejected the services of both men. At this point I appointed Mr. Hughes as *Amicus Curiae* and directed that legal aid be granted for his services. At my invitation, Mr. Hughes made as full a submission as he could, given his lack of instructions, on behalf of the Defendant.

15. I am satisfied that Mr. Anglin's failure to be represented by counsel at the hearing has been caused by his own recalcitrance and lack of cooperation and not by any step taken by any person in authority. He has not been denied his right to counsel; he has refused to take advantage of it.

GRAND COURT - CAYMAN ISLANDS

MURDER FOR GAIN

16. The Crown says that this was a murder for gain and that this motive is an aggravating circumstance that is exceptional in nature. Mr. Bise's computer, mobile telephone, and credit card were stolen from him by one or both of the two assailants.

17. The evidence does not permit a conclusion that the theft of these articles was planned before the murder took place; the theft may well have been an opportunistic act committed spontaneously after the killing. Moreover, although the evidence of possession is not particularly strong, it suggests that Leonard Ebanks retained possession of the stolen articles.

18. I accept that the fact that a murder was committed for monetary gain may in some circumstances amount to an aggravating factor. The present circumstances do not rise to that level. I am in agreement with the submission of Mr. Hughes: the proven circumstances implicating Mr. Anglin in the theft of personal property are mundane and unremarkable, not exceptional in nature.

CONCEALMENT OR DESTRUCTION OF THE BODY

19. Section 2(2)(g) of Schedule 12 to the Regulations states that concealment or destruction of the body is a potential aggravating factor. Mr. Bise's body was found wrapped in a blanket in the trunk of his car, parked outside his own residence. I cannot view those facts as amounting to "concealment" of the body.

GRAND COURT CAYMAN ISLANDS

20. The body was set on fire and found in a partially burned condition. This fact likely added to the anguish experienced by Mr. Bise's family upon learning of his death. I regard it as "destruction", or at least as an attempt at destruction, of the body and an aggravating factor that is unusual enough to be exceptional in nature.

ON BAIL AT TIME OF OFFENCE

21. Mr. Anglin was on bail at the time of the murder of Mr. Bise. A specific provision concerning murder committed while on bail is contained in section 4 of Schedule 12 of the Regulations, which reads:

> *"Offences committed on Bail*
>
> *4. In considering the seriousness of any offence committed while the offender was on bail, the court must treat the fact that it was committed in those circumstances as an aggravating circumstance."*

22. I take this factor into account as an aggravating circumstance.

DEFENDANT'S CRIMINAL HISTORY

23. Another specific provision in section 3 of Schedule 12 of the Regulations concerns prior convictions; the material part of this provision reads:

GRAND COURT CAYMAN ISLANDS

> *"Previous convictions*
>
> *3. (1) In considering the seriousness of an offence committed by an offender who has one or more previous convictions, the court must treat each previous conviction as an aggravating circumstance if (in the case of that conviction) the court considers that it can reasonably be so treated having regard, in particular, to –*
>
> > *(a) the nature of the offence to which the conviction relates and its relevance to the current offence; and*
> >
> > *(b) the time that has elapsed since the conviction."*

24. Mr. Anglin has 36 prior convictions. Many of these are for such relatively minor infractions as consumption of ganja and possession of cocaine; I am disregarding these.

25. On March 27, 2001 Mr. Anglin was convicted of 5 counts of indecent assault and sentenced to 18 months imprisonment on each count, all concurrent. Indecent assault is a form of violence committed for a sexual purpose. The murder of Mr. Bise was committed within the context of a homosexual encounter. These previous convictions occurred some seven years before the murder of Mr. Bise. They are of sufficient relevance and proximity that I take them into account as an aggravating circumstance.

26. On December 31, 2008 Mr. Anglin was convicted of two counts of assault causing actual bodily harm, to which he pleaded guilty. On these charges he was sentenced to an aggregate of three years imprisonment. I am told that he was on bail at the time of the offences. On January 14, 2011 Mr. Anglin was convicted of indecent assault and wounding; again, he pleaded guilty. His aggregate sentence on this occasion was imprisonment for five years.

GRAND COURT CAYMAN ISLANDS

27. Given that the murder of Mr. Bise was committed some eleven months before the 2008 convictions and some three years before the 2011 convictions, are these "previous" convictions that I must take into account? In other words, to be taken into account must the conviction have occurred prior to the commission of the murder or simply prior to the minimum term hearing?

28. In my view, it is the latter. That conclusion accords more closely with the overall intent of the legislation, which is to arrive at a minimum term that reflects appropriately the three legislative objectives of retribution, deterrence, and rehabilitation. These are broad considerations. It is unlikely that the Legislative Assembly intended to prevent judges from taking into consideration convictions for offences that are material to the setting of a minimum term on the sole ground that they occurred after the murder had been committed. Consequently, I take the 2008 and 2011 convictions into account. Overall, I consider the prior criminal history of Mr. Anglin to be a substantial aggravating factor that justifies a considerable increase in the minimum term.

CONCLUSION

29. For these reasons, I fix the minimum term at 34 years. I am satisfied that a term of this length is not arbitrary or disproportionate.

30. The 194 days Mr. Anglin spent while on remand are to be taken into account.

Dated this the 9TH day of June 2017

Henderson, J.

GRAND COURT CAYMAN ISLANDS

Justice Alexander Henderson Q.C.
Judge of the Grand Court