

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS  
2 CRIMINAL SIDE

3  
4 INDICTMENT #: 0027/09

5  
6 REGINA

7  
8 V.

9  
10 RANDY LEBERT MARTIN



11  
12  
13 **Appearances:**

14 Mme. DPP Cheryll Richards Q.C. with Elisabeth Lees  
15 on behalf of the Crown

16  
17  
18 Ms. Amelia Fosuhene of Brady & Co. on behalf of the  
19 Prisoner

20 **Before:**

Hon. Mr. Justice Charles Quin Q.C.

21 **Heard:**

22 24<sup>th</sup> January 2018

23 **HEADNOTE**

24  
25 *Criminal Law – Pursuant to the Conditional Release Law 2014 – Murder - s.14 –*  
26 *Aggravating and Extenuating circumstances – Schedule 12 of the Conditional*  
27 *Release Law Regulations - Minimum term.*

28  
29  
30 **CONDITIONAL RELEASE JUDGMENT**

- 1 1. On the 11<sup>th</sup> March 2009 Sabrina Schirn was murdered.
- 2
- 3 2. The Prisoner, Randy Martin, was charged with the murder on Indictment #27 of 2009
- 4 and pleaded not guilty.
- 5
- 6 3. The trial took place between the 25<sup>th</sup> November and the 11<sup>th</sup> December 2009 and
- 7 between the 11<sup>th</sup> January and the 15<sup>th</sup> January 2010.
- 8
- 9 4. On the 26<sup>th</sup> January 2010 the Prisoner was found guilty of the murder of Sabrina Schirn
- 10 and sentenced to life imprisonment.
- 11
- 12 5. The Prisoner appealed his conviction to the Cayman Islands Court of Appeal (CICA)
- 13 and his appeal was dismissed on the 20<sup>th</sup> August 2010.
- 14
- 15 6. The Prisoner was born on the 14<sup>th</sup> August 1974. At the time of the trial the Prisoner
- 16 was 36 years of age and he is now 43 years old.

17 **THE LAW**

18

- 19
- 20 7. Section 182 of the *Penal Code 2017 Revision* provides that “*Any person convicted of*
- 21 *murder shall be sentenced to imprisonment for life*”.
- 22
- 23 8. However, with the introduction of the *Conditional Release Law (2014) (the Law)*
- 24 which came into effect on the 15<sup>th</sup> February 2016, it is now the law that when
- 25 sentencing to a term of imprisonment for life, the Court shall specify the period of
- 26 incarceration the prisoner shall serve before the prisoner becomes eligible to be
- 27 considered for conditional release on licence.
- 28



1 9. Section 14(1) further provides that for murder, the period of incarceration shall be  
2 thirty (30) years before the prisoner is eligible for conditional release, unless there are  
3 extenuating or aggravating circumstances, exceptional in nature, which may cause the  
4 court to impose a lower or a longer period of imprisonment.

5 10. The relevant section states:-



6 "14. (1) Notwithstanding any other Law to the contrary, when sentencing a  
7 prisoner to a term of imprisonment for life, the court shall specify  
8 the period of incarceration the prisoner shall serve before the  
9 prisoner is eligible to be considered for conditional release on  
10 licence, the period being such as the court considers appropriate  
11 to satisfy requirements of retribution, deterrence and  
12 rehabilitation, but for murder, the period shall be thirty years  
13 before the prisoner is eligible for conditional release unless there  
14 are -

15 (a) extenuating circumstances, exceptional in nature, in which  
16 case the court may impose a lower period of  
17 incarceration; or

18 (b) aggravating circumstances, exceptional in nature, in  
19 which case the court may impose a longer period of  
20 incarceration.

21 (2) In making a decision under subsection (1)(a) or (b), the court shall  
22 state the extenuating circumstances or the aggravating  
23 circumstances, as the case may be."  
24

25 11. Section 21 of the Law provides:

26 "The Cabinet may make regulations prescribing all matters that are required or  
27 permitted by this Law to be prescribed, or are necessary or convenient to be  
28 prescribed for giving effect to the purposes of this Law."  
29

30 12. In accordance with s.21 of the Law, on the 9<sup>th</sup> February 2016 the Cabinet enacted **The**  
31 **Conditional Release of Prisoners Regulations 2016 (the Regulations)**.

32 13. Regulation 14 provides:  
33

34 "For the purposes of determining the earliest possible conditional release date in  
35 relation to a prisoner on a term of imprisonment for life, the circumstances set out  
36 in Schedule 12 shall be considered."  
37

1 14. In the circumstances it is necessary to set out the first two paragraphs of Schedule 12  
2 of the *Regulations* (the Schedule) in full as follows:

3 **“Introduction**

- 4  
5 1. (1) *Where a mandatory life sentence for murder is prescribed by any*  
6 *Law, for the purposes of section 14 of the Law the aggravating and*  
7 *extenuating circumstances are outlined in this schedule.*  
8 (2) *For offences other than murder, for the purposes of section 14 of*  
9 *the Law, the aggravating and extenuating circumstances may include all*  
10 *the relevant circumstances of the offence and or the offender.*  
11 (3) *For murder, the period shall be thirty years before the prisoner is*  
12 *eligible for conditional release unless there are extenuating or*  
13 *aggravating circumstances, exceptional in nature, in which case the court*  
14 *may impose a shorter or longer period of incarceration respectively;*

15 **Aggravating circumstances and extenuating circumstances**

- 16 2. (1) *Detailed consideration of aggravating or mitigating circumstances*  
17 *may result in a minimum term of any length.*  
18 (2) *Aggravating circumstances that may be relevant to the offence of*  
19 *murder include –*  
20 (a) *a significant degree of planning or premeditation;*  
21 (b) *the fact that the victim was particularly vulnerable*  
22 *because of age or disability;*  
23 (c) *mental or physical suffering inflicted on the victim before*  
24 *death,*  
25 (d) *the abuse of a position of trust;*  
26 (e) *the use of duress or threats against another person to*  
27 *facilitate the commission of the offence;*  
28 (f) *the fact that the victim was providing a public service or*  
29 *performing a public duty;*  
30 (g) *concealment, destruction or dismemberment of the body;*  
31 (h) *previous convictions;*  
32 (i) *abduction and sexual or sadistic conduct; and*  
33 (j) *any other circumstances which may be considered*  
34 *relevant.*  
35 (3) *Extenuating circumstances that may be relevant to the offence of*  
36 *murder include –*  
37 (a) *an intention to cause serious bodily harm rather than to*  
38 *kill;*  
39 (b) *lack of premeditation;*  
40 (c) *the fact that the offender suffered from any mental*  
41 *disorder or mental disability which (although not falling*  
42 *within section 185(1) of the Penal Code (2013 Revision)),*  
43 *lowered the offender’s degree of culpability;*  
44 (d) *the fact that the offender was provoked (for example, by*  
45 *prolonged stress);*  
46 (e) *the fact that the offender acted to any extent in self-*  
47 *defence or in fear of violence;*



- 1 (f) a belief by the offender that the murder was an act of  
2 mercy;  
3 (g) the age of the offender; and  
4 (h) any other circumstances which may be considered  
5 relevant.”  
6

7 15. Section 14(1) of *the Law* requires the court that sentences a person to imprisonment for  
8 life to fix a period of incarceration that satisfies the requirements of retribution,  
9 deterrence and rehabilitation. In the case of murder that period shall be 30 years –  
10 unless there are extenuating or aggravating circumstances exceptional in nature<sup>1</sup>. If  
11 there are such circumstances, the Court is permitted to fix a shorter or longer period.

12 16. In paragraph 1(1) of Schedule 12 to *the Regulations* it states that for a mandatory life  
13 sentence for murder, for the purposes of s.14 of the *Law*, the aggravating and  
14 extenuating circumstances are outlined in the Schedule. However in paragraph 1(3) of  
15 the Schedule, the words “exceptional in nature” are again used to describe the  
16 extenuating or aggravating circumstances.

17 17. Accordingly, when the Prisoner was sentenced, our law did not provide for the setting  
18 of a minimum term of imprisonment, after which the Prisoner may apply for  
19 Conditional Release.

20  
21 18. The *Conditional Release Law 2014* (the Law), which came into effect on the 15<sup>th</sup>  
22 February 2016, and the *Conditional Release Regulations* apply to all Prisoners,  
23 regardless of when they were convicted.

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<sup>1</sup> (my emphasis)



*SUMMARY OF FACTS*

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2  
3 19. A detailed Summary of Facts is contained in the case summary at tab 2 of the  
4 Crown's bundle. In brief, Sabrina Schirn was lured by the Defendant to the  
5 prison farm whilst he was a serving prisoner. Sabrina Schirn was brutally  
6 murdered. She received chop wounds and incised wounds to the head, which  
7 would cause her to lose consciousness. There were also such wounds to the  
8 scalp face and the back of the head. There would have been a serious loss of  
9 blood from these injuries and the deceased would have died in a matter of  
10 minutes and certainly less than one hour. There were incised wounds to the left  
11 shoulder and there were four multiple wounds – one of 19 centimeters on the  
12 upper back, which went through the muscle to the vertebrae.

13  
14 20. There were also a number of defensive injuries. The Deceased's thumb was  
15 nearly amputated, the index finger of the right hand was amputated through the  
16 middle bone. There was a chop wound on the left side of the Deceased's  
17 forearm and to the left wrist and hand of 7.5 centimeters that went through the  
18 bones and almost amputated the left hand.

19  
20 21. Sabrina Schirn was murdered on 11<sup>th</sup> March 2009. Her body was found on 17<sup>th</sup>  
21 March 2009 after the vehicle she had been driving was located hidden on a dirt  
22 track on 16<sup>th</sup> March 2009. The body was found in nearby a container near to a  
23 disused shed where blood was identified.



*CROWN'S SUBMISSIONS*

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2  
3 22. Mme. DPP submits:

- 4  
5 i. There was a significant degree of planning and premeditation;  
6 ii. The victim, Sabrina Schirn, endured significant mental and physical  
7 suffering before her death;  
8 iii. The Prisoner attempted to conceal the body of the victim;  
9 iv. The Prisoner has previous convictions.

10  
11 23. The Crown submit that the physical and mental suffering of the victim before death  
12 was exceptional in nature. In addition, the concealment of the victim's body lead to the  
13 delay in the identification of the location of the deceased victim. The Crown also  
14 submit there was as significant degree of planning to enable the murder to take place  
15 whilst the Prisoner was a serving prisoner. And, finally, the prisoner's previous  
16 convictions must be taken as aggravating circumstances in this case.

17  
18 *DEFENCE SUBMISSIONS*

19  
20 24. Pre-Planning:

- 21 a. The Prisoner does not accept that there was a significant degree of planning or pre-  
22 meditation.  
23  
24 b. The Deceased was visiting the prison farm on a regular basis to see other prisoners,  
25 other than the Prisoner. The Deceased would bring ganja to the Prison.

26  
27 25. Luring the victim:



- 1 a. The Prisoner does not accept that he lured the victim, Sabrina Schirn, to the prison
- 2 farm
- 3 b. The Prisoner had no way of luring the victim to the prison farm.
- 4
- 5 c. Sabrina Schirn was a willing visitor.

6  
7 26. The Glove:

- 8
- 9 a. The Defence submits that the fact that the Prisoner took another prisoner's gloves
- 10 is not indicative of pre-planning or premeditation.

11  
12 27. The Machete:

- 13
- 14 a. The Defence submits that the machete the Prisoner had in his hand was a work tool
- 15 and does not inevitably lead to the inference of pre-planning and pre-mediation.

16  
17 28. In relation to the mental and physical suffering of the victim:

- 18
- 19 a. The Prisoner relies on the pathologist's report which suggests that the victim,
- 20 Sabrina Schirn, may have died as a result of a wound to her head and in a matter of
- 21 minutes.
- 22 b. The time estimate provided by the pathologist suggests that Sabrina Schirn did die
- 23 within a matter of minutes and within less than an hour.
- 24 c. The Prisoner submits that the Court should take into consideration the account
- 25 most favourable to the Prisoner, and there is no evidence which suggests the
- 26 victim's demise was prolonged.





- 1 a. *the first step in a two-stage analysis is to decide whether there are*  
2 *circumstances that are exceptional in nature;*  
3 b. *to be “exceptional”, the circumstances must be unusual or uncommon*  
4 *although they need not be unprecedented or very rare;*  
5 c. *the assessment should be holistic, taking all of the circumstances into*  
6 *account;*  
7 d. *the second step is to decide whether, in light of any exceptional*  
8 *circumstances that are found to exist, a minimum term of 30 years would be*  
9 *arbitrary and disproportionate;*  
10 e. *the intent behind the legislation, which here must be the protection of the*  
11 *public, should be kept firmly in mind; and*  
12 f. *in the absence of circumstances that are truly exceptional in nature, the*  
13 *Court has no discretion to depart from the 30-year norm [minimum term].*  
14

15 35. **Aggravating Circumstances**

- 16  
17 a. Section 2(2)(a): ***Conditional Release of Prisoners Regulations***: “*A significant*  
18 *degree of planning or premeditation*”

19  
20 i. The Defendant ensured that he was assigned to farm duties on the  
21 particular day and that at the time he would have had the  
22 opportunity to be away from prison guards.

23 ii. He also ensured that he had gloves with him and that he had the  
24 necessary weapons with him.

25 iii. He hid the car in a location in which he thought it would not be  
26 found.

27  
28 iv. The location of the murder in the remote bushes of East End, the  
29 container to conceal the body for a significant period of time and the  
30 location to hide the car, which would enable the Defendant to  
31 coordinate the timing in such a way that he was able to commit the



1 murder and return to the prison farm before his absence would be  
2 detected, all required a significant amount of planning and pre-  
3 meditation.

4  
5 b. Section 2(2)(c): *Conditional Release of Prisoners Regulations: "Mental or*  
6 *physical suffering inflicted on the victim before death:*

7 i. The Judge at paragraph 13 of the Verdict Judgment stated:

8 *"None of the above facts have been challenged by the Defence and*  
9 *on the basis of Dr. Shuman's evidence it is quite clear that the*  
10 *deceased was brutally murdered."*  
11

12 ii. According to the evidence of the post mortem, the Deceased had 5  
13 chop wounds, one on her scalp and the skull, two in her right hand,  
14 one in her left forearm, and one on her left wrist and hand. There  
15 were 8 incised wounds, three in the scalp, two in the face, one on the  
16 right shoulder, two on the left shoulder. There were also two wounds  
17 comprised of multiple wounds. One had an intersecting chop – an  
18 incised wound on the left side of her scalp – and then there was the  
19 large complex wound on the mid-upper back, which was comprised  
20 of at least four injuries.

21  
22 iii. Dr. Shuman was in no doubt that the cause of death was multiple,  
23 sharp force and chop injuries which would have caused a severe loss  
24 of blood. Dr. Shuman said the wounds to her scalp and to her left  
25 arm would have bled profusely and the deceased would have died  
26 within minutes.



1 iv. The Deceased had received chop wounds and incised wounds to the  
2 head which would cause her to lose consciousness. There were  
3 incised and chop wounds on the head, scalp, face and the back of the  
4 head, which could properly be described as multiple chop and  
5 incised wounds. There would have been a serious loss of blood from  
6 these injuries and the Deceased would have died in a matter of  
7 minutes, and certainly in less than one hour. Dr. Shuman said that  
8 one single such laceration to the scalp could be fatal. There were  
9 incised wounds to the left shoulder and there were four multiple  
10 wounds, one of 19 centimeters, which were inflicted on the mid-  
11 upper back and went through the skeleton muscle to the vertebrae,  
12 the Deceased would have been struck from behind.

13 v. There were also a number of defensive injuries. The Deceased's  
14 thumb was nearly amputated, the index finger of the right hand was  
15 amputated through the middle bone. There was a chop wound on the  
16 left side of the Deceased's forearm and to the left wrist and hand of  
17 7.5 centimeters that went through the bones and almost amputated  
18 the left hand.  
19

20 vi. This was clearly a terrifying mental ordeal as well as horrific  
21 physical suffering. It is submitted that this is an aggravating  
22 circumstance, which is exceptional in nature  
23  
24



1 c. Section 2(2)(g): *Conditional Release of Prisoners Regulations*: “Concealment,  
2 *destruction or dismemberment of the body*”

3  
4 i. The body was not found for some time after the murder. The murder  
5 occurred on 11<sup>th</sup> March. The body was found on 17<sup>th</sup> March.

6 ii. The body was found by a container from which there was a foul  
7 smell.

8 iii. The Judge noted that the car, which was located along a dirt track,  
9 and the keys and glove, may never have been found, were it not for  
10 a passerby noticing a fire in the area.

11 iv. It was the discovery of the car, which lead to the discovery of the  
12 body.

13 v. The Learned Judge found that the Honda Torneo was moved from  
14 the body site and hidden 551 feet up a dirt track. The car was  
15 deliberately hidden.

16 vi. The glove was hidden by someone who never wanted it to be found  
17 and identified. If Mr. Frederick had not noticed the smoke coming  
18 from a fire near Bottom Road it was quite conceivable that the white  
19 Torneo, the keys and the glove would never have been found.

20  
21 36. *Extenuating Circumstances*

22 a. I can find no extenuating circumstances in this case.  
23  
24  
25  
26







1 vi. On 1<sup>st</sup> June 2007 the defendant was sentenced to seven years'  
2 imprisonment for aggravated burglary; and

3 vii. On the 1<sup>st</sup> June 2007 he was also sentenced to three years'  
4 concurrent for possession of an unlicensed firearm.

5 viii. These (immediately foregoing) offences were committed on 2<sup>nd</sup>  
6 October 2006.

7 ix. The Defendant was serving his sentence for these offences at the  
8 time he murdered Sabrina Schirn.

9  
10 c. It is submitted that these previous convictions are to be treated as an  
11 aggravating circumstance.

12  
13 *CONCLUSION*

14  
15 38. I find that there was a significant degree of planning and pre-meditation on the part of  
16 the Prisoner:

17  
18 a. He had marked two dates off on his calendar in his prison cell – namely the 11<sup>th</sup>  
19 March and the 18<sup>th</sup> March 2009 – and then he discovered that he wasn't going to  
20 be able to get to the prison farm on the 18<sup>th</sup> March 2009;

21  
22 b. The Prisoner had acquired Sabrina Schirn's telephone numbers in early 2009;

23  
24 c. The two telephone messages heard by the witness Danielle Ramoon asked Sabrina  
25 Schirn to "link up" with the Prisoner;

26

- 1 d. The second telephone message was more urgent and persistent – asking Sabrina  
2 Schirm to come to the prison farm and to take the Prisoner to East End;
- 3  
4 e. There was/were a significant number of calls from the Prisoner to Sabrina Schirm  
5 on the days preceding the 11<sup>th</sup> March;
- 6  
7 f. The Prisoner asked for Andy Myles’ gloves in early March – saying he needed  
8 them and then saying he needed at least one, and then the Prisoner took Andy  
9 Myles’ gloves on the morning of the 10<sup>th</sup> March or on the 11<sup>th</sup> March 2009;
- 10  
11 g. Officer Duhaney at the prison farm noticed the prisoner behaving very  
12 suspiciously on the farm and noted that he was working with a machete. As a result  
13 of the Prisoner’s suspicious behaviour and his disappearance, Officer Duhaney,  
14 closed the prison farm;
- 15  
16 h. The Prisoner made a very determined effort to conceal the blue glove which had  
17 blood and DNA of the deceased in it and the DNA of the Prisoner inside the right  
18 index tip.

19  
20 39. All these factors show a very significant degree of pre-planning and pre-meditation and  
21 this is especially so as the Prisoner was inmate of HMPS Northward at the time.

22  
23 40. I find that the victim endured significant mental and physical suffering which was  
24 inflicted upon her before her death.



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a. There can be no doubt that she received five chop wounds – one to the scalp and the scull, two to her right hand, one to her left forearm, one on her left wrist and hand. There were eight incised wounds – three in the scalp, two in the face, one on the right shoulder, two on the left shoulder.

b. The pathologist, Dr. Shuman said there were at least four defensive injuries. The deceased’s thumb was nearly amputated. The index finger of her right hand was amputated through the middle bone. There was a chop wound on the left side of the deceased’s forearm and to the left wrist and hand of 7.5 centimetres that went through the bone and almost amputated the left hand.

c. I accept the DPP’s submission that this was clearly a terrifying mental ordeal – as well as the victim enduring horrific physical suffering.

d. I find this to be an aggravating circumstance which is exceptional in nature.

41. I also find that the concealment of the deceased’s body is an aggravating factor which delayed the identification of the body for several days.

42. When I consider the previous convictions: I note that the Prisoner has twenty-nine (29) previous convictions. They are for Carrying an Offensive Weapon, Wounding, Assault, Robbery, Damage to Property, Aggravated Burglary, Possession of an unlicensed firearm (ammunition) and some four or five charges of Burglary. I find that these are all relevant to the offence and to the Prisoner.



1 43. I find that the Prisoner inflicted very intense mental and physical suffering on the  
2 victim before her death which was exceptional in nature. Added to this was a  
3 significant degree of planning and pre-meditation, the concealment of the body and the  
4 many relevant convictions of offences of a violent nature.

5  
6 44. When I consider all these aggravating factors together, an increase in the sentence from  
7 the 30 years specified in the Law is merited.

8  
9 45. Therefore, I find that the minimum term of 34 years' imprisonment is appropriate to  
10 satisfy the legislative requirements of retribution and deterrence and rehabilitation.

11  
12 46. The 34 years' imprisonment will start from the date of the defendant's conviction and  
13 sentence on the 26<sup>th</sup> January 2010.

14  
15  
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17  
18 **Dated this 7<sup>th</sup> day of February 2018**

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**Honourable Mr. Justice Charles Quin Q.C.**  
**Judge of the Grand Court**