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**NOTICE TO PARTIES OF THE COURT'S  
MEMORANDUM OF REASONS FOR DECISION**

**SUPREME COURT CRIMINAL APPEAL NO COA2021CR00014**

**OWEN IRVING v R**

**TAKE NOTICE** that this matter was heard by the Hon Mrs Justice McDonald-Bishop JA, the Hon Miss Justice Straw JA and the Hon Mr Justice D Fraser JA on the 27<sup>th</sup> day of February and 1<sup>st</sup> day of March 2023, with Leonard Green and Alex Parkes for the applicant and Miss Natallie Malcolm for the Crown.

**TAKE FURTHER NOTICE** that the court's memorandum of reasons as delivered orally in open court by the Hon Miss Justice Straw JA is as follows:

[1] The applicant, Owen Irving pleaded guilty to the offences of murder and conspiracy to murder on 3 March 2021 in the Trelawny Circuit Court. On 19 March 2021, he was sentenced to 20 years' imprisonment, without eligibility for parole until he had served 15 years in respect of the offence of murder and five years' imprisonment for the offence of conspiracy to murder.

[2] On 12 May 2022, a single judge of this court considered his application for leave to appeal sentence and refused it. The application has been renewed before this court. Counsel for the applicant sought and was granted leave to abandon the original grounds of appeal and to argue one supplemental ground that the sentences imposed are harsh and manifestly excessive and cannot be justified.

[3] The central issue for consideration is whether the learned judge failed to follow the principles of sentencing and thereby imposed a sentence that was manifestly excessive. Counsel for the applicant, in detailed submissions, conceded

that the learned judge did not err in law procedurally when handing down the sentences; neither could it be said that the sentences were manifestly excessive. Counsel for the Crown submitted that the learned judge considered and applied the sentencing principles as set out in **Meisha Clement v R** [2016] JMCA Crim 26 and **Daniel Roulston v R** [2018] JMCA Crim 20. Further, that the sentences were not manifestly excessive and were in keeping with the usual range of sentences for the offences committed and based on the particular facts of the case.

[4] Having considered the submissions and reviewed the transcript of the sentencing hearing, we believe that the concession by counsel for the applicant is warranted. The circumstances of both offences involved the payment of funds for the killing of two individuals. In relation to the murder, one Tamara Geddes was brutally shot and killed in her home. The applicant, in a caution statement, admitted that he was paid \$230,000.00 by one Nadine Geddes, the sister of the deceased, to facilitate the killing of the deceased. This money was paid to a third individual ('the trigger-man') who had agreed to carry out the killing for the sum of \$500,000.00. The trigger-man, who was also arrested, gave a caution statement in which he admitted that the applicant piloted him to the location where the deceased was shot and killed. In relation to the charge of conspiracy, the applicant along with his co-accused, who was also his spouse, received \$500,000.00 from the said Nadine Geddes in order to arrange the killing of Ms Tennisha Miller.

[5] In his sentencing remarks, the learned judge considered and took into account the classical principles of sentencing. He also took into account the early guilty plea of the applicant, aggravating and mitigating factors, and the time spent in pre-sentence remand, before he pronounced the sentences. The learned judge may not have demonstrated his application of the principles in the orderly manner as set out in **Meisha Clement v R** and **Daniel Roulston v R**, but his attempt at applying the prescribed methodology is evident, from a review of the transcript.

[6] In relation to the offence of murder, the learned judge identified a starting point of 25 years, having identified the aggravating and mitigating factors. He then subtracted nine months for the time spent by the applicant in pre-sentence remand, resulting in a sentence of 24 years and three months. In considering the discount to be given for the plea of guilty, the learned judge indicated that he would not be using the percentage discounts set out in section 42E of the Criminal Justice (Administration) Act ('CJAA'), as he was taking into consideration the factors set out at section 42H of the CJAA, that "if I should reduce to an amount, the public would be shocked; [and] [the] circumstances of the offence ...". He therefore used his discretion to reduce the term of imprisonment to 20 years, to account for the guilty plea.

[7] In relation to the conspiracy, the statutory maximum for the offence is 10 years' imprisonment pursuant to section 8 of the Offences Against the Person Act ('OAPA'). The usual starting point is five years and the normal sentencing range is three to eight years. The learned judge applied the same principles as set out above and arrived at a sentencing range between five and six years. He then subtracted nine months for the time spent in pre-sentence custody, and further indicated a subtraction for the guilty plea. In so doing, he stated the term of imprisonment as five years.

[8] This court would only interfere with the sentences if they were "excessive or inadequate to such an extent as to satisfy this court that when [they] [were] passed there was a failure to apply the right principles ..." (per Hilbery J in **R v Ball** (1951) 35 Cr App Rep 164 at page 165).

[9] We do not accept that these sentences are manifestly excessive. The circumstances of the offences are quite disturbing and shocking. In fact, the applicant could have been indicted for murder falling within section 2(1)(e) of the OAPA (circumstances of a contract killing) and would have been liable to be sentenced pursuant to section 3(1)(a) of the OAPA, which provides for a potential

penalty of death or life imprisonment, with a stipulated statutory minimum term of 20 years' imprisonment before eligibility for parole.

[10] In light of all the above, we would refuse this application for leave to appeal against sentence.

[11] The court, therefore, orders as follows:

1. Application for leave to appeal against sentence is refused.
2. The sentences are to be reckoned as having commenced on 19 March 2021, the date on which they were imposed and are to run concurrently.