[2026] JMCA Crim 12

JAMAICA

IN THE COURT OF APPEAL

BEFORE: THE HON MRS JUSTICE FOSTER-PUSEY JA
THE HON MRS JUSTICE DUNBAR GREEN JA
THE HON MRS JUSTICE G FRASER JA (AG)

SUPREME COURT CRIMINAL APPEAL NO COA2019CR00077

KEMAR THOMPSON v R

Oswest Senior-Smith for the appellant

Mrs Kimberly Dell-Williams and Ms Tashell Powell for the Crown

29 September 2025 and 29 May 2026

Criminal law – Illegal possession of firearm – Robbery with aggravation – Murder – Guilty pleas entered after first relevant date but before trial

Sentence – Murder – Whether sentences manifestly excessive – Whether sentencing judge adopted the standard approach to sentencing – Whether the statutory discount regime appropriately applied - Consecutive sentences – Totality principle

FOSTER-PUSEY JA

[1] This is an appeal against the sentences for eight murders to which the appellant pleaded guilty. The appellant faced three indictments simultaneously in court. Indictment HCC 747/2017 involved a single count of murder committed on 4 August 2014. The sentencing judge sentenced the appellant to life imprisonment with a minimum term of 17 years and seven months before parole.

[2] The second indictment, HCC 166/2018, had six counts, including four counts of murder committed on 12 October 2014. The sentencing judge sentenced the appellant to life imprisonment on each count of murder, with a minimum pre-parole period of 40 years.

[3] The third indictment, HCC 746/2017, had three counts of murder committed on 22 October 2014. The sentencing judge sentenced the appellant to life imprisonment on each count of murder, with a minimum pre-parole period of 26 years and seven months.

[4] The sentencing judge then ordered that the sentences for indictments HCC 746/2017 and HCC 747/2017 would run concurrently, but the sentence for HCC 166/2018 would be consecutive to the other two. This resulted in a total minimum pre-parole period of 66 years and seven months.

[5] I rely on the judgment of my learned sister Dunbar Green JA for a detailed outline of the relevant background to the matter.

[6] I agree that the appeal should be dismissed and the sentences imposed by the sentencing judge should be upheld. Although we have identified errors in the sentencing process, as detailed by my learned sister Dunbar Green JA in her comprehensive judgment, I believe that, ultimately, the sentences imposed were not manifestly excessive and the consecutive element included by the sentencing judge is legally justified.

[7] I only differ from my sisters on whether the sentencing judge erred in exercising her discretion to grant discounts, considering the appellant's guilty plea to the indictments related to three (HCC 746/2017) and four (HCC 166/2018) counts of murder, having already granted a discount for the indictment with one count of murder (HCC 747/2017). In my view, the sentencing judge had the authority and discretion to grant discounts for the said guilty pleas (see my reasoning at paras [46]-[62] of **Javone Leslie and Jamelia Leslie v R** [2023] JMCA 60). These are my short comments, as I concur with the order being made by the court.

DUNBAR GREEN JA

Introduction

[8] This appeal concerns the sentences imposed upon the appellant, Kemar Thompson, for eight counts of murder, following his pleas of guilty, on 2 July 2019. He

pleaded guilty to 10 offences in total, including robbery with aggravation and illegal possession of firearm, but those latter offences do not form part of this appeal.

[9] The offences, committed between August and October 2014, resulted in three separate indictments being preferred before the Home Circuit Court.

[10] Concerning the eight counts of murder, on 30 July 2019, the sentencing judge, Shelly-Williams J, imposed life sentences with differing minimum periods to be served before the appellant would become eligible for parole. She further ordered that the minimum pre-parole periods arising from one indictment should be served consecutively to the concurrent minimum pre-parole periods arising from the others, yielding an aggregate minimum pre-parole period of 66 years and seven months.

[11] The appellant has not challenged the imposition of life sentences nor the exercise of the sentencing judge's discretion to order consecutive sentences in the circumstances. His complaint is confined to the length of the minimum pre-parole periods individually and in the aggregate. He contends that the sentencing judge fell into error, both in principle and methodology, rendering the individual sentences and the aggregate sentence manifestly excessive.

[12] Leave to appeal was granted by a single judge of this court, on 16 June 2022, on the basis that the sentencing process disclosed arguable errors. The matter now comes before this court for full consideration.

The indictments and procedural background

[13] Three indictments were before the sentencing judge, each arising from a separate set of events. Although the pleas were taken sequentially (in the order of the dates on which the murders occurred), the sentencing judge elected to commence sentencing with the indictment containing four counts of murder and the two ancillary offences which occurred second in time. That sequencing has become one of the central issues in this appeal.

[14] The three indictments may be summarised as follows.

(i) Indictment HCC 747/2017

[15] This indictment, containing a single count, charged the appellant with the murder of Carlton "Selly Selly" Blake ('the first murder') committed, on 4 August 2014, in Bog Walk, Saint Catherine.

(ii) Indictment HCC 166/2018

[16] This indictment, containing six counts, charged the appellant with one count of illegal possession of firearm, one count of robbery with aggravation, and four counts of murder arising from the deaths of Courtley Cobourne, Craig Harris, Carlton Scott, and Kirk Foote, on 12 October 2014 ('the second set of murders'). These offences stemmed from a violent robbery and ambush perpetrated along Highway 2000 in Saint Catherine.

(iii) Indictment HCC 746/2017

[17] This indictment contains three counts of murder arising from the deaths of Maltie Taylor, Patrick Cummings, and Norman Nolan, all of whom were killed on 22 October 2014 ('the third set of murders') in Pineapple Lane, Bog Walk, Saint Catherine.

Sentences imposed

[18] On 30 July 2019, the sentencing exercise resulted in the imposition of life sentences and substantial minimum pre-parole periods across the three indictments. Firstly, in relation to HCC 166/2018, which comprised offences of illegal possession of firearm, robbery with aggravation, along with the second set of murders, the sentencing judge ordered life imprisonment with parole eligibility after 40 years on each count of murder. Secondly, under HCC 747/2017, concerning the first murder, the sentence was life imprisonment with a minimum pre-parole period of 17 years and seven months. Finally, in respect of HCC 746/2017, which involved the third set of murders, the sentencing judge imposed life imprisonment with a minimum of 26 years and seven months before eligibility for parole on each count.

[19] The sentencing judge directed that the sentences imposed under indictment HCC 746/2017, which concerned three murders, and indictment HCC 747/2017, which concerned a single murder, should be served concurrently. However, the sentences imposed under indictment HCC 166/2018, comprising four murders together with the robbery and firearm offences, were ordered to run consecutive to the previous sentences.

[20] The sentencing judge stated that the aggregate minimum pre-parole period was 60 years and seven months. However, as the transcript and computations reveal, the correct aggregate is 66 years and seven months. Nothing now turns on that misstatement. What is before this court is the appropriateness and proportionality of the individual and aggregate minimum pre-parole periods.

The factual background

[21] The factual circumstances forming the basis of each indictment are both grave and distinct. They are set out here in full, as the seriousness and characteristics of each set of facts bear heavily on the sentencing analysis.

(i) The first murder — Carlton "Selly Selly" Blake (HCC 747/2017)

[22] On the morning of 4 August 2014, at approximately 6:45, the principal eyewitness left her home in Bog Walk to purchase an item at a nearby shop. Upon reaching the entrance to Pineapple Lane, she heard a male voice utter the words "now or never". She recognised the voice as belonging to Nigel Luxborough, a person known to her. She then observed the appellant, whom she also knew, standing near the now deceased, Carlton Blake.

[23] The witness further stated that she saw the appellant pull a firearm from the waist of his pants and point it at the deceased. At that moment, she fled the scene. While running, she heard gunshots emanating from the direction where she had earlier seen the appellant and the deceased together. Approximately one hour later, she observed the deceased lying face down in a pool of blood.

(ii) The second set of murders - four murders on Highway 2000 (HCC 166/2018)

[24] On 12 October 2014, Messrs Scott, Harris and Cobourne were travelling in a motor vehicle, along Highway 2000 in the parish of Saint Catherine, when they were ambushed by the appellant and his accomplices. The men were shot at close range with a firearm or firearms, and approximately $1,500,000.00 in payroll cash, intended for construction workers, was stolen. During the incident, a truck driver, Kirk Foote, who came upon the scene, was also shot and killed.

(iii) The third set of murders - three murders in Pineapple Lane (HCC 746/2017)

[25] On 22 October 2014, a witness reported hearing explosions sounding like gunshots emanating from the direction of Pineapple Lane Square. She saw the appellant brandishing a firearm and running behind a man known to her as "Barber". Barber turned into a yard, while the appellant continued into a nearby lane. Shortly afterwards, she saw the appellant behind a house which she described as Mr Brown's house. At that moment, she heard another explosion and saw the appellant holding a gun. It was pointed downward with smoke coming from its muzzle. The appellant stepped over a fence and ran behind a chicken coop. It was then that the witness noticed a Rastafarian man lying face down behind Mr Brown's yard where the appellant had previously stood. Subsequent investigations confirmed that Maltie Taylor, Patrick Cummings and Norman Nolan were killed during the incident.

[26] Thus, within a period of less than three months, the appellant murdered eight individuals in three separate incidents, one involving an apparently planned ambush and robbery with aggravation and, as will become apparent later in this judgment, two others involving reprisals. He eventually gave a video-recorded caution statement and pleaded guilty to all offences.

The appeal

[19] At the hearing of the appeal, the appellant received the court's permission to abandon the grounds of appeal, filed 13 August 2019, in Criminal Form B1, and, instead,

rely on a single ground, filed with skeleton arguments and a list of authorities, on 25 September 2025. Counsel for the appellant, Mr Oswest Senior-Smith, indicated that he was not relying on submissions filed by other counsel on behalf of the appellant on 20 February 2023. The appellant also relied on additional submissions, filed 3 October 2025, with the court's permission.

[27] The sole ground of appeal advanced by the appellant is that both the individual minimum pre-parole periods and the aggregate minimum pre-parole period are manifestly excessive due to the sentencing judge's erroneous approach to the sentencing exercise, including how she applied the consecutive element to the sentences.

The issues on appeal

[28] While the appellant does not dispute the imposition of life sentences or the decision to apply a consecutive element to the sentences, he contends that the sentencing judge failed to adhere to the established sentencing methodology, misapplied or disregarded relevant statutory provisions, adopted inappropriate starting points, and neglected the 'totality principle' in ordering consecutive terms. It, therefore, falls to this court to determine whether the sentencing exercise miscarried in a manner requiring appellate intervention.

[29] From the single ground advanced, six discrete questions emerge. First, whether the sentencing judge properly applied the structured approach outlined in **Meisha Clement v R** [2016] Crim 26 and refined in **Daniel Roulston v R** [2018] JMCA Crim 20. Second, whether she erred in commencing the sentencing exercise with the second set of convictions rather than the first. Third, whether the application of a 50-year starting point for the second set of murders was outside the range typically sanctioned by this court. Fourth, whether the minimum pre-parole periods imposed are manifestly excessive. Fifth, whether the sentencing judge adequately considered the 'totality principle' when applying the consecutive element to the sentences. Finally, whether the aggregate minimum pre-parole period of 66 years and seven months is, in all the circumstances, manifestly excessive.

Submissions for the appellant

[30] Mr Senior-Smith, on behalf of the appellant, submitted that the sentencing judge materially departed from the accepted principles of sentencing. Counsel argued that she failed to identify the usual range of sentences applicable to the offences and did not explain how the starting points selected reflect the degree of culpability associated with each. He further contended that the sentencing judge did not demonstrate how the aggravating and mitigating factors were weighed, contrary to the structured guidance set out in **Meisha Clement v R** and **Daniel Roulston v R**.

[31] Counsel emphasised that the appellant had provided a video-recorded caution statement, cooperated with the authorities, and significantly reduced judicial time by pleading guilty to eight murders and two other offences. By doing so, he spared more than a dozen civilian witnesses and approximately 20 police officers from the trauma and logistical burdens of multiple trials. Counsel contended that the sentencing judge failed to give these matters proper weight, particularly in the light of section 42 of the Criminal Justice (Administration) (Amendment) Act ('the CJAA'), which expressly encourages guilty pleas.

[32] It was further submitted that the sentencing judge failed to adequately consider the mitigating circumstances. These included the appellant's youth, being 23 years at the time of the offences, the absence of prior convictions, his history of gainful employment, the favourable aspects of his social enquiry report, and his potential for rehabilitation.

[33] Counsel also argued that the sentencing judge fell into error by sentencing the appellant first on the four murders arising under indictment HCC 166/2018, and using a starting point of 50 years, rather than beginning with the single murder committed first in time. He contended that this error was "substantive rather than merely formal", since the first murder fell under section 2(2) of the Offences Against the Person Act ('OAPA'), and the starting point could not lawfully exceed 30 years once a guilty-plea discount was being contemplated in relation to the minimum pre-parole periods.

[34] Counsel referred to **Quacie Hart v R** [2022] JMCA Crim 70, where this court indicated that an appropriate starting point, in that case, fell within the range of 15 - 25 years. He submitted that, given the appellant's circumstances, a starting point of 25 years was likewise appropriate in the instant case.

[35] On the issue of the guilty-plea discount, counsel accepted that the statutory maximum is 25%, as the pleas were entered after the first relevant date but before the commencement of trial. He, nevertheless, submitted that a discount of 20 % would have been appropriate.

[36] Having balanced the aggravating and mitigation factors and applied both the guilty-plea discount and credit for time spent on pre-trial remand, counsel submitted that the appropriate minimum pre-parole period should be 17 years and seven months.

[37] Turning to the second set of murders, counsel argued that the 50-year starting point applied by the sentencing judge exceeded the usual range of minimum pre-parole periods ordinarily recognised by this court for multiple murders. He cited several authorities, including **Roderick Fisher v R** (unreported), Court of Appeal, Jamaica, Supreme Court Criminal Appeal No 49/2006, judgment delivered 21 November 2008, and **Paul Murphy v R** [2013] JMCA Crim 32, in which the upper range of minimum pre-parole periods for multiple murders is 45 years. In the light of these authorities, counsel submitted that an appropriate starting point for the second set of murders is 35 years. After balancing the aggravating and mitigating factors, he argued that a minimum pre-parole period of 38 years is appropriate across the counts.

[38] As regards the third set of murders, counsel accepted that the minimum pre-parole periods imposed by the sentencing judge are not excessive.

[39] Counsel further acknowledged that the appellant had no viable challenge to the imposition of a consecutive element to the sentences but submitted that the sentencing judge failed to properly apply the 'totality principle' when arriving at the aggregate minimum pre-parole period. In counsel's estimation, the aggregate minimum pre-parole

period produced by a proper application of the law would be 55 years, rather than the 66 years and seven months imposed.

[40] The question of whether discounts could properly be applied to subsequent counts of murder was raised both in oral argument and, at the court's invitation, in additional written submissions. Counsel conceded that the sentencing judge erred in applying statutory discounts to later murder counts, submitting that such offences were not eligible for reduction under the CJAA. He, nevertheless, argued that the common law recognised the utilitarian value of guilty pleas, permitting discounts on subsequent counts in acknowledgement of the saving of judicial resources and the avoidance of trauma to witnesses, citing **Javone Leslie and Jamelia Leslie v R** [2023] JMCA 60. In his written submissions, counsel further posited that section 42C of the CJAA does not expressly prohibit the application of common law discounts in these circumstances, and that absent such prohibition, the discretion to afford a reduction survived.

Submissions for the Crown

[41] Mrs Dell-Williams, for the Crown, filed detailed written submissions and supplemented them with oral arguments. Counsel accepted that the sentencing judge did not follow the standard sentencing methodology, as she failed to sufficiently articulate the applicable normal sentencing ranges, the impact of aggravating and mitigating factors, and the reasoning behind her starting points. Counsel also acknowledged that the sentencing judge erred by commencing with the second set of convictions rather than the first.

[42] However, counsel submitted that in sentencing for the subsequent murders, the sentencing judge was dealing with what is commonly referred to as "capital murders" by reason of the appellant's prior conviction for murder, pursuant to section 3(1A) of the OAPA. Counsel submitted that for multiple murders, a sentence of death or life imprisonment with a minimum pre-parole of not less than 20 years is permissible.

[43] Regarding the first murder, which fell under section 2(2) OAPA, counsel submitted that section 3(1C) (b), which mandates either life imprisonment with a minimum pre-parole period of 15 years or a determinate sentence with eligibility for parole after 10 years, applies. Counsel also accepted that, under section 42F CJAA (this provision has since been revised by a 2025 amendment), the maximum starting point where a guilty-plea discount is being contemplated on the minimum pre-parole, cannot exceed 30 years.

[44] Citing **Jowayne Alexander v R** [2022] JMCA Crim 64, and section 3(1)(b) of the OAPA, counsel further submitted that subsequent counts of murder usually attract substantial increases in the minimum pre-parole period. Additionally, she submitted that neither statutory discounts nor credit for pre-trial remand is available in cases of subsequent murder convictions.

[45] On the question of parity, counsel submitted that the sentences imposed in relation to each indictment did not transgress the principle and were broadly consistent with comparable cases. She relied on authorities, including **Peter Dougal v R** [2011] JMCA 13, **Christopher Edgehill v R** [2012] JMCA Crim 29, **Jeffrey Perry v R** [2012] JMCA Crim 17, **Roderick Fisher v R** and **Paul Murphy v R** [2013] Crim 32.

[46] On the issue of whether common-law discounts may be applied to subsequent murders, counsel adopted a nuanced position. Citing the majority in **Javone Leslie and Jamelia Leslie v R** (Dunbar Green JA dissenting), she submitted that the statutory framework did not expressly abrogate the common-law discretion to give discounts for guilty pleas, in cases where statutory discounts did not apply. However, she acknowledged that the legislative history of the CJAA, including the memorandum of objects and reasons, could support the contrary view that Parliament intended to exclude any form of discount for multiple convictions of murder.

[47] Counsel further submitted that the consecutive order was proper and consistent with the guidance in **Kirk Mitchell v R** [2011] JMCA Crim 1, especially given that the murders occurred on separate occasions and arose from distinct episodes of criminality.

[48] While acknowledging errors in the sentencing methodology, counsel nevertheless maintained that the sentences imposed were, in all the circumstances, not manifestly excessive.

Analysis and disposal of the ground of appeal

Review powers of this court

[49] The settled position is that this court will not interfere with the sentence imposed at first instance unless it is demonstrated to be excessive or inadequate, such that there must have been a failure to apply the right principles (see **R v Ball** (1951) 35 Cr App Rep 164, 165).

[50] In **Meisha Clements v R**, at para. [43], Morrison JA (as he then was) set out the guiding principles in the following terms:

> "[43] [T]his court's concern is to determine whether the sentence imposed by the judge (i) was arrived at by applying the usual, known and accepted principles of sentencing; and (ii) falls within the range of sentences which (a) the court is empowered to give for the particular offence, and (b) is usually given for like offences in like circumstances. Once this court determines that the sentence satisfies these criteria, it will be loath to interfere with the sentencing judge's exercise of his or her discretion."

[51] At para. [29] in **Jermaine McIntosh v R** [2020] JMCA 28, Morrison P reaffirmed that this court should not lightly interfere with sentencing unless the judge "(i) departed from the accepted principles of sentencing; and (ii) imposed a sentence outside of the range of sentences which the court is empowered to give, or the usual range of sentences imposed in like cases". Importantly, he observed that while errors in principle by a

sentencing judge may justify appellate intervention, they do not automatically result in the sentences being set aside on the basis that they are manifestly excessive.

[52] In addressing the issues before us, the court is guided by the statutory framework governing sentencing for murder, namely, sections 2 and 3 of the OAPA. Consideration must also be given to the discount regime established by section 42 of the CJAA as well as the principles articulated in relevant appellate decisions, including **Meisha Clement v R**, **Daniel Roulston v R**, **Quacie Hart v R**, **Javone Leslie and Jamelia Leslie v R, Jowayne Alexander v R**, **Paul Brown v R** [2019] JMCA Crim 3, and **Kirk Mitchell v R**. The Sentencing Guidelines for use by Judges of the Supreme and Parish Courts, December 2017 ('the Sentencing Guidelines') also provide an important reference point.

Sub-issue (i): whether the sentencing judge erred in failing to apply the settled principles in sentencing

The established sentencing approach

[53] In view of the submissions on behalf of the appellant, I must briefly remind myself of the statutory and sentencing framework which applied at the date of conviction. The primary statutory framework governing sentencing for murder is set out in sections 2 and 3 of the OAPA. Section 2 distinguishes between murder falling under subsection (1), which attracts the most serious penalties, and murder under subsection (2), which carries life imprisonment or a determinate sentence of not less than 15 years.

[54] Section 3(1A) applies where a person convicted of murder has previously been convicted of another murder, whether on the same occasion or a different one. In such cases, the sentencing options are death or life imprisonment, and the statutory minimum pre-parole period is not less than 20 years.

[55] It should be apparent that the murders, in the instant case, fall in both categories.

[56] The sentencing framework is outlined in the Sentencing Guidelines, judicially affirmed in **Meisha Clement v R**, and later refined in **Daniel Roulston v R**. In the latter, this court outlined the following steps to be followed by a sentencing judge:

i) Identify the sentence range;

ii) Identify the appropriate starting point for the particular case, taking into account the relevant range;

iii) Consider the relevant aggravating factors;

iv) Consider the relevant mitigating factors (including personal mitigation);

v) Consider, where appropriate, any reduction for a guilty plea;

vi) Decide on the appropriate sentence, giving reasons; and

vii) Give credit for time spent in custody awaiting trial (where applicable).

The sentencing judge's sentencing approach

[57] In her sentencing remarks, the sentencing judge stated the following:

> "I have heard the plea in mitigation …where your lawyer indicates that maybe because of your upbringing, maybe because of your father, you did not get to go to school. I have read the Social Enquiry Report that you had stopped going to school from grade six but through it all I see no reason for you having committed eight murders. Eight. All right I will start with 166 (indictment HCC 166/2018), where it is four murders. For illegal possession of firearm, you get 10 years. …Count two is robbery with aggravation, you get 10 years. Count three murder, you get 50 years. I am sorry. I start at 50 years in relation to the murders. That is for count one…sorry, let me start over. In relation to counts three, four, five and six, for murders I am starting at 50 years. For your guilty pleas you get a 10% discount which is five years. You have been in custody I will roll it to five years. Although it is a little short, I will [sic] to five years. I note that you have no previous convictions and you have a very good social enquiry report but I am not making any further reductions in relation to facts. So for each count, counts 3, 4, 5 and 6 you get 40 years.

> In relation to -- 47 of 2017 [indictment HCC 747/2017]. It is the case of one murder. I start at 25 years and you get a reduction of five years for the time in custody which brings it down to twenty years. You get a 10% discount which is two years five months [should be two years], that gives you 17 years seven months. So, it is 17 years seven months.
>
> All right. In relation to 746 of 2017 [indictment HCC 746/2017], which is the case of three murders counts one, two and three. I start at 35 years. You get a 10 % --you get the five years discount because you have been in custody which takes it down to 30 years. You get a 10% discount which is three years and five months, that takes it down to 26 years and seven months. Alright, you get no further reductions in relation to this. I note that you have no previous convictions and that your social enquiry report was good. This on the fact that we are talking about eight murders. I am not giving you any further reductions. I will go concurrently.
>
> …So, in fact…let me be clear as to what my sentences are and I will start again. In relation to 747 you get 17 years seven months…When I say 17 years it is life imprisonment –17 years seven months before the possibility of parole…In relation to 747 [Sic – This should have been 746], it is life imprisonment for count one, two and three but it is twenty-six years and seven months before the possibility of parole on each count…
>
> In relation to 166 it is ten years for illegal possession of firearm, ten years for robbery with aggravation. In relation to counts 3,4, 5 and 6 it is life imprisonment and 40 years before the possibility of parole on each count. 166 is to run consecutive to 746 and 747 but 746 and 747 are to run concurrently. So, you get 60 years and seven months [should have been 66 years and seven months] before the possibility of parole."

Analysis

[58] Having reviewed the transcript of the sentencing hearing, it is evident that the sentencing judge did not follow the structured framework outlined in **Meisha Clement v R** or **Daniel Roulston v R**. There was no identification of the normal sentencing ranges applicable to the categories of murder before the court. Further, she announced starting

points without articulating the basis for their selection or their relationship to comparative authority. She also failed to explain how the aggravating and mitigating factors influenced the selection of those starting points.

[59] Of particular concern was her refusal to apply any mitigating weight to the appellant's previously unblemished record and the favourable aspects of the social enquiry report, on the basis that there were "eight murders". Although the number of murders is undoubtedly a significant aggravating factor, it does not, in principle, nullify all mitigation. The approach taken by the sentencing judge suggests a conflation of the gravity of the offences with the mitigation properly attributable to the offender, contrary to established sentencing practice.

[60] In addition, the sentencing judge applied a discount for the guilty plea across all instances of murder without apparent regard to section 42C of the CJAA, a matter to which I will return later. Further, she applied a credit for time spent in pre-trial custody across the three indictments, although the periods of remand for the three sets of offences overlapped.

[61] The sentencing judge's overall approach lacked the structure, transparency and statutory fidelity required in a case of this gravity. This court, therefore, finds that the sentencing judge erred in principle when undertaking the sentencing exercise.

Issue (ii): Whether the sentencing judge erred by imposing sentences for the second set of convictions first

Issue (iii): Whether the sentencing judge erred in using a starting point of 50 years for the second set of murders

[62] These two complaints are best considered together, as the sequencing of the sentencing exercise and the use of a 50-year starting point are intertwined. The order in which the indictments were addressed determined whether the statutory framework governing guilty-plea discounts, under section 42F of the CJAA, was engaged at the outset, and that in turn influenced the starting point selected for the subsequent murders.

[63] A central complaint raised by the appellant is that the sentencing judge began her sentencing exercise with the second indictment, HCC 166/2018, containing the four counts of murder rather than with the first murder committed chronologically, namely the killing of Carlton Blake on 4 August 2014. This sequencing, it was submitted, materially affected the application of the statutory framework governing guilty-plea discounts. The argument has some merit.

[64] The first murder fell under section 2(2) of the OAPA. For such murders, where a sentencing judge is contemplating a guilty-plea reduction under section 42E of the CJAA, section 42F (as it was then) expressly provides that life imprisonment is to be deemed a term of 30 years for the purpose of calculating any discount. This legislative fiction places a statutory ceiling on the starting point for determining a minimum pre-parole period applicable to a section 2(2) murder where a guilty plea is offered, and life imprisonment is being contemplated by the sentencing judge. Thus, if a sentencing judge intends to apply a statutory discount, the starting point, as well as the minimum pre-parole period, cannot lawfully exceed 30 years.

[65] In **Quacie Hart v R** McDonald-Bishop JA (as she then was) observed:

> "[39] Parliament has, therefore, created a statutory fiction by treating a term of 30 years as life imprisonment for the purpose of calculating a reduction of a sentence when life imprisonment is imposed.
>
> [40] The implication and application of this deeming provision have been explained in several cases from this court, starting most notably with Lincoln Hall v R [2018] JMCA Crim 17. In that case, Morrison P, in commenting on section 42F of the CJAA, stated:
>
> > '[18] In the case of a sentence of life imprisonment, this naturally begs the question of how to approach the calculation of the actual level of discount for the guilty plea. This is the very question which section 42F seeks to address…

> [19] So the problem of calculation of a percentage of a sentence of indeterminate duration is resolved by resort to a deeming provision, essentially a statutory fiction by which something is decreed to be other than it is for some particular purpose (see R v Verrette [1978] 2 SCR 838, per Beetz J at page 845)...
>
> [20] In this case, there can in our view be no doubt that, had the appellant been tried and convicted for the murder for which he was charged, the court would have imposed a sentence of life imprisonment... Accordingly, as it seems to us, the required approach to the calculation of the reduction in the appellant's sentence on account of his guilty plea would have been to treat the term of life imprisonment which the sentencing judge had in mind as though it were a sentence of 30 years' imprisonment.
>
> [21] That having been done, the next step is to determine the actual percentage by which the sentence should be reduced within the range indicated in section 42E(2)(b)…'."

[66] It follows that sentencing of the appellant must proceed in a manner that acknowledges this statutory requirement. If the sentencing judge had begun with the first murder committed, she would necessarily have had to confront section 42F at the outset. However, by sentencing first on the second set of murders, where the statutory discount regime did not apply, she used a starting point of 50 years without engaging with the statutory cap applicable to the earlier offence.

[67] That said, I recognise that when she got around to considering the first murder, she used a starting point and imposed a minimum pre-parole period that was consistent with section 42F. In the result, the appellant suffered no undue prejudice from the re-ordering of the indictments.

[68] The appellant further challenges the 50-year starting point in relation to the second set of murders. This court has consistently indicated that, even in the gravest cases involving multiple murders, after trial, minimum pre-parole periods generally fall between

25 and 45 years. Authorities such as **Paul Brown v R**, **Jeffrey Perry v R** and **Roderick Fisher v R** illustrate that range. In **Paul Brown v R**, the applicant, convicted of murder, contended that the sentence of life imprisonment, with a minimum period of 35 years before eligibility for parole, was manifestly excessive. This court determined that the appropriate minimum period before parole was 23½ years, after deducting the time the applicant had spent in pre-trial custody. In **Jeffrey Perry v R**, the appellant was convicted of three counts of murder involving children. He was initially sentenced to death, but that sentence was commuted on appeal. He was then resentenced to concurrent life terms with a minimum term of 45 years to be served before eligibility for parole. In **Roderick Fisher v R**, the appellant was convicted of three counts of murder and sentenced to death on 6 June 2000. On 26 August 2006, he was resentenced to life imprisonment, with a minimum term of 40 years before eligibility for parole. His sentence was subsequently affirmed on appeal.

[69] Against that background, a starting point of 50 years for the second set of murders lies outside the usual bracket and, therefore, required cogent reasoning. The sentencing judge did not explain why she departed from the range recognised by this court, except to say there were eight murders. While that is true, it appears to have been overlooked that the murders were not committed at the same time, and that the pleas were likely taken together only for reason of convenience.

[70] It is accepted that the second set of murders was exceptionally serious, marked by features more egregious than those in the several precedents cited. The appellant had already committed a murder two months earlier; the Highway 2000 ambush involved four victims, including an innocent passer-by; and it was executed with at least one firearm, accompanied by robbery, and involved multiple perpetrators. These features justify a starting point at the upper end of the recognised range or even above. However, in the absence of any further explanation, by the sentencing judge, the use of a 50-year starting point was flawed in principle.

[71] The appellant, therefore, succeeds on both complaints. The sequencing error meant that the then statutory cap of 30 years was not engaged at the outset, and the 50-year starting point exceeded the range ordinarily recognised by this court without adequate justification. The practical effect of these errors will be addressed in this court's fresh analysis of the minimum pre-parole periods imposed by the sentencing judge.

Issue (iv): Whether any error rendered the minimum pre-parole periods excessive

[72] The errors identified above necessitate a fresh examination of the minimum pre-parole periods. However, the mere presence of error does not mandate reduction. The court must determine whether, upon a proper analysis, the minimum pre-parole periods imposed fall outside an appropriate range. It is, therefore, necessary to turn to a re-calculation of the pre-parole periods, conducted in accordance with the established methodology, guided by the statutory provisions and comparative authority.

The appellant's antecedents and the social enquiry report

[73] A social enquiry report and an antecedent report were before the sentencing judge. They disclose that the appellant grew up in the same community where at least four of the deceased resided. As a child, he lived with his father and an aunt. His schooling ended at grade six, and he was described as barely literate.

[74] The appellant attributed his criminal actions to the influence of a community "Don" who allegedly sought to control the movement and activities of young men in the area. He stated that he bore no remorse for seven of the eight murders because those deceased were, in his view, affiliated with the Don, and that three or four of them had intended to kill him. The other three, he suggested, had either caused or influenced the death of two of his cousins. Concerning the first murder, he alleged that the deceased had shot at him the night before. Regarding the murders on the highway, he expressed no remorse for the three men in the motor vehicle but stated that the death of the truck driver, Mr Foote, was unfortunate, his being "in the wrong place at the wrong time".

[75] The community's perception of the appellant was divided. Some regarded him as susceptible to criminal influences, while others expressed fear of him. Prior to these offences, he had been employed as a 'higgler' and labourer. Importantly, at the time of the first murder, he had no previous convictions. He was 23 years old when he committed the murders and subsequently spent four years and eight months on pre-trial remand.

Re- calculation of the minimum pre-parole periods for the first murder conviction

[76] Mr Senior-Smith submitted that the appropriate minimum terms should be: 17 years and seven months for the first murder, 38 years for the second set and 26 years and seven months for the third set. He proposed that the terms of 26 years and seven months and 38 years should be served concurrently, with the 17 years and seven months to be served consecutively. On this calculation, the aggregate minimum pre-parole period would be 55 years and seven months.

[77] Mrs Dell-Williams, on the other hand, recommended 21 years and eight months for the first murder, 32 years and six months for the second set and 38 years and nine months for the third set. Her position was that the terms 21 years and eight months were to be served concurrently with 38 years and nine months, and those terms were to run consecutive to 23 years and six months. This yielded a total of 71 years and three months. After deducting the five years spent in custody, her calculation produced a minimum pre-parole period of 66 years and five months' imprisonment.

[78] I will now consider the appropriateness of the minimum pre-parole periods imposed by the sentencing judge.

Indictment HCC 747/2017 — The first murder

[79] As previously indicated, this indictment concerns the earliest murder chronologically, namely the killing of Carlton "Selly Selly" Blake on 4 August 2014. This offence falls within the ambit of a section 2(2) murder.

[80] Having regard to the authorities, including section 3(1)(b) of the OAPA, section 42 of the CJAA, and decisions from this court, an appropriate range for a section 2(2) murder is between 15 and 29 years before parole eligibility (see **Lincoln Hall v R** [2018] JMCA Crim 17 and **Quacie Hart v R**). In the latter case, the offender, who pleaded guilty to stabbing a schoolboy aboard a bus, received a reduced minimum pre-parole period of 20 years after a starting point of 19 years, on appeal. The life sentence itself was not disturbed.

[81] In the instant case, Mr Blake was shot in broad daylight. The appellant used a firearm at close range in a public place, and the attack appeared deliberate and retaliatory. The Sentencing Guidelines indicate that the starting point must reflect the intrinsic seriousness of the conduct. A starting point of 26 years properly reflects these features. Moreover, the level of premeditation and the prevalence of murders of this nature justify an upward movement of the starting point to somewhere in the region of 29 years.

[82] The mitigating factors include the appellant's youth (23 years at the time of the offence), his absence of prior convictions, favourable elements of his social enquiry report, and his cooperation with the police by way of a recorded caution statement early in the investigation. A reduction to somewhere in the region of 26 years properly accounts for these factors.

[83] The appellant pleaded guilty after the first relevant date but before trial. In determining the appropriate reduction, I have considered the eligibility provision under section 42E (a maximum of 25 % in this case), the guiding factors under 42H of the CJAA, the Sentencing Guidelines and established principles. Taking into account the statutory minimum pre-parole period, the features of the killing and the appellant's personal mitigation, I believe a 15% discount is appropriate. This yields a minimum pre-parole period in the region of 22 years.

[84] Consistent with the numerous authorities, including **Callachand and Anor v The State of Mauritius** [2008] UKPC 49, I apply a credit for the four years, and eight months spent in custody awaiting trial, which reduces the minimum pre-parole period to somewhere in the region of 17 years and five months. That minimum pre-parole period corresponds with that imposed by the sentencing judge.

[85] The minimum pre-parole period imposed in relation to the murder in this indictment was, therefore, not manifestly excessive and requires no adjustment.

Indictment HCC 166/2018 — The four highway murders

[86] The gravity of this set of circumstances cannot be overstated. It involved multiple perpetrators, an organised ambush with at least one firearm, four murders committed during a robbery, and the execution of a passer-by without motive. The appellant had already committed a murder two months earlier, thereby engaging section 3(1A) of the OAPA. The statutory minimum pre-parole period is 20 years. Precedents involving multiple murders place the uppermost part of the range at 45 years.

[87] **Jowayne Alexander v R** affirms that subsequent murders should attract higher sentences. In that case, this court imposed concurrent life sentences with minimum pre-parole periods of 22 years for count one and 32 years for count two, using the statutory minimum as a guide but recognising the enhanced gravity of the second offence. These were, however, after a trial.

[88] I note that in **Jowayne Alexander v R**, the starting point for the second murder was 25 years. Considering the prior conviction, the multiple victims and the simultaneous commission of two other serious offences, the instant case is obviously more serious than **Jowayne Alexander v R**. Therefore, an appropriate starting point is 45 years.

[89] Aggravating circumstances, including the public highway setting, the brazenness of the attack, the callousness of the killings, particularly that of Mr Foote, and the prevalence of murders raise the starting point to 50 years. Mitigating factors, such as co-operation with the police in admitting involvement, evidence of previous gainful

employment and expression of remorse for the killing of Mr Foote, justify a modest reduction to 47 years. The appellant's age would have less mitigating value after the first murder. Also, there could be no reduction for a clean record now that he has a previous conviction for murder.

The statutory discount regime and its application to the second set of murders (also applicable to the third set of murders to be considered later in this judgment)

[90] This brings us to a central component of this appeal: the operation of the discount regime, under section 42 of the CJAA, particularly sections 42C, 42E, and 42F, and its interaction with sentencing for multiple murders under sections 2 and 3 of the OAPA.

[91] Section 42E governs discounts for guilty pleas for murders falling under section 2(2) of the OAPA. Where the guilty plea is entered after the first relevant date but before trial, the maximum allowable discount is 25%, calculated on the sentence or minimum pre-parole period. Section 42F mandates that, in such cases, life imprisonment must be treated as a term of 30 years for the purpose of calculating the reduction. This creates a statutory ceiling, ensuring uniformity and preventing inflation of the starting point beyond the regime's scope (see **Quacie Hart v R**). As indicated earlier, this provision applies to the first murder only.

[92] More to the point, section 42C, however, expressly excludes the statutory discount regime from murders to which section 3(1A) of the OAPA applies (the subsequent murders). Where an offender is convicted of murder having previously been convicted of another, Parliament has determined that the utilitarian benefits of guilty pleas should not reduce the penalty. I, therefore, cannot accept Mr Senior-Smith's argument that the appellant is entitled to a discount at common law because of any utilitarian benefit to the justice system occasioned by his pleas of guilt to the subsequent murders.

[93] The clarity of section 42C leaves no doubt: only the first murder conviction in a case involving multiple murders may attract a statutory discount. Subsequent murders may not.

[94] The sentencing judge did not refer to section 42C or acknowledge the legislative bar. Instead, she applied a 10% discount to the minimum pre-parole period across all eight murder convictions. This was an error of law. While judges retain a common law discretion to treat genuine remorse, including that evidenced by a guilty plea, as mitigation, such discretion cannot override a statutory prohibition on discounts. The legislative scheme occupies the field and must be applied faithfully.

[95] Moreover, the sentencing judge appeared to have treated the guilty plea as a factor of uniform weight across all indictments. This was inconsistent with the statutory framework, which differentiates sharply between section 2(2) and section 3(1A) murders.

[96] Counsel referred to **Javone Leslie and Jamelia Leslie v R** as authority for recognising the utilitarian benefits of guilty pleas at common law where the statutory regime does not apply. However, **Jason Gray v R** [2025] JMCA Crim 22 and, more recently, **Adrian Campbell and Ors v R** [2026] JMCA Crim 2 cast considerable doubt on that position, by departing from it while emphasising that courts must not re-introduce discounts through the common law where Parliament has expressly excluded them.

[97] Thus, Edwards JA, concurring with Dunbar Green JA and G Fraser JA, in **Adrian Campbell and Ors v R**, concluded: "The approach in **Javone Leslie and Jamelia Leslie v R** circumvents a valid legislative prescription, and, respectfully, it ought not to be followed".

[98] Similarly, Kirby J in **Cameron v The Queen** [2002] HCA 6, a decision from the High Court of Australia, observed: "…It is the first obligation of the sentencing judge to conform to [the] legislation. No rule of the common law, nor any judicial practice, may contradict valid legislative prescriptions".

[99] Further, with the concurrence of Edwards JA and G Fraser JA, Dunbar Green concluded, at para. [150], in **Adrian Campbell and Ors v R**:

> "It would …be incongruous for judicial discretion to operate in circumstances where the statutory regime is designed

> expressly to withhold its application. This would be to re-introduce the very absence of structure that the CJAA was designed to eliminate. There is nothing to suggest that this was the intention of Parliament. The CJAA marked a deliberate departure from the state of uncertainty where the extent of the allowable discount for a guilty plea had never been fixed. It would further be incongruous for Parliament to regulate with precision the sentencing discounts applicable to lesser offences, such as theft, yet leave the treatment of multiple murders to the vagaries of judicial discretion."

[100] It follows that the sentencing judge erred in granting discounts for the subsequent murders. Neither statute nor common law provided any basis for such reductions, and the uniform application of discounts across all eight convictions was plainly wrong.

[101] As discussed in **Adrian Campbell and Ors v R**, it might, nevertheless, be considered in an appropriate case, whether the guilty plea was the culmination of genuine remorse or early admission of culpability and voluntary co-operation with the investigation, in which case the guilty plea could have some mitigating effect. At para. [56] of that judgment, this court stated the accepted position thus:

> "A plea of guilty always serve, at the very best, the basic purpose of acknowledging responsibility, and saving time and expense. However, with the passing of the legislation which now governs the treatment of discounts for guilty pleas, the fact of a guilty plea by itself, will not be sufficient, at common law, to be considered a mitigating factor. However, there may be circumstances where the plea of guilty was the culmination of a demonstrated posture of genuine remorse or followed upon the defendant's early admission of culpability and voluntary co-operation with the investigation. In such a case, even though a percentage discount on the appropriate sentence would shock the public conscience, or is not allowed under the statute, the plea of guilty, in such circumstances, could be treated as a mitigating factor."

[102] Although some acknowledgement of the guilty plea as a mitigating factor is permissible at common law, in the instant case, there was no demonstration of remorse except, possibly, for the passer-by victim. The appellant's own statements to the

probation officer revealed that he has no remorse for the other seven murders. In these circumstances, there is no factual foundation for any reduction based on remorse associated with the guilty pleas for three of the second set of murders. Nonetheless, cooperation with the investigation would have some mitigative value.

[103] Accordingly, there is no legal basis for a discount on the minimum pre-parole period for these murders. Also, the credit for time spent in pre-trial custody is inapplicable. At para.10, in **Callachand and Anor v The State of Mauritius**, the Privy Council stated that: "…a defendant who is in custody for more than one offence should not expect to be able to take advantage of time spent in custody more than once".

[104] On a proper analysis, 47 years stands as the recalculated minimum pre-parole period on each count. By contrast, the sentencing judge imposed a minimum pre-parole period of 40 years. Although that figure was reached through flawed methodology, it is not manifestly excessive when measured against the factors considered by this court, including the gravity of the offences and the sentencing principles of retribution, deterrence and protection of the public, which outweigh the need for rehabilitation.

Indictment HCC 746/2017 — The three Pineapple Lane murders

[105] The third indictment concerns three murders committed just 10 days after the highway killings, and only two months after the initial murder. According to the appellant, these were reprisal executions. These facts demonstrate escalating violence, an extreme disregard for life, and entrenched criminality. The sentencing decision must, therefore, reflect a series of crimes at the highest level of seriousness, exceptionally monstrous, even. Given that the appellant had already committed five murders across two separate events, the gravity of these three additional killings is significantly enhanced. A starting point of 50 years is appropriate. It reflects the seriousness of multiple murders committed in succession, following prior killings and two other serious offences, all with the use of a firearm.

[106] The aggravating factors, including the reprisal motive, the movement between locations in broad daylight within a community setting, and the prevalence of murders, justify elevating the starting point to 55 years. Limited mitigation related to previous employment and cooperation with the investigation yields a modest reduction to 53 years. Like the second set of murders, there is no statutory discount or custodial credit to be applied to the minimum pre-parole periods.

[107] The sentencing judge imposed a minimum pre-parole period of 26 years and seven months for these murders. This is significantly below what the circumstances warrant and reflects a failure to recognise the enhanced gravity of these killings. There is no dispute that, on appeal against sentence, this court has the statutory authority to impose a sentence that is more severe than the sentences passed by the sentencing judge, if it thinks a different sentence ought to have been passed (see section 14(3) of The Judicature (Appellate) Jurisdiction Act). Naturally, underlying this provision are considerations of natural justice which curtail any arbitrary application of the court's discretion (see **Cornel Dawns v R** [2022] JMCA Crim 17). See also the guidance in **Earl Williams v The State** [2005] UKPC 11, that in an application to appeal sentence, if an appellate court is giving consideration to utilising its power to increase a sentence, it should give the applicant or his counsel an opportunity to address the court or to withdraw the application. In the instant appeal, no notice was given to increase the minimum pre-parole periods for these counts. Hence, I would not disturb the sentencing judge's imposition (see **Linford McIntosh v R** [2015] JMCA Crim 26).

[108] For the reasons above, the minimum pre-parole periods imposed for the third set of murders are far from manifestly excessive. In fact, they are manifestly lenient.

Issues (v) and (vi): Whether the 'totality principle' was properly applied and whether the aggregate minimum pre-parole period is manifestly excessive

[109] Although consecutive sentencing was not challenged, the appellant contends that the sentencing judge failed to adequately consider the 'totality principle' when fixing the aggregate minimum pre-parole period. It is, therefore, necessary to consider whether the

aggregate of 66 years and seven months is proportionate to the overall criminality involved.

[110] Brooks JA (as he then was), in **Kirk Mitchell v R**, at para. [57], explained that the application of the 'totality principle' is guided by several considerations, as follows:

> "a. Where offences were all committed in the course of the same transaction, including the average case where an illegally held firearm is used in the commission of an offence, the general practice is to order the sentences to run concurrently with each other - (Walford Ferguson).
>
> b. Where the offences arise out of the same transaction and the appropriate sentence for each offence is a fine, only one substantial sentence should be imposed - (DPP v Stewart).
>
> c. Where the offences are of a similar nature and were committed over a short period of time against the same victim, sentences should normally be made to run concurrently - (R v Paddon).
>
> d. If offences were committed on separate occasions or were committed while the offender was on bail for other offences, for which he was eventually convicted, and in exceptional cases involving firearm offences, there is no objection, in principle, to consecutive sentences – (Delroy Scott, R v Rohan Chin (SCCA No. 84/2005 (delivered 26 July 2005) and R v Gerald Hugh Millen (1980) 2 Cr. App. R. (S) 357).
>
> e. In all cases, but especially if consecutive sentences are to be applied, the 'totality principle' must be considered, in application of which, the aggregate of the sentences should not substantially exceed the normal level of sentences for the most serious of the offences involved - (Delroy Scott, DPP v Stewart, D.A. Thomas – Principles of Sentencing – cited above).
>
> f. Even where consecutive sentences are not prohibited, it will usually be more convenient, when sentencing for a series of similar offences, to pass a substantial sentence for the most serious offence, with shorter concurrent sentences for the less serious ones - (Walford Ferguson).

> g. Although it is unlikely to be the case, in matters being tried in the superior courts, if the maximum sentences allowed by statute, do not adequately address the egregious nature of the offences, then consecutive sentences, still subject to the 'totality principle', may be considered – (R v Wheatley, R v Harvey)."

[111] Saunders P, at para.16, in **Linton Pompey v The Director of Public Prosecutions** [2020] CCJ 7 (AJ) GY explained the underlying principles in this way:

> "…The sentence imposed upon a convicted person should ultimately be neither too harsh nor too lenient. It must be proportionate. The totality principle requires that when a judge sentences an offender for more than a single offence, the judge must give a sentence that reflects all the offending behaviour that is before the court. But this is subject to the notion that, ultimately, the total or overall sentence must be just and proportionate. This remains the case whether the individual sentences are structured to be served concurrently or consecutively."

[112] DA Thomas, in the second edition of his work, The Principles of Sentencing, at page 56, explained the effect of the 'totality principle' in this way:

> "The effect of the totality principle is to require a sentencer who has passed a series of sentences**, each properly calculated in relation to the offence for which it is imposed and each properly made consecutive in accordance with the principles governing consecutive sentence,** to review the aggregate sentence and consider whether the aggregate is 'just and appropriate'." (Emphasis added)

[113] The 'totality principle', therefore, obliges the sentencing judge to assess whether the aggregate sentence is just and proportionate, having regard to the entirety of the offending conduct. In doing so, she must not only ensure that the individual sentences are properly calculated but that the cumulative sentence reflects all the offences before her and does not exceed what is justified by the overall criminality.

[114] The sentencing judge did not articulate her reasons for how she directed that the sentences should be served. However, she treated the four-murder indictment as the most serious, imposing the highest minimum pre-parole period on each count of murder (40 years), and the three-murder indictment as next in gravity (26 years and seven months on each count). She made the 26 years and seven months and the 17 years and seven months (the minimum pre-parole period for the first murder) concurrent and ordered the 40 years to run consecutive to them. Although not expressly stated, this structure reflects an implicit recognition, by her, that the murders occurred on three separate occasions, and the second indictment represented the highest escalation in criminality.

[115] As indicated earlier, the minimum pre-parole periods for the third set of murders were not properly calculated. Accordingly, principle (e), as outlined at para. [57] in **Kirk Mitchell v R**, cannot be strictly applied since that principle is predicated on the individual sentences being properly calculated. Regardless, I am mindful that the cumulative term must not exceed what is just and proportionate in the circumstances. That requires us, among other factors, to evaluate the overall criminality, personal mitigation and, where possible, aggregate sentences imposed in comparable cases.

[116] The facts across the indictments are stark; eight murders committed in three separate incidents over less than three months. Four of the victims were slain during a robbery; one was an innocent passerby; and four were killed in reprisal shootings. The crimes were extraordinarily grave, unprecedented in their combination of multiplicity, repetition, firearm use, ambush, and reprisal, and the appellant expressed no remorse for seven of the victims. There is no comparable precedent cited before this court involving eight murders committed by one offender in quick succession.

[117] Therefore, given the exceptional seriousness of the offending conduct, compared to the mitigating features, while taking into account the statutory minimum pre-parole period for each murder, the aggregate minimum pre-parole period cannot be said to be manifestly excessive. The aggregate of 66 years and seven months, though seemingly

severe on the face of it, is not disproportionate to the unprecedented criminality involved, which includes the taking of eight lives with the use of a firearm or firearms. The aggregate, therefore, reflects the seriousness of the total number of murders, the escalation of violence, and the appellant's persistent and deliberate recourse to lethal force. The public interest in punishment, deterrence, and protection of society demands a substantial sentence.

Conclusion

[118] The sentencing judge erred in her methodology and in applying statutory discounts that were legally impermissible. She also applied credit for pre-trial remand, in respect of the latter two sets of minimum pre-parole periods, where this was not permissible. However, upon conducting a fresh analysis in accordance with the governing statutory framework and relevant sentencing principles, this court is satisfied that the minimum pre-parole periods imposed for each set of convictions are not manifestly excessive. Indeed, one set is notably lenient.

[119] The sentencing judge properly and correctly exercised her discretion in imposing the consecutive sentences, given that the murders took place on separate occasions. In all the circumstances, the aggregate minimum pre-parole period of 66 years and seven months does not offend the 'totality principle' and is commensurate with the gravity of the appellant's criminal conduct across separate and devastating episodes of extreme violence.

[120] For the reasons set out above, I propose that the court make the following orders:

1. The appeal is dismissed.

2. The sentences imposed by the sentencing judge are affirmed.

3. The sentences are to be reckoned as having commenced on 30 July 2019.

G FRASER JA

[121] I agree with the reasoning and conclusion of Dunbar-Green JA and have nothing further to add.

FOSTER-PUSEY JA

ORDER

1. The appeal is dismissed.
2. The sentences imposed by the sentencing judge are affirmed.
3. The sentences are to be reckoned as having commenced on 30 July 2019.