

SUPREME COURT OF SEYCHELLES

Reportable

[2024]

CR63/2023

In the matter between:

The Republic

(rep. by Ms Ria Alcindor)

Republic

and

Lester Dereck Augustin

(rep. by Ms. Shantana Barbe)

Accused

Neutral Citation: *Republic v Augustin* (CR63/2023) (delivered on 4 April 2024)

Before: A. Madeleine, J

Summary: *Sentence – Section 318 Penal Code – Arson – Section 319 Penal Code - Wilfully and Unlawfully sets fire to anything so situated that a building or structure is likely to catch fire from it*

Heard: 28 November 2023 and 12 February 2024

Delivered: 4 April 2024

SENTENCE

A. MADELEINE, J

- [1] The convict, Lester Augustin (hereinafter referred to as the “Convict”), was charged under Formal Charge dated 30th August 2023 with the following offences –

“Count 1

Statement of Offence

Willfully and Unlawfully sets fire to any building or structure contrary to section 318(a) and punishable under Section 318 of the Penal Code.

Particulars of Offence

Lester Dereck AUGUSTIN holder of NIN 992-1180-1-1-71 of Copolia, Plaisance, Mahe on the 14th August 2023, in the night time, willfully and unlawfully set fire to the house of Lorna Jacquelin at barbaron, Grand Anse, Mahe, that led to the entire building being burnt and damaged.

Count 2

Statement of Offence

Willfully and Unlawfully sets fire to anything which is so situated that a building or structure is likely to catch fire contrary to section 319(b) and punishable under Section 319 of the Penal Code.

Particulars of Offence

Lester Dereck AUGUSTIN holder of NIN 992-1180-1-1-71 of Copolia, Plaisance, Mahe on the 14th August 2023, in the night time, willfully and unlawfully set fire to the house of Lorna Jacquelin at Barbaron, Grand Anse, Mahe, that is so situated that the semi-detached house belonging to one Cindy Labiche at Barbaron, Grand Anse, Mahe, caught fire from the house of said Lorna Jacqueline and was burnt and damaged.”

- [2] The Convict pleaded guilty on both counts and admitted the facts stated by the Prosecution. He was therefore convicted under both counts upon his own unequivocal guilty plea and admission of the facts.
- [3] The admitted facts are as follows. On 14th August 2023 at around 08:00 pm, the convict purchased gasoline in a jerrycan from the Grand Anse, Mahe Fuel station. He later transferred the gasoline to a water bottle and proceeded to the residence of Lorna Jacqueline at Barbaron, Grand Anse Mahe where his former girlfriend, Stephanie Jean, and his children also reside. From outside the house of Lorna Jacqueline, the Convict poured gasoline onto the curtain that was hanging outside the living room and set fire to the said curtain using a lighter that was in his possession. As a result, the house of Lorna Jacqueline burnt down and

the fire spread to, and burnt part of, the neighbouring house of Cindy Labiche. The police command centre was alerted of the fire at midnight whereupon both police officers and the fire services proceeded to the scene. The fire services concluded that the cause of the fire intentional and not due to accident/negligence. The Convict was found by the police on the road at Grand Anse, Mahe at around 1:45 am, and he was arrested, cautioned and subsequently charged.

- [4] The prosecution informed the Court that the Convict is a first-time offender, and a pre-sentencing report was sought.
- [5] According to the pre-sentencing report, the Convict is a 31 years old trained school teacher and father of two minor children aged 8 and 9 years old. Prior to the incident of 14 August 2023, the Convict was working at the Plaisance Primary School. The report outlines the Convict's profound regret and remorse for the offences which were committed out of desperation and non-acceptance of separation from the mother of his two children, and also under the influence of alcohol. According to the report, the Convict accepts his wrongdoing but seeks leniency from the Court. The report also addresses the extent of the consequences of the Convict's action for the victims including his two children.
- [6] Counsel for the Convict begged the Court for leniency in Sentencing the Convict and referred the Court to sentences of 4 years' imprisonment imposed in the case of *Republic v Souris CR119 of 2003* and of 6 years' imprisonment imposed in the case of *Republic v Mirabeau CR62/2012* on almost similar facts. Counsel also invited the court to consider that the Convict is a first time offender who cooperated fully with law enforcement and his contributions to the society as a school teacher, a poet and as a dancer/choreographer.
- [7] In determining the appropriate sentence to be imposed on the Convict in the circumstances of his case, I am guided by the following principles that sentencing does not involve the mere administration of a common formula [vide *Poonoo v Attorney General (2011) SLR 423*] but it involves the human deliberation of what punishment would appropriately protect the public by deterring and preventing others from committing such offences. Also, what

sentence would appropriately provide the necessary rehabilitation, reformation, and retribution for the convicted person [vide *Lawrence & Another v Republic* [1990] SLR 47 and *Savy v R* (1976) SLR 54. I am also guided by the principles of proportionality and totality of sentence.

- [8] I first consider the seriousness of the offences for which the Convict was convicted as further aggravated by the following facts that emerged from the prosecution's facts, the pre-sentencing report and plea in mitigation. The offences were perpetrated in the night when most of the members of the two affected households were asleep. The affected members of the household of Lorna Jacqueline included the two minor children of the Convict and their mother. The homes of two families have been affected by the actions of the Convict. The last known residence of his own two minor children have been destroyed by the fire. Although no one was hurt physically by the incident, the two families have been traumatized.
- [9] I now consider that the Convict has pleaded guilty to the charge at the earliest opportunity. He has therefore saved the court's time and resources as well as avoided any inconvenience to any witnesses who would have had to be called to give evidence in court had the case proceeded to trial.
- [10] Further, I consider that the Convict is a first-time offender and he has shown remorse and accepted responsibility for his action by his guilty plea. He is young and prior to the commission of the offences, he was contributing to the society as a teacher and through his artistic skills. Unfortunately, his good deeds were overpowered by his inability to cope with separation and subsequent alcohol dependency that led to the commission of the offences and a trail of victims including his own children.
- [11] Having regard to all the facts and circumstances arising from the admitted facts of the prosecution, pre-sentencing report and plea in mitigation on behalf of the Convict, I hereby sentence the Convict as follows –


(a) Under Count 1 – To a term of imprisonment for 7 years;

(b) Under Count 2 – To a term of imprisonment for 4 years;

[12] The sentences are to run concurrently and any time spent on remand is to be deducted from the said terms of imprisonment.

[13] The Convict may appeal this sentence within 30 working days of the date hereof.

Signed, dated and delivered on the 4 April 2024 at Ile du Port, Mahe.


A. Madeleine, J.

