

Hangings? No, minister!

Golding warns of backlash from int'l development partners

BY RACQUEL PORTER Observer staff reporter porterr@jamaicaobserver.com



GOLDING... violent crime in Jamaica has several root causes

THE Opposition yesterday poured cold water on National Security Minister Robert Montague's announcement that he is contemplating the resumption of hanging in Jamaica, arguing that the

death penalty does not act as a deterrent to murder and is not the solution the country's nagging problem of violent crime.

According to Opposition spokesman on justice and governance, Senator Mark Golding, countries in the world that have abolished the death penalty generally remain the safest, with the least number of murders.

"Those states in the United States which retain and apply the death penalty (for example Texas) are not the states which enjoy the lowest murder rates in the US. The active use of the death penalty in Jamaica did not prevent the carnage of murders in 1980," Golding said.

Noting that it is not necessary for the resumption of hanging at this time, he said that murders have declined by 40 per cent since the extradition of Christopher 'Dudus' Coke in 2010, during an era where the death penalty was not a factor.

He said that the Opposition is of the view that the death penalty cannot be the solution to Jamaica's problem of violent crime.

“Violent crime in Jamaica has several root causes, and curbing it requires solutions that address those causes,” he said.

Golding suggested that Jamaica needs, among other things, growth with equity that creates good-quality employment opportunities for our people, so that they aren't drawn towards criminal organisations and violent crime.

He added that the modernisation and strengthening of the justice system need to be continued, and the implementation of the Justice Reform Programme should not be allowed to lose momentum.

“I do not regard minister Montague's announcement, that the Government is seeking “to determine if there are any legal impediments for the resumption of hanging in Jamaica”, as a serious policy initiative that will be implemented. The Government can't hang more people; nor, as a practical matter, can Parliament. Only the courts can make that happen, and the courts are governed by the rule of law and, in particular, the human rights guarantees in our Constitution,” Golding said.

In addition, he said that the reactivation of the death penalty after 28 years would bring condemnation and adverse criticism on Jamaica from international development partners that are not in support of capital punishment.

Last week, Montague said Government remains committed to mobilising all the resources at its disposal to wage a “relentless war” against criminal elements “intent on destroying our nation”. To this end, he said the Administration is currently exploring the possible resumption of hanging. Noting that it forms part of the crime-prevention strategies aimed at creating safer communities by tackling “lawless elements”, Montague said his state minister, Parnel Charles Jr, has been

asked to consult with several stakeholders, including the Ministry of Justice and Attorney General's Office, to determine if there are any "legal impediments" to be addressed.

He said the ministry's overall approach to creating safer communities is based on five key pillars of crime prevention: social development, situational prevention, effective policing, swift and sure justice processes, and reducing re-offending.

DPP Gives Bye To Delinquent Politicians

The Gleaner

Erica Virtue

Director of Public Prosecutions (DPP) Paula Llewellyn has announced that her office would not prosecute candidates who contested the February 25 legislative election but failed to provide election expenditure reports (returns) by the April 6 designated date to the Electoral Office of Jamaica (EOJ).

The DPP's decision has let 27 candidates off the hook from possible prosecution, including 17 who flouted the law, not filing any returns, and 10 who filed late up to April 15 when the matter was referred to her office by the EOJ. The DPP's decision may have spared the delinquent candidates a term of imprisonment of not less than three years and fines ranging from \$20,000 to \$80,000, and preclusion from holding office for up to seven years.

Instead, candidates were contacted, coerced and given time to make returns as it was the view of all that "... the primary objective of the legislation was to secure compliance from candidates with their statutory obligation to file returns. For this reason, it was agreed that it would be appropriate for correspondence to be sent from the ODPP to each candidate indicating that failure to file returns within one week of the date of the letter sent by the ODPP would result in the initiation of prosecution"

EOJ LIAISON

The DPP said that instead of initiating prosecution of the delinquent politicians, her office assigned "two senior prosecutors to liaise with the EOJ in order to guide the gathering of further information, which would facilitate preparation for possible prosecution of candidates who had failed to comply with the relevant requirements".

The EOJ, according to the DPP, proposed that the 10 candidates who filed late should be given a warning instead of prosecution provided that submissions were within a week of the April 6 deadline because there was no record that the named candidates were repeat offenders.

Four days later, on April 19, the two senior prosecutors assigned liaised with the director of elections and the director of legal affairs.

"At that meeting, an updated list containing the names of ten candidates who had not yet filed returns was presented," the DPP's release said.

ROPA

According to her, a detailed exchange took place regarding the relevant sections of ROPA (The Representation of the People Act), among other things, according to her release issued on Friday evening.

Quoting from the ROPA, Section 60 (1, 3, 4, 5, and 6) sub-section (1) says inter alia: "that within six weeks after election day, every election agent shall make an election return to the returning officer for the constituency in which he acted as an election agent.

(3) Every return made under this section shall contain a full statement of all money, securities, or equivalent of money received by the election agent from the candidate or from any other source in connection with the election."

PHOTO: Mandeville courthouse tour

The Observer



(Photo: Gregory Bennett)

Custos of Manchester Sally Porteous (third right) with guests recently at the Mandeville courthouse.

She was with a 15-member group from the Georgian Society in England, that toured the building.

The Georgian Society, which has a branch in Jamaica, has among its functions the responsibility to preserve buildings and other edifices erected during the colonial Georgian period of history. As part of the sustainable development plans in the parish, the present courthouse is set to one day be converted to a museum.

There are plans for a modern and regional justice centre to be built on 40 acres of donated land at Kingsland, west of Mandeville.

A new courthouse is slated to be among the facilities that will be in place. (Photo: Gregory Bennett)

Trinidadian suspect to appear in court for raping J'can woman

The Observer



PORT OF SPAIN, Trinidad (CMC)
– A man held and charged in connection with the rape of a Jamaican woman in Chaguanas, is scheduled to appear in court on Monday.

The police report that the 38-year-old man was arrested at his home last Thursday, after he reportedly raped the 26-year-old woman at her home last week Sunday morning.

According to the police the woman was accosted by a man as she arrived at her home in Orchard Gardens, Chaguanas.

The man reportedly placed a knife to her throat and demanded that she hand over her belongings.

When she told him that she had nothing, he forced her into the house and allegedly raped her.

The man is expected to appear in the Tunapuna Magistrates Court on Monday to answer to charges.

Voices for Equality: Jamaica

RELATED CAMPAIGNS & TOPICS

LGBT

By Shawn M. Gaylord

Since 1864 same-sex sexual activity between men has been criminalized in Jamaica. Under the Offences Against the Person Act, those convicted of buggery can face a punishment of up to 10 years imprisonment with hard labor. Essentially, the law forbids all forms of intimacy between men, even in private. As terrible as the law is, its true disastrous effects have less to do with prison walls and more to do with reinforcing a homophobia that marginalizes the Jamaican lesbian, gay, bisexual, and transgender community.

Despite the widespread popularity of homophobic laws, there are brave Jamaicans standing up for what's right, and fighting for inclusion against a tide of division.

In November, Jamaican activist and lawyer Maurice Tomlinson filed a case in the country's Supreme Court against the Offences Against the Person Act. The case recently opened to applications from various groups to be listed as interested parties in the case. Unsurprisingly, many conservative groups applied to oppose the case, but Tomlinson may not end up standing alone. Jamaican Public Defender Arlene Harrison-Henry, a strong ally of the country's LGBT community, has officially filed to support the case.

For Jaevion Nelson of the Jamaica Forum of Lesbians, All-Sexuals and Gays (J-FLAG), the struggle is not only against intolerance and the law, but ignorance: "Many people do not necessarily understand what the law is about, and so for many people this is a sort of way to say that homosexuality is illegal in Jamaica... therefore we should remove LGBT people or that they do not belong here."

In the meantime, Jaevion, J-FLAG, and the broader LGBT community are preparing for Jamaica Pride 2016, which will be held in the first week of August, to showcase the true spirit of the country--which is rooted in diversity and inclusion, not hate.

For more information on Human Rights First's work to help advance the human rights of LGBT people in Jamaica, read our report: [The World as it Should Be](#).

Recommendations for U.S. Action

- Secretary Kerry and other high-level State Department staff should convene a human rights dialogue with Caribbean heads of state to address human rights concerns in the region, particularly the situation of LGBT people in Jamaica and other Caribbean countries.
- The Special Envoy for the Human Rights of LGBTI Persons should lead an inter-agency dialogue to develop a strategic plan for future U.S. engagement in advancing the human rights of LGBT people in Jamaica.
- The Bureau of International Narcotics and Law Enforcement Affairs (INL) should incorporate diversity and sensitization to the rights of LGBT people in all bilateral trainings of the Jamaican police force and members of the judicial system.
- The Global Equality Fund and USAID should continue to support organizations working on behalf of the LGBT population, including smaller organizations and groups that cater specifically to the needs of lesbians, bisexual women, and transgender people.

'Don't Waste Your Time,' Montague

Andre Poyser

The Gleaner

A plan by the Minister of National Security Robert Montague to undertake consultations on the legal impediments to the resumption of hanging, has been described as a waste of time by attorney-at-law and human rights activist Nancy Anderson.

"It's a waste of time. Anyone can just pick up the law and see what it says about hanging, and it's a law made by our courts, not by the Privy Council or anybody else," she said in an interview with *The Gleaner*.

The security minister is, however, of the view that the consultations are necessary.

"Persons who intend to break the law must know that the punishment will be sure, swift and just. In that regard I have asked the minister of state, Senator Pearnel Charles Jr, to consult with a number of agencies, including the Attorney General's office and the Ministry of Justice to determine if there are legal impediments for the resumption of hanging in Jamaica," he said while speaking at the Passing out Parade and Awards Ceremony for constables at the National Police College of Jamaica at Twickenham Park in St Catherine.

While pointing out that the death penalty remains on the books, Anderson argued that the consultations ordered by Montague are unnecessary given that the legal impediments are already known.

"We already know what the legal impediments are. They were clearly set out in the Peter Dougal case," she said.

Anderson, in pointing to a 2011 ruling by the Supreme Court in the case of 41-year-old farmer and construction worker, Peter Dougal, argued that the conditions laid down by the court make it highly unlikely that anyone in Jamaica will ever be hanged again.

The 2011 judgement in the *Dougal v. R* case ruled that the prosecution must give written notice that they will be seeking the death penalty. In addition, if the person is convicted by a jury, the judge must be convinced that the murder committed is of the worst kind, that there is no chance for rehabilitation of the offender and that there can be no other punishment that can be given except the death penalty.

Montague, in responding to questions from journalists in regards to the reaction of Jamaica's international partners to any move to resume hanging, noted that hanging remains on Jamaica's books and that the laws of Jamaica superseded international treaties.

"My international partners, the first thing they will tell you is that they will obey the laws of whatever country they are operating in," he said.

Jamaica has not executed anyone since 1988, but the Government reaffirmed its commitment to retaining the death penalty through a 2008 conscience vote in Parliament.

andre.poyser@gleanerjm.com

Arnold Bertram: A Ticking Time Bomb (Pt II)

The Gleaner

The lumpen-proletariat enlisted enthusiastically as foot soldiers in the paramilitary organisations of the major political parties for the 1980 general election. Until then, the spoils of political warfare were limited to welfare grants, small contracts, and the recruitment of labour for government projects.

In 1980, the stakes were much higher, for by then the Shower Posse controlled the Jamaican end of the illegal trade in hard drugs between Colombia and the United States. It was to secure political protection for their operational base at Tivoli Gardens that the Shower Posse invested heavily to recruit and arm more contingents of the lumpenproletariat than their political opponents. It was well worth the investment, as by then the illegal drug trade was bringing in an estimated income of some US\$200 million annually.

In the post-election period, as the underground economy grew exponentially, the criminal elite contracted, to an even greater degree, the kind of services that the growing lumpenproletariat was only too happy to provide.

While many factors contributed to the islandwide growth of the lumpenproletariat in the 1980s, the most fundamental was the continued stagnation of the Jamaican economy that failed to provide adequate opportunities for the growing labour force.

The JLP's victory in the 1980 general election was hailed in Washington as a triumph for free-market capitalism, and the JLP leader, Edward Seaga, was selected by President Ronald Reagan to be the first foreign head of government to be invited to the White House. Jamaica received US\$1 billion in special assistance from the US government; a special US\$67-million purchase of Jamaican bauxite for the US strategic stockpile; US\$133 million from the World Bank and the IMF pledged assistance to the tune of US\$698 million. Such levels of US-led international economic support on a per-capita basis made Jamaica second only to Israel.

However, despite this massive external assistance, the highly anticipated levels of economic growth were not realised. Using 1980 - the election year when political warfare dramatically reduced economic output - as the base year to calculate GDP growth, exaggerated the reality of economic output in 1981-82.

The economy actually contracted in 1983-84, and it was only after 1986 that any significant growth took place. Hence, "... production levels in 1987 were still below real output in the economy over all the years between 1970 and 1976 Under the JLP in the 1980s, the rich have become much richer and the poor much poorer." (Stone, 1989)

The Report of the World Bank on Structural Adjustment in Jamaica 1981-1985 is also instructive:

"By the closing of the third structural adjustment loan in 1985 ... total output was lower than in 1979; external public debt was 180% of GDP, up from 61% in 1979 ... ; the numbers of unemployed seeking jobs had grown by almost one-fourth, despite massive migration; government spending on health, education, and social services had been cut back, and living standards of the poor had worsened."

The impact of continued economic stagnation over the next two decades on youth unemployment was reflected in a survey by Pat Anderson in 1999 that showed that "of the 122,961 unemployed persons in the 15-29 age group in 1998, 31.2% had been unemployed for less than six months, 24.3% for between six and 11 months, and 44.5% were long-term unemployed. Of the long-term unemployed, 63.2% had never worked".

As the ranks of the urban unemployed increased, the inevitable process of degeneration transformed many of them into lumpenproletarians.

Rural-Urban Migration

Economic stagnation in the 1980s also brought rural impoverishment. "Local food crop production flourished under the PNP, achieving a 32% growth between 1973 and 1978. No similar spectacular growth occurred in the 1980s." (Stone, 1989) This in turn spurred a new wave of internal migration. These migrants, however, did not move to the capital city, but to the new urban centres which had a growing economic base in tourism, mining or commerce.

While some of these migrants retained their aptitude for industry and hustled legally to send their children to school and provide food for their families, others took to crime, and the squatter communities in which they lived provided a base for illegal activities. The more aggressive took over streets, private property, parks and created havoc and confusion.

"Social expenditure fell from 14% of GDP in 1980 under the PNP to 9% under the JLP in 1985 Jamaica had the largest reduction in educational expenditure in the entire region in the 1980s." (Stone, 1989)

As a consequence, the school building programme was downsized and the resultant lack of accommodation to meet the increasing demand led many secondary schools to introduce the two-shift system in order to optimise the use of existing facilities. Class sizes quickly grew beyond the optimum and the extended use of the physical facilities increased maintenance and replacement costs.

The results were disastrous. Of all, "the youth unemployed in the 15-29 age group, 73.7 per cent had no educational certification of any kind, although 26.8% had four years or more of secondary education". (Pat Anderson, 1999)

Another study by Dr Ralph Thompson noted that in the non-traditional high schools, 89 per cent of the students failed English at CSEC, while 96 per cent failed mathematics. In technical schools, 81 per cent failed English and 96 per cent failed mathematics. The situation was much worse for the fact that not all students in the cohort were allowed to sit the examinations. Over time, many of those who were unable to enter the labour market chose a way of life that led to their absorption into the lumpenproletariat.

Weak Enforcement Of Law And Order

The growth of the lumpenproletariat islandwide created new centres of urban blight in proximity to Ocho Rios, Montego Bay, May Pen, Santa Cruz, and Savanna-la-Mar, where the migrants survived economically by securing commercial vending space as close as possible to the potential market. There was no enforcement of municipal laws and the failure of the State to respond firmly to increasing lawlessness and antisocial behaviour emboldened the lumpen and accelerated the drift towards anarchy. In the meantime, an emboldened criminal elite were becoming more armed and dangerous.

In three raids on Tivoli Gardens on March 17, 1993, September 30, 1994 and April 24-30, 1996, the security forces found 2,877 rounds of ammunition used in Thompson machine guns, M16 assault rifles, AK-47 rifles and a range of semi-automatic pistols. A similar raid on Arnett Gardens in January 2001 produced two AK-47 assault rifles with telescopic lenses and equipped

to launch rockets, four rockets, one semi-automatic pistol, eight magazines, three silencers and several assorted rounds of ammunition.

Retreat And Surrender

In July 1987, Lester Coke, the don of Tivoli Gardens, was acquitted of murder in the Supreme Court when witnesses failed to turn up. His cronies celebrated his acquittal by firing a fusillade from their automatic weapons outside the precincts of the Supreme Court. The chief justice, followed by the police, ran for cover.

In 1992, Christopher 'Dudus' Coke succeeded his father, Lester Coke, as the don of the Shower Posse, and once installed, Tivoli Gardens became a state within a state, with its own justice system. With independent sources of income amounting to millions of dollars, Dudus, now able to perform the roles of benefactor and protector more effectively than any politician, took for himself the title of 'President', and as far as he was concerned, it was for Seaga to adjust himself to this new reality.

The Gleaner of September 29, 1994 carried an interview with Edward Seaga as a wave of violence engulfed his constituency of Western Kingston. It was a chastened Seaga who admitted that "criminal elements in West Kingston have been raping women in the most brutal way and murdering people". Dudus had superseded Seaga as the real power in Tivoli Gardens.

The continued surrender to these criminal elements was again evident in September 1998 when officers at the Central Police Station publicly called on the don of Matthews Lane, Donald 'Zeeks' Phipps, who was in custody at the time, to restore public order after the police proved incapable of so doing. The time bomb was ticking even louder.

The final part in the series will focus on the search for solutions.

References:

Report of the World Bank on Structural Adjustment in Jamaica 1981-1985

Carl Stone, Politics Versus Economics 1989

Pat Anderson, 1999: Analyses of 1998 Labour Force Data

- Arnold Bertram is a historian and former Cabinet minister. His most recent book, 'Norman Manley and The Making of Modern Jamaica', is to be launched in May. Email feedback to columns@gleanerjm.com and [redev.atb@gmail.com](mailto:reddev.atb@gmail.com).

Laws Of Eve: Challenges In Providing Matrimonial Property Claims

The Gleaner

Throughout the course of many marriages or common-law unions in Jamaica, couples acquire property without obtaining titles for those properties. The reason for this are varied. The most common in rural communities are the prevalence of 'family land' arrangements or the fact that money changes hands but no agreements or receipts are drafted.

In an ongoing relationship, formalities are often ignored. However, when the relationship sours and court actions ensue, the absence of titles for properties or paper trails to prove the existence of transactions becomes a serious challenge for the parties and the courts.

That scenario actually played itself out in the Court of Appeal judgment in the case of Gibbs v Stewart [2016] JMCA Civ 14.

EQUAL INTERESTS

The couple allegedly acquired two properties and a business during the course of their relationship, but the business was not a formal, structured one, and the ownership of the properties was proved by titles. Against that background, the judge in the Supreme Court declared that the couple had equal interests in the business and both properties, and made consequential orders for the valuation and sale of the properties.

On appeal against that judgment, the Court of Appeal found in favour of the wife (appellant) in respect of the properties, but upheld the decision regarding the business. Some of the important issues determined in the Court of Appeal are as follows:

1. Where the parties could only prove that they had a leasehold interest in property, it was not appropriate for the court to make a finding in relation to the entire beneficial interest in the property. The Court of Appeal ruled that the husband had a 50 per cent interest in the leasehold estate.
2. Where neither spouse can prove that the legal title to a property is vested in him or her, the court will have to investigate ownership of property before making a ruling.
3. If the title to property in dispute is not registered in either spouse's name, the registered owner of that property is to be a party to the court action if the matter is to be fairly determined.
4. If one spouse is claiming an interest in property that is owned by the other and a third party, "natural justice and fairness demand" that such a party should be notified of the proceedings and joined as a party so that he or she has an opportunity to make representations before any decision adverse to that party's purported interests is made.

In the end, the Court of Appeal did not disturb the order in relation to the business, adjusted one order to reflect the fact that all the parties had a leasehold interest in one property, and allowed the appeal in respect of the second property. In relation to the last order, the court ordered that the issue be retried after all interested parties become parties to the action.

I cannot help but think that the parties could save time and money by going to mediation rather than retrying the final issue.

Sherry Ann McGregor is a partner and mediator in the firm of Nunes, Scholefield, DeLeon & Co. Please send questions and comments to lawsofeve@gmail.com or lifestyle@gleanerjm.com.

Laws Of Eve: Challenges In Providing Matrimonial Property Claims

The Gleaner

Throughout the course of many marriages or common-law unions in Jamaica, couples acquire property without obtaining titles for those properties. The reason for this are varied. The most common in rural communities are the prevalence of 'family land' arrangements or the fact that money changes hands but no agreements or receipts are drafted.

In an ongoing relationship, formalities are often ignored. However, when the relationship sours and court actions ensue, the absence of titles for properties or paper trails to prove the existence of transactions becomes a serious challenge for the parties and the courts.

That scenario actually played itself out in the Court of Appeal judgment in the case of *Gibbs v Stewart* [2016] JMCA Civ 14.

EQUAL INTERESTS

The couple allegedly acquired two properties and a business during the course of their relationship, but the business was not a formal, structured one, and the ownership of the properties was proved by titles. Against that background, the judge in the Supreme Court

declared that the couple had equal interests in the business and both properties, and made consequential orders for the valuation and sale of the properties.

On appeal against that judgment, the Court of Appeal found in favour of the wife (appellant) in respect of the properties, but upheld the decision regarding the business. Some of the important issues determined in the Court of Appeal are as follows:

1. Where the parties could only prove that they had a leasehold interest in property, it was not appropriate for the court to make a finding in relation to the entire beneficial interest in the property. The Court of Appeal ruled that the husband had a 50 per cent interest in the leasehold estate.
2. Where neither spouse can prove that the legal title to a property is vested in him or her, the court will have to investigate ownership of property before making a ruling.
3. If the title to property in dispute is not registered in either spouse's name, the registered owner of that property is to be a party to the court action if the matter is to be fairly determined.
4. If one spouse is claiming an interest in property that is owned by the other and a third party, "natural justice and fairness demand" that such a party should be notified of the proceedings and joined as a party so that he or she has an opportunity to make representations before any decision adverse to that party's purported interests is made.

In the end, the Court of Appeal did not disturb the order in relation to the business, adjusted one order to reflect the fact that all the parties had a leasehold interest in one property, and allowed the appeal in respect of the second property. In relation to the last order, the court ordered that the issue be retried after all interested parties become parties to the action.

I cannot help but think that the parties could save time and money by going to mediation rather than retrying the final issue.

Sherry Ann McGregor is a partner and mediator in the firm of Nunes, Scholefield, DeLeon & Co. Please send questions and comments to lawsofeve@gmail.com or lifestyle@gleanerjm.com.

The future after termination of parental rights

ALL WOMAN

Margarette MACAULAY

Dear Mrs Macaulay,

My parental rights were terminated in the state of Florida back in 2009. I have a question that has been bothering me for some time now. I am now 37 years old. I am an American citizen, born in the USA. I know that I no longer have any rights concerning that one child and I don't have any other children now.

But if I decide to have a child in the future in Jamaica (my grandfather's birthplace is Clarendon), will my rights be automatically terminated and that child removed from the hospital at birth in Jamaica? Or will this be on a case-by-case basis with an alert to the Department of Children and Family Services in the US?

I plan to travel to Jamaica to find long-lost relatives and reunite. But if I decide while there to get married and have babies, will my past come back to haunt me?

You have not stated the reason(s) why your parental rights were terminated in 2009, but clearly your actions vis-a-vis that child must have been considered so egregious by the court that it had to arrive at the extreme conclusion it did of stripping you of all your parental rights.

Have you changed? Have your circumstances and conduct changed? Have you considered applying for the reinstatement of your parental rights to the court in Florida? Have you at least

enquired whether you can make such an application and what you will have to prove to achieve a decision in your favour?

Anyway, what you wish to know is whether, if you have a child in Jamaica, your parental rights to such a child will automatically be terminated.

I can only answer this in general terms, as you have not disclosed the reason for the termination of your parental rights. If the reason was that you were a deadbeat dad regarding the provision of maintenance for your child and/or demonstrated no interest whatsoever in the child and its welfare, then the fact that your rights were terminated with regard to one child will not affect your right to be a full parent to any future child you may have. But you must behave as a responsible parent both in the state of Florida and in Jamaica. We also have strict and clear laws about parental rights and parental obligations here in Jamaica.

If your conduct which resulted in the termination of your parental rights was based on the fact that you were convicted of an offence of grave and/or habitual abuse of your child, endangering the child's life, personal integrity of his or her person, or which caused really serious injury to the child, and if you were convicted of paedophilic and/or incestuous acts, then such a conviction or convictions would indeed follow you and bar you from exercising any of your parental rights. In the latter cases, you will be considered a danger to any child you may have now or in the future.

Thus it would really depend on why the court in Florida took away your rights. If you are a child molester or have been convicted of incest and you seek to travel to another country, an alert from the Florida authorities should be sent to inform the country to which you are travelling of your proposed arrival. Jamaica also has strict laws relating to child molesters, and a register of such persons convicted here is kept. So if Immigration is alerted that such a person is on the way here, that person would or should be placed at least on a 'watch list', and depending on their conduct here, further action may be taken against them.

So your circumstances would depend on why the court in Florida did what it did and whether it was for an action or actions for which you can be rehabilitated or not. If you are a child sexual predator, do not think that Jamaica would be kinder to you. It will not. As I said, there are relevant laws here also to protect our children and punish those who harm them. If your conduct was restricted to being a negligent and irresponsible parent, and if you are now a responsible person, then there is nothing to prevent you from having another child here or in Florida. Indeed you could, as I mentioned, apply to the court there to reinstate your parental rights or some of them. Be very careful, and be guided by good sense and responsible conduct.

May you have a better life in the future.

Margarette May Macaulay is an attorney-at-law, Supreme Court mediator, notary public and women's and children's rights advocate. Send questions via e-mail to allwoman@jamaicaobserver.com; or write to All Woman, 40-42 1/2 Beechwood Avenue, Kingston 5. All responses are published. Mrs Macaulay cannot provide personal responses.

DISCLAIMER:

The contents of this article are for informational purposes only and must not be relied upon as an alternative to legal advice from your own attorney.

‘Lucifer’, 4 others get bail

The Observer



FIVE alleged members of the infamous St Catherine-based Klansman gang were each offered \$500,000 bail when they appeared in the St Catherine Circuit Court last week.

Edward Dunn, who goes by the moniker ‘Lucifer’; his

nephew Javiel Dunn; Steven Burke; Okeinie Smith, otherwise called 'Major Figure' and Dwayne Adams, were offered bail following a lengthy application by the defence.

Dunn, who was arrested last November, is charged with leading a criminal organisation, participating in a criminal organisation, conspiracy to murder, murder and abduction.

The other accused men are charged with participating in a criminal organisation, conspiracy to murder, murder and abduction.

A sixth accused, Shane Forbes, otherwise called 'Puppy', who had escaped police custody and was recaptured, was denied bail.

The men were charged on allegations that they conspired to abduct a female member of the gang whom they reportedly took to a river in St Catherine to kill, in 2013.

The female member reportedly fell out of grace with the gang because she was allegedly defying orders. However, she begged for her life and was given a chance.

The men are also accused of robbing a jewellery and Cash Pot outlet and stabbing to death a gang member who allegedly molested his eight-year-old stepchild.

The prosecution had objected to bail on the basis that the gang numbered 200 members and was very powerful, and that there was a possibility that they could interfere with the witnesses.

But the defence lawyers argued that, given the influence and power of the gang, denying their clients bail would not guarantee that there would be no interference with the witnesses.

The lawyers also argued that there were several discrepancies and contradictions in the witness statements and that there was an issue of credibility.

The accused men were granted bail on condition that they report to the Spanish Town Police Station daily, surrender their travel documents with a stop order in place, and abide by a curfew order, which dictates that they should not be seen on the road after 7:00 pm and before 6:00 am. They are scheduled to return to court on May 29.

— Tanesha Mundle

Elderly Man And 24-Year-Old Sentenced To Life

The Gleaner

Livern Barrett

"Justice was served."

That declaration by Pauline Edwards came in the Home Circuit Court in downtown Kingston yesterday, minutes after 65-year-old Bertram Clarke and 24-year-old Arthur Robinson were sentenced to life imprisonment for the brutal slaying of her mother nine years ago.

"Justice was meted out by the jury, which found him guilty, and the judge, who gave them the sentence we were looking for, and we are very satisfied with the lawyers, who did a fabulous job," said Edwards as her sister, Hazel Scarlett, nodded in approval.

Justice Gloria Smith, who presided over the 15-month trial - the longest in the country's history - directed that Clarke must serve 25 years before he is eligible for parole. Robinson, who was a 15-year-old student at the time of the killing, will have to serve 21 years before he becomes eligible for parole.

Prosecutors Lisa Palmer-Hamilton and Natallie Malcolm led evidence that Floris Clarke was found dead inside her home in Watt Town, St Ann, on October 26, 2007. According to evidence presented during the trial, she was bludgeoned with a wooden bat, stabbed several times, and had her throat slashed.

Prosecutors charged that Clarke, who has since remarried and fathered two children, contracted Robinson and another student, Emmanuel Newland, for between \$60,000 and \$100,000 to kill his wife.

Newland pleaded guilty to murder in July 2011 and is serving a 15-year prison sentence.

FAIR SENTENCING

"Sentencing should be fair to the community, the family, and the accused persons ... and for the protection of the public. I will have to look at the positives [said about Clarke and Robinson during a sentencing hearing yesterday], but I also have to look at the evidence in the case," Smith said before announcing the sentence.

Attorney-at-law Oswest Senior Smith signalled immediately that Clarke plans to appeal his conviction on several grounds.

"Misconduct, misbehaviour, apparent collusion and non-direction," Smith said outside the court as he listed some of the grounds on which the appeal would be filed.

"And this is even before I've had a chance to look at the complete transcript and summation to be provided by the court reporter. I can only hope that the compiling of the work of the court reporting department is done within a reasonable time so that Mr Clarke can pursue justice at the appellate level," he continued.

Before the sentences were announced, Robinson's mother, Andrea James, pleaded with Smith to be lenient on her son, declaring that "to my heart, I don't believe he killed that lady".

"Can you please have leniency on him. Give him a road sentence because he is someone who like to move up and down. Him don't like to stay one place," she pleaded.

James told the court that she raised her son to be "'mannersable', kind, loving and caring", and was shocked when she heard that he was arrested and charged with murder. "That's not my child because my child don't show any action like he would hurt anybody," she said.

The End