

**IN THE SUPREME COURT OF BELIZE, A.D. 2022**

**CRIMINAL JURISDICTION**

**Central District**

**Indictment No C31/2022**

**THE QUEEN**

**v.**

**FRANCISCO TORRES**

**BEFORE: The Hon. Justice Susan Lamb**

**APPEARANCES: Mr. Glenfield Dennison for the Crown  
Accused unrepresented**

**DATES: 18 May 2022, 23 May 2022 and 30 May 2022**

**SENTENCING**

1. On 23 May 2022, Mr. Francisco Torres entered a plea of guilty to the offence of causing death by careless conduct pursuant to Section 108(2) of the Belize Criminal Code.<sup>1</sup>
2. The agreed facts are that on 20 September 2019, sometime between 11.30 p.m. and midnight, a fire started in an apartment located on the ground floor on the north-west side of Nando's apartment building in Caye Caulker. The fire was caused by a candle lit by Mr.

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<sup>1</sup> Section 108(2), Belize Criminal Code, Chapter 101 of the Substantive Laws of Belize (Revised Edition) 2020 ("Criminal Code").

Torres inside his apartment before he fell asleep. At the time, the apartment was occupied by Francisco Torres and Elmer Noe Chubb. As a result of the fire, the entire building was destroyed. The charred remains of the deceased Elmer Noe Chubb were later recovered from the building. The careless use of the lighted candle by Francisco Torres caused the fire, which in turn caused the death of Mr. Chubb.

3. On 24 September 2019, Mr. Torres gave a statement under caution indicating his role in the events leading to the death of Mr. Chub. On 14 April 2022, Mr. Torres was indicted for a single charge of causing death by careless conduct, contrary to Section 108(2) of the Belize Criminal Code. Mr. Torres was arraigned before the Supreme Court on 18 May 2022 and indicated a wish to plead guilty to this offence on 23 May 2022.
4. Mr. Torres was 23 years of age at the time of this incident. In his statement to the police made under caution, he was remorseful for the incident, and described Mr. Chub as his friend. He further described how he sought to douse the flames and tried unsuccessfully to rescue Mr. Chub. Mr. Torres co-operated with the police investigation and also admitted his responsibility at an early stage before the Supreme Court.
5. The offence under Section 108(2) of the Criminal Code is contrasted with the more serious offence of manslaughter by negligence.<sup>2</sup> Section 108(2) provides that persons causing death by careless conduct shall be liable to a term of imprisonment not exceeding two years.<sup>3</sup>
6. Usually, the courts have punished this offence with a fine, and any term of imprisonment is awarded in default of payment.<sup>4</sup>
7. Mr. Torres has been on remand since 9 April 2022. At the time of sentencing, he had therefore been in custody for one year and 52 days.
8. In view of the maximum allowable custodial penalty for this offence and the significant mitigating circumstances of this case, I sentence the Accused to time served.

Dated this 30<sup>th</sup> day of May 2022

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Justice Susan Lamb

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<sup>2</sup> Section 108(1) of the Criminal Code (punishable by imprisonment for five years); *see also* *Cardinal Smith v. The Queen*, Criminal Appeal No. 35 of 2005, 14 July 2005; *Michel Espat v. The Queen*, Criminal Appeal No. 2 of 2015, and *Director of Public Prosecutions v. Sherwood Wade*, Criminal Appeal No. 24 of 2015.

<sup>3</sup> *Director of Public Prosecutions v. Ravell Gonzalez*, Criminal Application for Leave to Appeal No. 2 of 2015 (“*DPP v. Gonzalez*”), at para. 14.

<sup>4</sup> *See e.g. R. v. Joel Westby*, Supreme Court of Belize, 11 April 2022 (per Lamb J), at paras 4-5 and footnotes 4-9.