

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

**CRIMINAL JURISDICTION**

**Central District**

**Indictment No C109/2020**

**THE QUEEN**

**v.**

**ERICK SALAZAR GUZMAN**

**BEFORE:** **The Honourable Justice Susan Lamb**

**APPEARANCES:** **Ms. Sheiniza Smith for the Crown**  
**Mr. Darrell Bradley for the Accused**

**DATES:** **15 March 2022, 16 May 2022, 23 May 2022, 25 May 2022, 6 June 2022, 13 June 2022 and 14 June 2022**

**SENTENCING**

1. On 25 May 2022, Mr. Erick Salazar Guzman 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 8 January 2017, between 9.00 p.m. and 10.00 p.m., the Accused, whilst driving a white Isuzu Axion on the Northern Highway, hit the deceased, Mr. Jamalski Young, who was riding his motorcycle and heading in the direction of Belize

---

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

City. The deceased and the motorcycle were engulfed in flames. The deceased died immediately upon impact. The accident occurred after the Accused drove across the Northern Highway from the left carriageway to the right carriageway while a white van was obstructing his view of the oncoming traffic. The van had been parked diagonally, blocking the Accused's view. The Accused thus crossed the highway at a time when it was not safe to do so, without keeping a proper lookout and while his view was obstructed.

3. The Accused left the scene without checking on the deceased or waiting for the police to arrive. However, he visited the Ladyville Police Station the next day, reported the incident and gave an interview under caution. There is also CCTV footage showing the collision, which was played in court, and which is also reflected in the above summary of facts.
4. On 1 October 2020, Mr. Salazar was indicted before the Supreme Court on a single count of causing death by careless conduct contrary to Section 108(2) of the Criminal Code and plead guilty to this offence on 25 May 2022.
5. Section 108(2) of the Criminal Code provides that “[e]very person who causes the death of another by any careless conduct not amounting to negligence ... shall be guilty of an offence and liable to imprisonment for two years.”
6. Whilst the case law has emphasized that causing death by careless conduct is undoubtedly a serious offence, it is contrasted in sentencing with the more serious offence of manslaughter by negligence.<sup>2</sup> Sentencing for the offence of causing death by careless conduct under Section 108(2) of the Criminal Code encompasses four elements:
  - a) *A maximum term of imprisonment of two years.*<sup>3</sup> Although the courts have on occasion awarded a custodial sentence, more usually, any such sentence is awarded in default of payment.<sup>4</sup> Terms of imprisonment in default of payment have ranged from between three months to two years duration, depending on the circumstances of the case<sup>5</sup>;
  - b) *A fine.* Depending on the circumstances, decided cases have imposed fines in the range of \$2,000.00 to \$9,000.00, with the quantum typically being in the range of \$2,500 and \$4,500.00 in incidents involving a single death<sup>6</sup>;

---

<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 Espot 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. *See also R. v. Joel Westby*, C23/2019, Supreme Court of Belize, 11 April 2022, at paras 4-5 and footnotes 4-9 and *R. v. Francisco Torres*, C31/2022, Supreme Court of Belize, 30 May 2022, at paras 5-8.

<sup>4</sup> *See Victor Cuevas v. The Queen*, Criminal Application for Leave to Appeal No. 17 pf 2007 (imposing a one year custodial sentence in view of the Accused's unexplained aggressive driving and excess blood alcohol level at the time of the incident); *cf. Cardinal Smith v. The Queen*, Criminal Appeal No. 35 of 2005, 14 July 2006 (“*Cardinal Smith v. The Queen*”) (declining to impose a custodial sentence in the light of mitigating factors present in that case).

<sup>5</sup> *See e.g. N4/2014 R. v. Cesar Revolorio* (2014); C89/2017 *R. v. Jose Rodriguez* (2019); N18/2017 *R. v. Sixto Martinez* (2017); S28/2018 *R. v. Luis Tzul* and C104/2018 *R. v. Alfonso Noble* (2019) (all unreported).

<sup>6</sup> *See DPP v. Gonzalez*, at para. 2 (noting the impact of Section 151(2) of the Indictable Procedure Act where more than one person killed and requiring the payment of a single fine of \$8,000 and a sum of \$10,000 by way of

- c) *Compensation to the deceased's family.* Compensation under Section 108(2) of the Criminal Code does not seek to place a monetary value on human life. Instead, the quantum of compensation, when awarded at all under this provision, reflects considerations such as any payments previously made by the Accused to the deceased's family, prior or anticipated future insurance payments to the deceased's family, pending civil claims, and the financial means of the Accused.<sup>7</sup> The Court of Appeal has, however, intervened in a case awarding compensation of \$1,000.00, considering this sentence to be unduly lenient.<sup>8</sup> Compensation payments awarded to date has ranged from zero to \$10,000.00, with a range of \$3,500.00 to \$5,000.00 being the norm;<sup>9</sup> and
- d) *Disqualification from driving.* Despite the view expressed at paragraph 68 of *Cardinal Smith v. The Queen* that “where persons are convicted of an offence under this section, [...] [their driving] licence [...] should invariably be suspended”, other cases have criticized this approach as indefensibly rigid and inflexible and have refrained from ordering the suspension of the Accused's licence.<sup>10</sup> I find no justification for this additional punishment in the current circumstances.
7. Having regard to the above sentencing framework and my duty to arrive at an individualized sentence which reflects the circumstances of the case, I have considered the grave consequence of loss of life, and thus the profound and enduring impact of this incident upon Mr. Young's family.
8. During the sentencing hearing on 13 June 2022, the court heard victim impact statements from Ms. Natasha Young and Mr. Joel Young, siblings of the deceased. They described their brother, Jamalski, as a hard-working, cheerful and responsible person, who was a breadwinner for their mother and other siblings. At the time of his death, he had greatly looked forward to meeting his newborn daughter but tragically never got to do so. His child is currently five years of age. She, and indeed the whole family, keenly feel his loss. Jamalski Young was a much-loved brother, son, spouse and father, and the emotional and financial impact of his loss is immense. Both siblings expressed concern that Mr. Guzman left the scene of the accident and Ms. Young described being haunted by the question of whether this could have had any bearing on the outcome. There are no additional aggravating factors, such as a blood alcohol concentration above the prescribed limit, or clearly excessive speed.

---

compensation to the family of one of the deceased (*id.*, at paras. 18-20) and *Revolorio, Sixto Martinez, Jose Dominguez, and Luis Tzul* (*supra*, footnote 5) (imposing fines between \$2,500.00 and \$3,500.00).

<sup>7</sup> See e.g. N9/2014 *R. v. Donaldo Omar Can* (2015), N24/2018 *R. v. Abram Freisen* (2019) and N21/2017 *R. v. Jomar Hercules* (2019) (no compensation awarded but leave granted to reapply to the Supreme Court should insurance company not compensate deceased's family); N14/2018 *R. v. Norman Slusher* and N4/2018 *R. v. Jessy Garcia* (2018) (no compensation ordered as compensation already paid by insurance company); C42/2016 *R. v. Boyd Lopez* (2016) (no compensation payable due to pending civil claim); and C28/2018 *R. v. Ismael Garcia* (no compensation awarded following substantial insurance pay-out and the Accused's previous assistance to the deceased family with funeral expenses and having built the deceased's mother a house).

<sup>8</sup> *DPP v. Gonzalez*, at paras 1 and 2.

<sup>9</sup> See e.g. C24/2019 *R. v. Jessica Miller*; N4/2014 *R. v. Cesar Revolorio* (2014); S12/2013 *R. v. Josue Tello* (2014); N2/2015 *R. v. Hector Bobadilla* (2016) and *DPP v. Gonzalez*, at paras. 18-20.

<sup>10</sup> *DPP v. Gonzalez*, at para. 21.

9. There are several mitigating features in the present circumstances, in particular Mr. Salazar's guilty plea, which saves the court time and resources, genuine remorse, and good character. Mr. Salazar is 40 years of age. He is a law-abiding citizen who, previous to this incident, had not been convicted of any crime. Mr. Salazar acknowledges that it was wrong of him to have left the scene of the crime. He did so because he was fearful, but immediately recognized the folly of his actions and accepted responsibility for the incident. He voluntarily went to the police station the following day and gave a statement under caution, explaining what had transpired. Mr. Salazar opted to plead guilty, thus saving the family the trauma of a trial and has, both personally and through his counsel, expressed genuine remorse. This was a tragic accident with instantaneous and far-reaching consequences for the Young family: a non-intentional crime stemming from Mr. Salazar's decision to have crossed the road when it was not wise to do so. Mr. Salazar's counsel has stressed that this is a decision that Mr. Salazar will have to live with for the rest of his life and which he would reverse if he could. Mr. Salazar also personally acknowledged the profound impact of this incident on the Young family and indicated to them in court that he did not intend to harm to anyone, as well as his profound regrets.
10. In light of the above, I consider the following sentence to be appropriate in all the circumstances:
  1. A fine of \$2,750.00, payable within twelve (12) months of the date of this judgment;
  2. A term of imprisonment of six (6) months in default of payment; and
  3. A sum of compensation of \$4,500.00, payable within twenty four (24) months of the date of this judgment, to the family of the deceased, in the following amounts:
    - a) \$3,000.00 to the common law spouse of Mr. Jamalski Young, for the benefit of their minor daughter; and
    - b) \$1,500.00 to the mother and siblings of Mr. Jamalski Young, in equal share.

Dated this 14<sup>th</sup> day of June 2022

---

Justice Susan Lamb