

SUPREME COURT OF SEYCHELLES

Reportable

CR 02/2022

In the matter between:

THE REPUBLIC

(Represented by Ms Corrine Rose)

Prosecution

and

GEORGES POOL

(Represented by Mr Joel Camille)

Accused

Neutral Citation: *Rep vs Pool* (CO 02/2022) (12 August 2025)

Before: Adeline J

Summary: Accused prosecuted for alleged offences following road traffic accident – Alleged offences allegedly committed are, Manslaughter (in the alternative) Causing Death by Dangerous Driving – Failure to stop a vehicle when an accident occurs to any Person owing to the presence of his vehicle on the Road – Reckless and Negligent Acts – Accused denied all the four charges (4 counts) – Accused plead not guilty to all the four charges – Burden on the prosecution to prove the elements of each of the offences against the accused – The standard of proof required of the prosecution is beyond reasonable doubt.

Heard: 4th October 2022, 11 October 2022, 13 December 2024 and 19 February 2025

Delivered: 12 August 2025

JUDGMENT

Adeline, J

FACTUAL AND PROCEDURAL BACKGROUND

- [1] The accused herein, George Pool, stands charged with the following four offences arising from a fatal road traffic accident that occurred on 1st January 2022 at Anse Boileau, Mahé:

COUNT 1

Statement of offence

Manslaughter, contrary to Section 192 of the Penal Code (Cap 158) and punishable under Section 195 thereof.

Particulars of offence

George Pool, 47 year old mechanic of Beoliere, Mahe, while driving a motor vehicle coloured blue having registration number S 16382, by an unlawful act or omission, causes a fatal accident on the 1st day of January 2022, at Anse Boileau, Mahe, thereby causes the death of another person namely Arsen Robert Vidot.

COUNT 2 (in the alternative to Count 1)

Statement of offence

Causing death by dangerous driving contrary to and punishable under Section 25 of the Road Transport Act (CAP 206).

Particulars of offence

George Pool, 47 year old mechanic of Beoliere, Mahe, causes a fatal accident on the 1st day of January 2022, at Anse Boileau, Mahe, thereby causes the death of another person namely Arsen Robert Vidot, by driving a motor vehicle coloured blue having registration number S 16382 on the road at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case, including the nature, condition, and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road.

COUNT 3

Statement of offence

Failure to stop a vehicle when an accident occurs to any person owing to the presence of his vehicle on road, contrary to Section 24(1) (g) and Punishable under Section 24(2) of the Road Transport Act (CAP 206)

Particulars of offence

George Pool, 47-year-old mechanic of Beoliere, Mahe on the 1st day of January 2022, at Anse Boileau, Mahe, being the driver of a motor vehicle coloured blue having registration number S16382 fails to stop when an accident occurs to Arsen Robert Vidot and police officers Rose-May Gomme and Manisha Bristol, owing to the presence of his vehicle on the road.

COUNT 4

Statement of Offence

Reckless and negligent acts contrary to section 229(a) of the Penal Code (CAP 158) and punishable under section 229 of the same Act

Particulars of offence

George Pool, 47-year-old mechanic of Beoliere, Mahe on the 1st day of January 2022, at Anse Boileau, Mahe, drives a motor vehicle coloured blue having registration number S16382 in a manner so rash or negligent as to endanger the life of Arsen Robert Vidot and police officers Rose-May Gomme and Manisha Bristol or to be likely to cause harm to Robert Vidot and police officers Rose-May Gomme and Manisha Bristol

- [2] The Accused pleaded not guilty to the four counts.

THE EVIDENCE LED AT TRIAL

- [3] In seeking to prove the charges against the accused, the prosecution led the evidence of 11 prosecution witnesses. The first witness to be examined was **Inspector Ralph Agathine**, attached to the Scientific Support and Crimes Records Bureau. He stated that he received a call from the Command Centre of the Seychelles Police who requested his assistance regarding an alleged accident that happened at Anse Boileau on 1st January, 2022. He testified that the accident occurred at 9:50pm. He stated that he met with Officer Dogley who showed him the location where the accident occurred. At the scene, he did an examination and took photographs, labelled 1 and 2. Label 1 indicates where there was red substance on the road similar to blood, and Label 2 indicates the position of an officer who was lying on the pavement as informed by Corporal Dogley. He collected three swabs from

the red substance on the road and examined them and took photographs of the vehicle, Registration No. S16382.

- [4] He later went to the Anse Boileau Clinic where he was shown the body of the deceased. He took photographs of the deceased showing some of the injuries on his body in the presence of a pathologist. On 7th January 2022, he went to the mortuary where he attended the autopsy of the deceased which was conducted by Dr. Raoul and assisted by one Mr Rabat.

- [5] He took 163 photographs of the scene, the vehicle involved, and the body of the deceased, which were later printed and mounted in an album marked as Exhibit P1. He confirmed, that he used a Nikon D3000200 digital camera and stored the photos securely. He also prepared and tendered an exhibit chart (Exhibit P2) documenting various items collected during the investigation including swabs from the scene (Exhibit P3), blood-stained items (Exhibit P4), the deceased's clothing (Exhibits P5–P8), and frozen biological samples (Exhibits P9–P13). A bottle containing an unknown liquid found in the vehicle was marked as Exhibit P14.

- [6] During cross-examination, the witness confirmed, that by the time he arrived at the scene, the deceased's body had already been removed and as such, he did not take any photographs of the body at the scene. He acknowledged, that in such cases it is standard procedure for officers to be summoned immediately in order to take photographs of the body on the scene. He further stated, that he could not recall whether the red substance observed at the scene was tested to confirm if it was blood. Additionally, he confirmed, that the spots where he had put the two labels are dark spots as they don't have pole of lights.

- [7] The next witness was **WPC Manisha Bristol**, an officer stationed at Anse Boileau police station with nearly six years of service, who testified that she was on night duty on 1st January, 2022, having resumed duty at 7:00 pm. At around 8:30 pm while talking to WPC Gomme inside the station, they observed a man repeatedly walking in the middle of the road outside. They stepped outside to go and tell him that he needed to get out of the middle of the road since there were cars passing and he almost got hit. They then went inside and

informed Corporal Dogley that they were going to check on the man who was walking in the middle of the road.

- [8] The two officers escorted the man toward Mr. Toussaint's house, and upon arrival he fell to the ground and resisted further assistance. As they attempted to persuade him, WPC Gomme noticed an approaching vehicle and tried to signal it to stop. WPC Bristol also raised her hand to signal the driver. She testified, that the vehicle had no lights on. The driver only flashed his lights for two seconds and then switched it off again. She further testified, that he flashed the light a little bit close to the driveway. The accused failed to stop and struck all three (WPC Bristol, WPC Gomme, and the deceased).
- [9] WPC Bristol stated that she tried to move away but was hit and fell on her back. She later heard WPC Gomme screaming for help. She described the vehicle as a small blue car, coming from the direction of Montagne Posée towards Anse La Mouche. After the impact, the vehicle drove off without stopping. The area was poorly lit, and she confirmed she was not wearing her police vest at the time, having rushed out in uniform to assist the man.
- [10] She sustained injuries to her lower back, elbows, and right knee, and was taken to the Anse Boileau Clinic by ambulance after the man had been taken first. She later learned at the clinic that the man they had been helping had passed away. She identified him in a photograph shown in court and described him as wearing a light blue shirt, black trousers, and a white belt.
- [11] **WPC Rose-May Gomme**, a police officer with 15 years of service stationed at Anse Boileau Police Station, testified that on the material day, she was on duty for mobile patrol and while waiting for transport, she saw a man walking up and down on the street. She informed Corporal Dogley of the situation who instructed her and WPC Manisha Bristol to assist and bring the man to the station for his safety.
- [12] They found the man at the Administration Office, roughly a 10-minute walk from the police station. He appeared drunk, could not walk properly, and eventually collapsed when they reached Mr. Toussaint's house. While they were trying to assist him, WPC Gomme noticed a vehicle approaching fast without lights. She raised her hand to signal the driver but the

driver did not stop. The vehicle struck all of them (the man, WPC Bristol and her). When questioned about the speed of the car, she stated that it was fast and added, that she is however not a driver and was unable to estimate the speed in miles.

- [13] She stated that she saw the car flash lights as it hit her. WPC Gomme stated that it was rainy, there was lightning and no nearby people. She said she wore a reflective police jacket. After the impact, she checked on the man who was bleeding from the ears and nose, and she attempted to call for help. She ran to the fire station and the police station for assistance and passed out afterward.
- [14] She identified the blue vehicle that hit them in photographs (exhibit P1), and also recognized the driver as Mr. George Pool. She stated, that the vehicle continued driving after hitting them and that it only flashed its lights briefly at the moment of impact.
- [15] She sustained injuries to her hip and now continues to experience pain on her back side. She was later taken by ambulance to Anse Boileau Clinic.
- [16] **Dr. Barun Kumar Saha**, a registered medical practitioner who has been in Seychelles since 1995 testified as an expert witness. He testified in relation to three medical documents (Exhibits P15, P16, and P17) issued by Dr. Talat Rawaki, a former general practitioner at the Anse Boileau Health Centre. Although he did not work directly with Dr. Talat, Dr. Saha was his supervisor and is familiar with his handwriting and signature.
- [17] Dr. Saha identified Exhibit P15 as a police medical examination form concerning Manisha Bristol, who sustained a right elbow contusion and superficial wound from a road traffic accident. Exhibit P16 relates to Rose-May Gomme, also involved in a road traffic accident, but with no visible external injuries. Dr. Saha clarified that absence of external injuries stating that this does not preclude internal injury which may require further examination. Exhibit P17 was a casualty slip for Robert Vidot who was brought to the clinic already dead. Dr. Saha explained, that only a medical professional may officially declare death after examination.
- [18] **Mr. Laurent Toussaint**, a resident of Anse Boileau, testified that on the night of **1st January 2022**, between 8:00 and 9:00 pm, he observed two police officers attending to a

man lying on the road directly in front of his driveway. He was standing on his veranda when he noticed the lights of an approaching vehicle. One officer tried stopping the car but it did not stop. It instead swerved but struck one of the officers and the man on the road, and continued driving without lights.

- [19] He described the vehicle as a small car, dark in colour, possibly bluish and estimated its speed to be moderate between 20 to 30km/h and stated it could not be 80 km/h. He also noted, that the road lighting was poor due to intermittent power outages, though the vehicle's lights initially allowed him to see the people on the road.
- [20] Mr. Toussaint identified the scene in a photograph (Exhibit P2) as being in front of his house and confirmed where he was standing from his veranda. He observed that one officer was wearing a high-visibility vest, which upon cross-examination he conceded may have been a high-visibility police jacket rather than a vest. He also confirmed, that it was raining at the time, though not heavily, and that he went outside shortly after the collision to observe what had happened.
- [21] Under cross-examination, he affirmed the accuracy of his statement to police made within 24 hours of the incident, reiterating that the vehicle was not speeding and had lights on at the time of impact. He acknowledged the possibility of minor error in identifying the visibility garment but maintained that it was reflective in nature.
- [22] **Police Constable Stephan Joseph**, a police officer stationed at Anse Royale with nine years of service, testified that he was on special duty on the material day, from 6:00 pm. At around 8:30 pm. While patrolling in the southwest region of Mahé with PC Laporte and Sergeant Rigodon of the Seychelles Defence Forces, he received a call from ASP Jean informing him of a road accident involving two police officers and one male civilian.
- [23] They proceeded to the scene near Anse Boileau Police Station where they found two injured officers on the ground and a deceased male. While assisting with the officers' evacuation to the ambulance, he overheard an unidentified female voice in the crowd saying that a blue Charade had caused the accident and had driven away.

- [24] Based on his prior knowledge of individuals in the area who drove similar vehicles, he and his colleagues proceeded to Anse Louis, suspecting one Georges Pool, who had a similar car. Pool was not at his residence, but on their return to the station, they saw the blue vehicle being driven by Pool, accompanied by his wife, Virginie Pool. PC Joseph noticed that the right side of the windscreen and bumper were damaged. He approached the vehicle and questioned Pool who denied having collided with anyone. However, his wife interjected and stated, "I told you you hit something but you didn't stop".
- [25] PC Joseph then invited Pool to the police station and personally drove the vehicle to the Anse Boileau Police Station. He identified Georges Pool in court as the man he had seen and arrested that day.
- [26] He was then shown photographs (exhibit P1), in which he confirmed that the vehicle depicted was the same vehicle he had taken from Pool. He identified the damaged bumper and cracked windscreen as consistent with what he had seen on the day of the incident.
- [27] **Mr. Marius Barra** testified as the next witness. He stated that he is a vehicle examiner at the Vehicle Testing Station with 9 years' experience. He conducted a visual inspection of the blue Daihatsu Charade and confirmed that his examination was limited to the exterior of the vehicle. His findings included:
- a) Damaged bonnet mechanism that could not open.
 - b) Damage to the hood.
 - c) A cracked front windscreen.
 - d) Broken left side mirror.
 - e) Flat left rear tire.
- [28] He confirmed that no interior or functional checks were done. The inspection was carried out on 26th January, 2022, following instructions from his superior, who specifically tasked him with assessing only the external damages. Photographs in exhibit P1 were shown to him in court, and he confirmed they matched the vehicle he examined.

- [29] **Corporal Claudia Dogley**, attached to the Anse Boileau Police Station was the next witness to be examined. She testified that on 1st January, 2022 she was working as the supervisor replacing the CO. On the material day, she observed a man walking back and forth on the road. She saw him once and later WPC Gomme and WPC Bristol went to assist the man. She then learned from WPC Gomme that WPC Bristol had been in an accident. She ran to the scene, found the man lying face down with blood near his head, and WPC Bristol nearby in a similar position. WPC Gomme was found further away, across from the station, also on the ground.
- [30] She called an ambulance and instructed the paramedics to first pick up the man, followed by the injured officers and to take them to the Anse Boileau Clinic. The vehicle registration no. S16382 was later examined by her and found to have damage to the lower part and broken side mirrors.
- [31] The next day, she created a sketch plan of the scene. The accused was not present during the sketch because he had already been transferred to Central Police Station in Victoria. She testified that she prepared both the rough and clear sketch plans relating to the accident involving vehicle S16382. Although both plans were dated 1st January, 2022 at 20:50 hours, she stated that she actually drew them on 2nd January, the day after the incident. She explained the sketch plan's various measurements, including distances between the point of impact, the bodies of the victims, the electric pole, and the road width. She clarified that she was the first officer on the scene and made the observations firsthand. Sergeant Confiance accompanied her during the measurements, and she later handed the completed sketch plan to Corporal Bastienne.
- [32] **Corporal Daniel David Bastille**, a police officer then attached to the Traffic Section at the Central Police Station, testified as the investigating officer in this case. His duties included issuing a Notice of Intended Prosecution (NIP) to the accused, requesting a vehicle examination, ordering a road survey and requesting and assisting with the post-mortem of the deceased.
- [33] He confirmed that the NIP was issued to Mr. Pool on 6th January 2022, five days after the incident on 1st January, 2022. The NIP was signed by both himself and the accused. Two

boxes were ticked on the NIP. One for dangerous/reckless driving, and the second for driving under the influence (breathalyser above the limit).

- [34] On cross examination, he confirmed that Mr. Pool did not own the vehicle, but the owner was questioned to verify its condition. He further confirmed that no brake test could be done due to the state of the vehicle. He did not attend the scene at night but visited the scene during the day and was not present when forensic photos were taken. He did not interview other police officers involved in the accident but received their written statements.
- [35] **Mr. Randolph Antoine Denousse**, a chef residing at Aux Cap, testified, that he is the registered owner of a blue Daihatsu Charade registration number S16382 which he had lent to the accused. Denousse explained, that he was travelling to La Digue for work and entrusted the vehicle to Pool, who is one of his regular mechanics, for routine servicing and to fix an issue with the air conditioning. He confirmed, that although the car had a cracked windscreen on the driver's side and a faulty aircon, it was in working condition when he handed it over.
- [36] Denousse stated, that he later learned, while he was in hospital, that the car had been involved in an accident. The vehicle was in police custody and a relative assisted in making arrangements to retrieve it after the investigation was completed. He confirmed, that the vehicle shown in the photographs presented in court was indeed his, identifying the crack on the windscreen that was existing before. However, he pointed out new damage to the front bumper that had not been present when he lent the car to Pool.
- [37] Under cross-examination, Denousse clarified that the air conditioning problem was particularly concerning during rainy weather, as it impaired visibility through the windscreen. He acknowledged, that the cracked windscreen, while present, had not significantly hindered his driving.
- [38] **Dr. Lander Barreda Bettencourt**, a forensic pathologist at Victoria Hospital, testified as an expert witness. He knows Dr. Raoul Ramirez Salaz, the pathologist who conducted the post-mortem examination of the deceased, having worked with him for three years in Cuba.

Dr. Lander confirmed, that he is familiar with Dr. Salaz's handwriting and signature and was therefore able to authenticate the declaration of death, the death certificate, and the post-mortem report prepared and signed by Dr. Salaz. These documents were admitted as exhibits P21, P22, and P23 respectively.

- [39] The indicators of death included fixed pupils, absence of pulse and respiration, and loss of reflexes. Dr. Lander explained, the post-mortem findings as detailed in the forensic discussion and conclusions of the report. He testified, that the deceased suffered a violent death caused by a road traffic accident. The deceased was reportedly on the road with two police officers when he was hit by a vehicle, first receiving impact on his left leg and hip. He then fell onto the hood of the vehicle, sustaining severe trauma to the head and face, before being projected to the ground. The car subsequently ran over him, resulting in multiple fractures in the thoracic cage, sternum, and internal organs. There were also spinal cord injuries, a fractured vertebral column between C7 and D1, and extensive subarachnoid hemorrhage in the occipital area of the brain.
- [40] Dr. Lander confirmed, that these injuries were considered "fatal by necessity," meaning that survival was impossible given their severity. He also confirmed the presence of hematic infiltrates in various parts of the body, indicating internal bleeding due to ruptured blood vessels. The cause of death, as concluded in the post-mortem report, was traumatic shock resulting from severe trauma to the head, thorax, and abdomen, and the manner of death was deemed accidental, arising from a road traffic accident.
- [41] In his defence of the charges against him, the accused Georges Pool, gave evidence on his own behalf. He stated that he is 50 years old, a carpenter and mechanic living at Mont Signal. On 1st January 2022, he went to Beoliere to assist his cousin with a truck breakdown. Later, he visited a friend at Anse Etoile before heading to Beau Vallon to wish his girlfriend and her family a Happy New Year. He estimated arriving there around 11:00 am to noon. Afterwards, he returned to Beoliere. At around 1:00 pm, he received a call from his estranged wife and they agreed to meet at the roadside in Beoliere. From there, he picked her up in the blue car and they drove to Port Launay beach where they stayed from around 1:30/2:00 pm until 7:00 pm.

- [42] At around 7:30 pm, they left Port Launay and en route, they gave a lift to his wife's friend. While driving through Anse Boileau, he noticed that the area was very dark due to a power outage, and it had begun to rain. His windscreen got blurry since the air conditioner was not working and he even asked his wife to hand him some tissue from the glove box for him to wipe it.
- [43] As they passed Anse Boileau Police Station, he saw some lightning on the road and bent down to see better. He stated that he was not speeding. His wife mentioned that she thought she saw police officers on the road, but he saw nothing and assumed there was nothing of concern. He continued his journey to Mont Plaisir where he stayed for approximately one and a half hours at a party.
- [44] While driving back towards Anse Louis, he encountered police officers. He was pulled out of his car by the officers and then told that he had hit and killed someone, slapped, and placed in handcuffs. His wife remained in his vehicle and was taken to the police station separately. He denied hitting anyone or seeing anyone on the road that night. He was later detained and brought to court.
- [45] In cross-examination, Mr. George Pool stated, that visibility was poor due to darkness and rain. He maintained that he was driving slowly (30–40 km/h). He denied seeing any pedestrians or police officers despite testimonies that officers in reflective jackets had signaled him to stop. He insisted his headlights were on and that he did not hit anyone.
- [46] He was shown photos of his damaged bumper and cracked windscreen, and he admitted that the crack was old but denied the bumper was damaged before. He could not explain the dent. He admitted drinking three beers earlier. The prosecution put it to him that he caused Mr. Vidot's death by driving recklessly and failing to stop. He maintained he saw no one on the road and felt no impact.

CLOSING ARGUMENTS OF THE PARTIES BY WAY OF WRITTEN SUBMISSIONS

Prosecution's submissions

- [47] The Prosecution filed its written submissions dated 9th April, 2025 through learned Counsel, Ms. Corrine Rose. It is the Prosecution's case, that the Accused ought to be convicted on all charges having proved its case beyond reasonable doubt.
- [48] It is submitted that the accused is guilty of manslaughter contrary to Section 192 of the Penal Code. In support of this submission, Counsel relies on the decision in *R v Adomako* [1995] 1 AC 171, which sets out the elements of gross negligence manslaughter, namely: the existence of a duty of care, a breach of that duty through a negligent act or omission causation of death, and that the negligence was so gross as to amount to a criminal offence. The Prosecution submits, that the Accused breached this duty by driving negligently under dangerous conditions, which led to the death of Arsen Robert Vidot. The accused's failure to drive cautiously in poor visibility, and his failure to observe or react to persons on the road, amounted to gross negligence.
- [49] As regards to the offence of causing death by dangerous driving, the Prosecution submits, that the provision envisages an objective test as affirmed in *Mervin Sedgwick v The Republic* (SCA 22/2014), where the Court referred to the authority in *PPP v Milton* (2006).
- [50] The Prosecution further submits, that the accused committed an offence under Section 24(1)(g) of the Road Transport Act by failing to stop after the collision. Moreover, the accused breached Section 229(a) of the Penal Code which penalises reckless and negligent acts. Counsel cited the case of *Tirant v The Republic* [1982] SLR 28, where the Court held that negligent driving is assessed against the objective standard of a reasonable driver. It is the submission of counsel for the prosecution, that the accused's failure to drive with headlights on, failure to respond to police warnings, and failure to stop after the collision amounted to conduct that was reckless and negligent within the meaning of the provision.

Accused's submissions

- [51] In seeking to defend the charges against him, the Accused filed his written submissions dated 17th July 2025 through his counsel, Mr. Joel Camille. On Counts 1, 2 and 4, the accused submits, that the charge of manslaughter is defective for failing to specify whether it is based on an unlawful act (constructive manslaughter) or an unlawful omission (gross

negligence). Relying on *Ragain v Republic* (2013) SLR 619, the defence submits, that this ambiguity violates Article 19(2)(b) of the Constitution which requires that an accused be informed in detail of the nature of the charge. This procedural flaw, according to the accused, should lead to an acquittal.

- [52] The Accused contests the allegation that he was driving without headlights, highlighting inconsistencies in the testimonies of WPC Bristol and WPC Gomme. According to the accused, both officers admitted that the area was dark, it was raining, and that they were not wearing reflective police vests. WPC Gomme was however wearing a rain jacket. The defence emphasizes, that Laurent Toussaint observed vehicle lights approaching, and confirmed, that he could only see the three persons on the road because the vehicle's lights were on. Toussaint also confirmed, that the accused was driving at a moderate speed.
- [53] The Accused submits, that the evidence of Mr. Toussaint casts doubt on the prosecution's case. He relies on Section 10 of the Penal Code, and submits, that the defence mounted by the accused, clearly absolves the accused of any criminal responsibility in respect of the offences alleged under counts 1, 2, and 4.
- [54] The Accused submits, that the prosecution's evidence relating to Count 3 has inconsistencies, and taken as a whole, it points to an accident rather than a criminal offence. He maintains, that given the conditions of that night, his claim that he neither saw any of the three individuals on the road nor realised he had been involved in an accident is not unreasonable. On that basis, he submits that the charge of failing to stop cannot be sustained, and he should be acquitted.

THE COURT'S REASONING AND ANALYSIS OF THE FACTS AND THE LAW

Count 1 – Manslaughter

- [55] The accused stands charged with the offence of manslaughter under Section 192 of the Penal Code, which provides that:

“Any person who by an unlawful act or omission causes the death of another person is guilty of the felony termed 'manslaughter'. An unlawful omission is an omission amounting

to culpable negligence to discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.”

- [56] For a conviction under this provision, the prosecution must establish, beyond reasonable doubt, that the accused either committed an unlawful act, or failed to perform a duty in a manner amounting to culpable negligence, and that such act or omission caused the death of the deceased.
- [57] I am guided by the decision in *Ragain v R* (2013) SLR 619, in which the Court of Appeal recognised two categories of manslaughter, being, **unlawful act manslaughter** (constructive manslaughter) and **manslaughter by gross negligence**. The Court in *Emmanuel Saffance v The Republic* (SCA 13 of 2020) [2020] SCCA 29 (18 December 2020) referred to these two types of manslaughter as involuntary which are unlawful killings done without an intention to kill or to cause grievous bodily harm.
- [58] Clearly, therefore, involuntary manslaughter arises where the accused did not intend to cause death or serious injury but caused death to another by way of an unlawful act, or gross negligence. The latter is when a person owes a duty of care by virtue of statute or by the neighbour principle, and is negligent to the extent that the law makes it a crime, and that person has caused the victim of its negligence to die.
- [59] In the English case of *R vs Bateman* CA, the court held that gross negligence manslaughter requires the following element;
1. The accused owed a duty to the deceased to take care.
 2. The accused breached this duty
 3. The breach caused the death of the deceased victim and
 4. The accused’s negligence was gross, in that, it shows such a disregard for the life and safety of others to amount to a crime and deserve punishment.

- [60] While the charge itself does not specify which limb is relied upon, it is evident from the prosecution's submissions, that their case is premised on the second, that is, manslaughter by unlawful omission in the form of gross negligence.
- [61] Section 206 of the Penal Code is relevant in this regard. It imposes a statutory duty on every person who has charge or control of anything capable of endangering life, including motor vehicles, to exercise reasonable care and take necessary precautions to avoid such danger. A failure to observe this duty, where it results in death, can form the basis for criminal liability where the omission is so flagrant as to constitute culpable negligence.
- [62] The prosecution's case is that the accused breached this duty, and the breach resulted in the deceased's death. The evidence indicates, that at the time of the incident, the accused was driving a vehicle with a cracked windscreen and a defective air conditioning system in rainy conditions at night. These factors collectively impaired visibility. Both police officers struck in the incident, WPC Gomme and WPC Bristol, gave evidence that the vehicle did not have its headlights on. WPC Gomme stated, that she only saw the lights flash briefly at the point of impact, while WPC Bristol said the lights had been turned off after a brief flash of about 2 seconds. The accused himself maintains, that the lights were on throughout.
- [63] The Accused stated, that his wife who was a passenger in the vehicle, alerted him that she saw police officers on the road. Despite this, the accused continued driving, later claiming that he saw no one, felt no impact, and was unaware that an accident had occurred.
- [64] While the accused's conduct clearly fell short of the expected standard of care for a motorist, and his decision to proceed under such conditions was certainly imprudent, the legal threshold for gross negligence manslaughter is not met by mere carelessness or negligence.
- [65] In *R v Rico Chetty* [2018] SCSC 244, the Court stated as follows:

"In the Seychelles, the case of R v Marzetti 1970 SLR 20 the accused was charged with manslaughter under section 195 of the Penal Code and dangerous driving under section 18(1) (b) and (2) of the Road Transport Act. Sauzier J held that the degree of negligence,

must go beyond a mere matter of compensation between subjects and show disregard for the life and safety of others as to amount to a crime against the State and conduct deserving of punishment to establish a charge of manslaughter."

- [66] From the above, for an omission to constitute culpable negligence within the meaning of Section 192, the conduct must display such a disregard for the life and safety of others as to amount to a crime against the State, deserving of punishment. The negligence must be of a very high order described as "gross" and not every fatal driving error will suffice.
- [67] In this case, although the accused's driving fell below acceptable standards and may have been dangerous, I am not satisfied, that it rose to the level of gross or culpable negligence required to sustain a conviction for manslaughter. The facts are more appropriately dealt with under the alternative count.
- [68] Accordingly, I find that the prosecution has failed to establish that the accused is criminally liable for the death of the deceased under the offence of manslaughter. The elements a culpable omission causing death have not been proven beyond reasonable doubt.
- [69] The accused is therefore acquitted of Count 1.

Count 2 – Causing Death by Dangerous Driving

- [70] The Accused has been charged with the statutory offence of causing death by dangerous driving as an alternative to count 1.
- [71] Section 25 of the Road Transport Act provides:
- "A person who causes the death of another person by the driving of a motor vehicle on a road recklessly or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road, shall be liable on conviction to imprisonment for a term not exceeding five years."*
- [72] To prove this charge, the prosecution must establish that:

- a) The accused was driving a motor vehicle;
- b) He drove it in a reckless manner or at a speed or in a manner dangerous to the public having regard to all the circumstances; and
- c) That such dangerous driving caused the death of the deceased.

[73] It is not disputed that the accused was the driver of the vehicle S16382 that struck and killed Arsen Robert Vidot, and injured two police officers, WPC Bristol and WPC Gomme. The main issue presented is whether the manner of driving was dangerous, assessed objectively.

[74] In *R v Gosney* [1971] 3 All ER 220, the English Court of Appeal held that in order to justify a conviction there must have been a situation which viewed objectively, was dangerous and also some fault on the part of the driver. In regard to this element of fault, Megaw LJ stated:

“Fault certainly does not necessarily involve deliberate misconduct or recklessness or intention to drive in a manner inconsistent with proper standards of driving. Nor does fault necessarily involve moral blame ... fault involves a failure, a falling below the care or skill of a competent and experienced driver, in relation to the manner of driving and to the relevant circumstances of the case. A fault in that sense even though it be a momentary lapse, even though normally no danger would have arisen from it, is sufficient.”

[75] In *R v Edmond* (CO 66/2013) [2017] SCSC 908 (26 July 2017) the Court observed that a person may be regarded as driving dangerously where:

- i. *the way he/she drives falls far below what would be expected of a competent and careful driver, and it would be obvious to a competent and careful driver that driving in that way would be dangerous; or*
- ii. *if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.”*

(See also *Mervin Sedgwick v The Republic Criminal Appeal SCA 22/2014*)

- [76] The prosecution relies on the evidence of WPC Manisha Bristol and WPC Rose-May Gomme, both of whom testified that the accused was driving without headlights. Both officers stated they raised their hands to signal the approaching vehicle to stop, but the vehicle failed to stop. According to WPC Gomme, she only saw the headlights flash briefly at the moment of impact, after which the vehicle continued driving without lights. WPC Bristol confirmed that it was dark, the accused failed to stop, and she had not seen the vehicle's lights. However, she remembers the vehicle flashing lights for two seconds and then switching them off again. Both officers were struck by the vehicle.
- [77] This version is partly contradicted by Mr. Laurent Toussaint who testified that the vehicle did have its headlights on as it approached. However, his perspective was from his veranda, and it is unclear whether his sighting of headlights may have coincided with the moment the driver flashed them.
- [78] Even accepting some ambiguity as to whether the headlights were continuously off, the consistency of the police officers' evidence who were both victims on this issue is compelling. WPC Gomme testified that she was wearing a reflective police jacket, a point corroborated by WPC Bristol and Mr. Toussaint. When questioned by the Court, WPC Bristol confirmed, that the reflective jacket illuminates when light shines upon it. This evidence supports the conclusion that, had the accused been paying due attention and using his headlights, he ought to have seen the officers clearly positioned in front of him.
- [79] The accused on the other hand admitted, that visibility was significantly compromised. He was driving through a poorly lit area in rainy weather, with a fogged-up windscreen due to a non-functional air conditioner which he was attempting to clear manually using tissue. He stated, that he saw no one on the road but was in close proximity to a police station. He further testified, that his wife alerted him to the presence of police officers on the road, and yet he failed to take any precautionary action. He maintained, that he was unaware of any impact and only became aware of the incident later when he was stopped by police.
- [80] Taken together, the accused's own admissions regarding poor visibility caused by mechanical defects and the weather conditions, coupled with his failure to respond to a warning from his passenger or to observe three persons directly in front of him, including

police officers signaling him, demonstrate a level of inattentiveness that rendered his manner of driving objectively dangerous.

[81] In these circumstances, the accused's conduct fell below the standard of a competent and careful driver, and the prosecution has proved beyond reasonable doubt that such dangerous driving caused the death of Mr. Vidot.

[82] Accordingly, I find the accused guilty of Count 2.

Count 3 – Failure to Stop Following an Accident (Section 24(1)(g), Road Transport Act)

[83] Section 24(1)(g) of the Road Transport Act imposes a statutory duty on any driver involved in a road traffic accident to stop when an accident occurs to any person, vehicle, animal, or property owing to the presence of their vehicle on the road.

[84] The evidence before the Court establishes, that the accused was driving vehicle registration number S16382 on the night of 1st January, 2022, when it struck and caused the death of Mr. Arsen Robert Vidot and injured WPCs Gomme and Bristol, all of whom were on the road. Despite the severity of the incident and the accused's proximity to a police station, he did not stop until later when he was stopped by officers as he was driving back to Anse Louis from the party he had briefly attended.

[85] The accused claims that he was unaware that he had hit anyone. He cited poor visibility due to a fogged windscreen caused by a defective air conditioning and rain, and stated that he did not feel any impact.

[86] I note that the impact caused the death of the Mr. Vidot and injuries to two police officers one of whom was in a reflective jacket, which raises significant doubt as to the accused's claimed ignorance. The fact that he continued driving away from the scene, only to be stopped later by police, supports the inference that he failed to stop.

[87] The defence has argued that the accused's failure to stop was not deliberate, but rather the result of a genuine lack of awareness. However, I am not persuaded that such lack of awareness was reasonable in the circumstances.

[88] A reasonable driver exercising due care would have reacted with greater caution and would likely have detected the collision.

[89] In light of the foregoing, the prosecution has proved beyond reasonable doubt that the accused, being the driver of the vehicle involved in an accident that resulted in the death of the deceased victim and injuries to the police officers on the road, failed to stop as required under Section 24(1)(g) of the Road Transport Act.

[90] I find the accused guilty of Count 3.

Count 4 – Reckless and Negligent Acts (Section 229(a) of the Penal Code)

[91] Before turning to the merits of Count 4, I note that it arises from the same set of facts as Counts 1 and 2 but it was not framed as an alternative count. It alleges a lesser form of criminal negligence under Section 229(a) of the Penal Code.

[92] Section 229(a) of the Penal Code provides that:

“Any *person* who in a manner so rash or negligent as to endanger human life or to be likely to cause *harm* to any *person*—

(a)drives any vehicle or rides on any *public way*;

is guilty of a misdemeanour.”

[93] To prove this offence, the prosecution must establish that the accused committed an act with such recklessness or negligence that it either endangered the life of another or was likely to cause harm. Unlike manslaughter or dangerous driving, this provision addresses a lower threshold of criminal negligence and does not require proof of death or serious injury.

[94] Evidence indicates that the accused drove in poor visibility conditions, with a fogged windscreen due to a faulty air conditioner. He continued to drive through a dimly lit area in the rain without, as the evidence strongly suggests, his headlights on. He failed to notice

three persons on the road, including two uniformed officers with one wearing a reflective jacket, and struck all three and failed to stop.

[95] These facts demonstrate a marked departure from the standard of care expected of a reasonable driver as discussed in Count 2. The cumulative effect of his conduct undoubtedly posed a serious risk to the lives and safety of those on the road that night.

[96] Accordingly, I am satisfied that the prosecution has proved beyond reasonable doubt that the accused committed the offence under Count 4. No separate conviction should however be entered on this count as it is absorbed by Count 2.

HOLDINGS AND IMPLICATIONS

[97] In essence, therefore, as regards to count 1, the offence of manslaughter, I find the accused not guilty, and accordingly, I acquit him. As regards to count 2, the offence of causing death by dangerous driving, I find the accused guilty, and accordingly, I convict him. As regards to count 3, the offence of failure to stop a vehicle when an accident occurs to any person owing to the presence of his vehicle on the road, I find the accused guilty and accordingly, I convict him for the offence. As regards to count 4, the offence of reckless and negligent acts, I find the accused guilty, and accordingly, I convict him for the offence.

Signed, dated and delivered at Ile du Port 12th August 2025.

