

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
3

4 INDICTMENT NO: 0071/2018
5

6 THE QUEEN
7

8 v.
9

10 DALTON BENJAMIN ROBINSON Jr.
11



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14 **Appearances:**

Mr. Greg Walcolm, for the Crown

15
16 Mrs. Lee Halliday-Davis of Brady Attorneys
17 for the Defendant

18 **Before:**

Justice Marlene Carter (Actg.)

19 **Sentence Hearing:**

19th September 2019

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21 **Delivery of Decision:**

26th September 2019
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23
24 **HEADNOTE**

25 *Criminal Law – Robbery – Sentence – Starting point – Aggravating and*
26 *Mitigating Factors – Second offence – Weapon not produced..*

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29 **SENTENCE JUDGMENT**
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1 looked up to see the defendant about an arm's length in front of her with his
2 hand under his shirt with what appeared to be a knife or something sharp. He
3 repeated his demand for her purse.

4 5. She handed her purse to him out of fear and he searched it. Whilst he was
5 searching it he asked, "*you don't have no money in the purse*" and she told him
6 no in an attempt to discourage him from searching the purse any further. The
7 victim then ran off towards her co-workers and told them she was robbed. She
8 was in shock.

9 6. The defendant then ran off. He took the complainant's purse which was valued
10 at US\$30.00 and contained C\$300.00.

11 7. The police were called and a report was made to them. They obtained the
12 CCTV footage which captured the defendant being present at the location and
13 the events of the robbery. The Defendant was pointed out on separate
14 identification parades by the victim and the security guard.

15 8. Counsel for the defendant accepted the facts as rehearsed by the prosecution,
16 save for the assertion that "*it is submitted that the jury accepted that the*
17 *defendant saw that the victim had money in her purse prior to the bar being*
18 *closed.*" This aspect of the narrative does not lend much or anything at all to
19 the court's disposition on sentence and therefore, I will disregard it.



1 CAYMAN ISLANDS SENTENCING GUIDELINES

2 9. I agree with the assessment of both counsel that, on the facts of this case,
3 following the Cayman Islands Sentencing Guidelines, the defendant has
4 committed a Medium Culpability/Category 3 Harm offence with a starting
5 point of 2 years' custody and a sentencing range of 18 months' – 3 years 6
6 months' custody, on the basis of:

- 7 i. The threat of violence by a bladed article: In this case, a knife (but which
8 was not produced), thus, Medium Culpability;
- 9 ii. Category 3 Harm: That is, factors in categories 1 and 2 not present.

10 10. Apart from the Guidelines, I also bear in mind some other factors that Counsel
11 for the defendant has submitted are of relevance. These factors are:

- 12 i. This was a relatively quick offence - there was no attempt to detain the
13 complainant;
- 14 ii. The defendant followed the complainant into the doorway. He did not force
15 her into the doorway or attempt to detain her;
- 16 iii. There were no threats uttered to the complainant;

17 (a) While I accept that there were no threats uttered, the evidence before
18 the jury was that the defendant approached the complainant “with
19 his hand under his shirt with what appeared to be a knife of
20 something sharp.” Clearly the threat was implied by this approach.



1 iv. The robbery was not committed in a remote area. It was outside the bar
2 when others were present in the vicinity. At the time that the defendant
3 approached the complainant it is accepted that she had walked away from
4 her co-workers and went to the rear of the bar.

5 v. The defendant is due to be sentenced for a single count of robbery in
6 relation to a purse that contained money;

7 vi. This was an opportunistic offence with very little planning;

8 vii. There was no attempt by the defendant to conceal his identity.



9 **FACTORS AFFECTING THE STARTING POINT**

10 11. Aggravating factors: The defendant has a previous conviction for robbery. He
11 received a sentence of three (3) years custody for the first offence.

12 12. Mitigating factors: There are no mitigating features specific to the offence
13 which was committed that can result in a reduction in the starting point.

14 **THE SOCIAL ENQUIRY REPORT ("SIR")**

15 13. Quite Apart from the aggravating and mitigating factors, the court is within its
16 discretion to consider the defendant's personal circumstances and whether these
17 could result in reducing the sentence to be imposed.

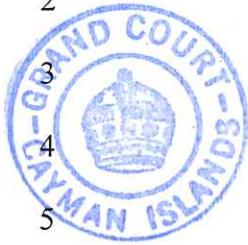
18 14. The SIR tells of a young man who has gone through life to this point seemingly
19 without proper or any parental guidance. His mother left the family home when
20 he was six years old, leaving the defendant and his two younger brothers in the

1 care of his father who was incarcerated shortly thereafter. The defendant was
2 taken into the care of an aunt and his grandmother. After his grandmother
3 passed away, when the defendant was eight years old, he began to smoke
4 marijuana. At this point his father was serving a 5-year term of imprisonment.
5 The defendant records this as being the point at which his antisocial behaviour
6 began. The defendant was subsequently ordered to the Bonaventure Boys
7 Home on various occasions and his younger brothers to the Frances Bodden
8 Home.

9 15. The defendant ran from his home when he was fifteen years old and committed
10 the robbery offence for which he served 3 years in prison at age sixteen. . Upon
11 his release, the defendant found himself unemployable. The defendant never
12 completed high school and has no academic or vocational qualifications. As
13 Mrs. Halliday-Davis, counsel for the Defendant, expressed to the Court in
14 relation to the current offence: The defendant became increasingly frustrated as
15 he now has a son to support, is jobless and his closest friends have migrated or
16 are married with children and jobs.

17 16. However, the SIR also indicates that the defendant does not seem to have any
18 motivation to address his drug and alcohol consumption – both of which are
19 very prevalent in his lifestyle. The Defendant acknowledges that both
20 contributed to his offending behavior on the date of the incident. At page 7 of
21 the SIR the Probation Officer states:





1 *“Attitude Towards Offence: When probed regarding the current offence*
2 *Mr Dalton Robinson intimated that he was drunk while committing the*
3 *offence and “needed the money from the bartender” and did not want to ask*
4 *his aunt or father. This implies that Client committed this offence to meet a*
5 *financial need. According to Mr. Robinson, he feels “badly” about the*
6 *offence “but was conscious”. Despite these utterances however, Mr.*
7 *Robinson did not express any empathy for the victim. Instead he seemingly*
8 *used the opportunity to minimize his responsibility by blaming alcohol.”*

9 17. I note as well that when the defendant was assessed by the Probation Officer,
10 using the LS/CMI Risk Assessment Tool, and it was determined that his overall
11 risk of re-offending was found to be very high.

12 18. Crown Counsel’s submission on this issue of personal mitigation is well made.
13 He submitted that while the defendant’s background and personal
14 circumstances may be considered as mitigation:

15 *“... it has to be balanced with the defendant’s antecedents, his non-*
16 *responsiveness to the previous imposition of deterrent sentences, and his*
17 *continued pro-criminal attitude and tendencies.”*

18 19. Finally, this Court notes the Probation Officer’s observations at page 10 of the
19 SIR:

20 *“Information gleaned for the compilation of this indicates that there are*
21 *several areas of concern which need to be addressed if Mr Robinson is to*



1 *avoid further involvement with the criminal Justice system. **Client** is in dire*
2 *need of better decision making skills which will by extension impact his*
3 *choice of associates as well finding more responsible ways to use his leisure*
4 *time.*

5 ***Mr Robinson** was quick to point out that he was drunk at the time of his*
6 *offence. This suggests that he is already aware of the further deficit in*
7 *decision making when the mind is not able to function with clarity because*
8 *of alcohol. Yet it is a past time he engages in on a regular basis.”*

9 **VICTIM IMPACT REPORT (“VIR”)**

10 20. The VIR was also before the Court for its consideration. As was rehearsed in
11 the opening facts of this judgment, the complainant had only been on island for
12 two weeks when this offence was committed. With regard to its lasting effects
13 on her, she related:

14 *“At the time that the offence was unfolding I was nervous and trembling. I*
15 *just wanted to get away. I thought he had a knife under his shirt and I was*
16 *unsure if he would have harmed me because he was saying this is a*
17 *robbery. Where I am from when somebody robs you they also take your*
18 *life. I did not even sleep that morning because I was just saying I am so*
19 *lucky.”*

20 *“I am still fearful because I don’t know what will be the outcome of the*
21 *matter and how he will react. What if he comes out and I am still here*

1 *working. I am also fearful because I do not know how his family members*
2 *will react to the outcome of the matter. Fear is also a factor in determining*
3 *whether I stay or leave.”*

4 **COURT’S DECISION ON SENTENCE**

5 21. This defendant has certainly not had an easy upbringing. However, this factor
6 has not affected his ability to differentiate between wrong and right. His lack of
7 empathy and his motivation for committing the offence, as well as the
8 Probation Officer’s observations as to what would be required to ensure that the
9 Defendant does not again run further afoul of the justice system, cannot be
10 ignored.

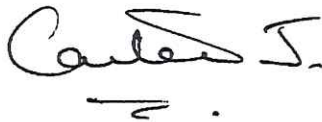
11 22. This court must focus on the offender as it seeks an appropriate sentence for the
12 offence committed. However, this court also has a duty to the wider
13 community to protect it from persons, like the defendant, who are seemingly
14 unable to make decisions that do not negatively impact other persons in society.

15 23. While I note the defendant’s age at the time of commission of the first offence
16 of robbery in 2012, and indeed his relative youth now, the nature and
17 seriousness of this offence cannot be downplayed. This court can only hope the
18 Defendant is now more conscious of his need to make a concerted effort to
19 avail himself of the resources available to him during the period of his
20 incarceration to improve his decision-making skills and attitude to offending
21 and/or criminal behaviour - both of which are crucial to lessen the risk of his
22 reoffending.

1 24. I have carefully considered the written and oral submissions from the Crown and of the
2 Defence as well as the SIR and the VIR referred to above. I agree with defence counsel
3 in relation to her submission on the case of *McLaughlin* referenced by the Crown in its
4 submissions. I find that the appropriate starting point in this case is 2 ½ years'
5 imprisonment. I am satisfied that there should be an uplift of this starting point
6 to reflect the fact that this is the defendant's second conviction for this type of
7 offence.

8 25. I therefore find that the appropriate sentence is 3 years' imprisonment. Any
9 time that the defendant has spent in custody relating to this offence is to be
10 deducted.

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12 Dated this the 26th September 2019

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15 Justice Marlene Carter
16 Acting Judge of the Grand Court