

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

3
4 IND. No: 0011/2018
5 &
6 IND. No.: 0002/2018
7

8
9 THE QUEEN
10
11 V
12
13 ELMER WATLER WRIGHT
14
15



16
17 **Appearances:** Mr. Patrick Moran, DPP for the Crown

18
19 Mr. Keith Myers of Barton Attorneys for
20 Defendant
21

22 **Before:** Justice Roger Chapple (Actg.)

23 **MFS submissions Heard:** 29th and 31st January 2020
24
25
26

27
28 **HEADNOTE**

29 *Criminal Law – Aggravated Burglary, Robbery, Attempted Burglary, Possession*
30 *of an imitation firearm – Possession of Ammunition and Bulletproof vest –*
31 *Sentence following 2 trials by Judge Alone (before separate tribunals) – Life*
32 *sentence – Notional Determinate Sentence.*

33
34 **SENTENCE JUDGMENT**

35
36 *Note:*

37 *This Judgment, dated the 31st January 2020, was not released for circulation on any website or*
38 *publication until the conclusion of the case of Ind. 102/19 R v Shane Edward Connor.*
39 *Mr. Shane Connor was sentenced on Ind. 102/19 on the 10th December 2021 and thus this Judgment was*
40 *approved for circulation following that date.*



1 1. Elmer Watler Wright. Each and every one of the many offences of which you have
2 been convicted this week, is plainly serious - and the cumulative effect of them
3 particularly so. It is now my duty to pass sentence upon you for those offences.

4
5 2. The offences for which you now fall to be sentenced are contained in two
6 indictments which I set out for ease of reference as follows:

7

Ind. #	Count	Offence	Particulars
2/18	1	Possession of an unlicensed firearm (ammunition)	112 rounds
	2	Possession of bulletproof vest	
11/18	2	Attempted Burglary	#2 Camelot Palms
	3	Possession of an imitation firearm with intent to commit an offence	# 2 Camelot Palms
	4	Damage to property	# 2 Camelot Palms – doors and a CCTV camera - \$11,800
	5	Aggravated Burglary	Amity Street – firearms
	6	Robbery	Amity Street - \$30,000

8

9

10 3. A substantial sentence of imprisonment is inevitable. In those circumstances I
11 would not be helped by a Social Inquiry Report (SIR) and that is a proposition with
12 which Mr. Myers, on your behalf, agrees.

13

14 4. You are now 26 years old. You started offending in 2008 when you were just 15
15 years of age. You have been consistently committing offences since then,
16 whenever you have been free to do so, and, even when serving sentences of
17 imprisonment.

18

19

20 5. In 2012, you were sentenced to a total term of imprisonment of 9 years for
21 firearms' offences and an armed robbery. You were only 16 years old when you
22 committed those offences. You and others robbed a gas station at gunpoint. You
used the firearm you carried to beat two of the customers. In the course of the

1 police chase that followed, you pointed your firearm in the general direction of the
2 officers and discharged that weapon. You were released from that sentence in
3 August 2016.

4
5 6. Ten months later, on the 17th of June 2017, you embarked upon a night of
6 criminality culminating in the shocking events that unfolded at the home of
7 Mr. and Mrs. Butler in Prospect. You were first arrested on suspicion of
8 involvement in those offences on the 18th of July 2017. You were interviewed and
9 bailed.

10
11 7. Eleven days later you were in possession of 112 rounds of ammunition and a
12 bulletproof vest. That is the timescale and background against which I must
13 consider these offences.



14
15 **AMITY STREET**

16
17 8. I have described what happened at Amity Street as shocking. The ordeal to which
18 you and others subjected Mr. and Mrs. Butler, has rightly been described by your
19 own attorney as horrific. They awoke in the small hours of the morning to find
20 three men at the bottom of their bed either wearing masks or their faces covered;
21 two of them had guns. Since the weapons were never recovered, it's not possible to
22 say whether they were real or imitation weapons. That does not matter very much.
23 The Butlers had every reason to think, and did think that, they were real weapons,
24 capable of killing or causing serious injury. Given all that you and your
25 accomplices said and did, they had every reason to fear for their lives. It is
26 impossible, truly, to imagine how terrified they must have been. One of you told
27 them that if they did not tell you where the valuables were, they would be killed.
28 They were told by the gunman that he had already killed five people. The hard

1 metal of one weapon was put to the back of Mr. Butler's head and he was told that
2 he was going to be shot. They were tied to chairs, their hands and feet bound with
3 duct tape. Loathsome sexual suggestions were made so they feared in addition that
4 Mrs. Butler would be raped. Mr. Butler was hit with a hammer.

5
6 9. There are victim impact statements that make for sad and distressing reading. It is
7 no surprise that Mrs. Butler describes what the three of you did as the worst thing
8 she had experienced in all her life. She concludes her victim impact statement in
9 this way, and I quote:

10 *"My family and I have since moved away from our house at 10 Amity Street*
11 *and we presently reside somewhere else because we are afraid to continue*
12 *living at that address. I'm still traumatized by the events that unfolded at my*
13 *home on Saturday the 17th of June 2017. Since the gunmen invaded my home, I*
14 *have been having several nightmares about it. I [have] also become very*
15 *anxious whenever I'm in any gathering which consists of young men with local*
16 *accents. Every day I have to depend on the support and strength of my*
17 *husband to get me through the trauma that I suffer whenever I get a nightmare*
18 *about the attack on our home by the three armed men."*

19
20 **CAMELOT PALMS**

21 10. It is perhaps a blessing that Mr. and Mrs. Vincentini were not at home (at Camelot
22 Palms) to risk encountering you when you tried to burgle their premises.
23 Construction on their home was only finished in early 2017. They took up
24 residence in March 2017. They were abroad on the 17th of June when you tried to
25 break in. Mr. Vincentini, in his victim impact statement, explains the effect your
26 actions have had upon him and his family. He says:



- 1 15. A life sentence should be imposed if, firstly, the offender has committed a very
2 serious offence and secondly, there are good grounds for believing that the
3 offender may remain a serious danger to the public for a period which cannot be
4 reliably estimated on the date of sentence. The authority for that proposition is the
5 *Attorney General's Reference No 32 of 1996*¹. That approach was very recently
6 endorsed by the Cayman Islands Court of Appeal (CICA) in the case of *Ali*².
- 7
8 16. The differing tests in the *Cayman Islands Guidelines* and the *Attorney General's*
9 *reference* were discussed by the CICA in the case of *Barnes*³ to which I've been
10 referred. It is clear that I should apply the two-stage test as set out in *Attorney*
11 *General's reference 32 of 1996*.
- 12
13 17. I also keep firmly in mind that a life sentence is a sentence of last resort to be
14 reserved for exceptional circumstances. There can be no serious dispute or doubt
15 that the offences at Amity Street were very serious. Defence counsel, Mr. Myers,
16 does not seek to argue otherwise.
- 17
18 18. In considering the risk and danger you pose, I've looked at all the material placed
19 before me. Your record shows persistent offending from the age of 15 years.
20 Firearms were at the heart of the offences for which you were sentenced in 2012.
21 They are a prominent feature of the offences of the 17th of June 2017 and of course,
22 you were in possession of 112 rounds of ammunition and a bulletproof vest just
23 over a month later. It does not end there.



¹ [1997] 1 Crim App R (S) 261

² 2019 EWCA Crim 586

³ CICA Criminal Appeal No. 21 of 2013

1 sinister still, your boast in subsequent messages shared with [C, S] about “running
2 this town”.

3
4 23. You have been for some years, and you still are, steeped in serious violent crime –
5 firearms being a consistent theme.

6
7 24. You have shown not one jot of remorse for what you have done. I don't think for a
8 moment you care about anyone but yourself. I doubt that you have any real
9 understanding of the impact your actions have on others.

10
11 25. You involved Caine Thomas and Nikel Thomas, young men of good character, in
12 these offences, potentially setting them on a path of criminality. You, I'm sure,
13 brought intense pressure to bear upon Caine Thomas to perjure himself for you.
14 These are all hallmarks of a ruthless, dangerous man. I have no doubt if you were
15 released in the near to medium future, that you would carry on committing serious
16 offences, carry on presenting a risk of serious harm to the public.

17
18 26. I am satisfied that an indeterminate sentence is both appropriate and necessary to
19 protect the public from serious harm occasioned by you committing other serious
20 offences. You show no signs whatever of wanting to change your ways.

21
22 **COUNT 5 & COUNT 6 – NOTIONAL DETERMINATE SENTENCE (NDS)**

23
24 27. I am required to set a minimum period to be served before you can be considered
25 for release on licence. That involves me determining the Notional Determinate
26 Sentence (NDS), that is to say, the sentence I would have passed, had I been
27 passing a fixed term sentence.



28
29

1 28. My starting point must be the Sentencing Guidelines. There are *Cayman Islands*
2 *Sentencing Guidelines* for both offences of Burglary and offences of Robbery.

3
4 29. The Amity Street burglary starts in category 1 since it is of high culpability
5 (production of a firearm) and high harm (psychological harm caused, householders
6 on premises), giving a starting point of 7 years' imprisonment with a range of 5 to
7 14 years' imprisonment - but that is for simple burglary. When the offence is one
8 of aggravated burglary, to quote the guidelines:

9
10 *"All starting points and ranges will increase. The increase will be*
11 *considerable where significant physical or psychological injury or other*
12 *significant trauma is inflicted within a home"*
13

14
15 – as was the case here.
16

17
18 30. The attempted burglary at Camelot Palms was considerably less serious but it does
19 not pale into insignificance – far from it. I recall the effect the attempted burglary
20 has had on the householders.

21
22 31. I turn to the guidelines for robbery. Clearly, category 1 as the starting point
23 because of high culpability, a firearm used to threaten, high harm because of
24 serious psychological harm. That gives a starting point of 11 years' imprisonment
25 with a range of 9 to 13 years. I have no hesitation whatsoever in concluding that
26 on the face of it, the application of the guidelines does not properly reflect the
27 overall gravity of the offences.

28
29 **AGGRAVATING FACTORS**



30
31 32. There are many aggravating features and here are some of them.
32

1 33. Your previous convictions: Schedule 12, paragraph 3(1) of the *Conditional*
2 *Release of Prisoners Regulations 2016* provides that I must treat each previous
3 conviction as an aggravating circumstance if I conclude that it can reasonably be so
4 treated, having regard to the nature of the offence, its relevance to the offences for
5 which I have to sentence you now and the time that has elapsed since conviction. I
6 have already discussed your previous criminal record. Each previous conviction is
7 an aggravating circumstance - particularly of course, your previous conviction for
8 armed robbery.

9
10 34. Factors that increase seriousness: Other aggravating features are these: firstly,
11 looking at the robbery guidelines, these factors increase seriousness: there was
12 restraint; there was detention; there was degradation of your victims. There was a
13 degree of planning. The planning was not meticulous but it was discussed in the
14 days leading up to the Amity Street robbery and it is clear that you had a particular
15 property in mind.

16
17 35. A leading role: Yours was, I'm satisfied, a leading role. That is plain from the
18 evidence of Caine Thomas. It is plain from the phone messages that passed from
19 you to others. There was an attempt made, albeit unsuccessful, to dispose of
20 evidence - your clothing – and that, I am satisfied, was at your direction.

21
22 36. Disguises: Disguises were worn and Caine Thomas' disguise particularly terrifying.
23 He says - and I believe him - that you provided him with that mask.

24
25 37. Time of the offending: I bear in mind the timing of the offences, the early hours of
26 the morning.



27
28
29

1 38. Multiple persons committing the offence and multiple victims: It does not stop
2 there. I look at the *Cayman Islands Sentencing Guidelines General Principles* to
3 find further aggravating features. The offence was committed by three people,
4 making the ordeal for those at the wrong end of you three, even more terrifying.
5 And of course there was more than one victim.
6

7 **MITIGATING FACTORS**
8

9 39. There is very little I can find in the way of mitigating factors. As I have already
10 said, particularly, you have demonstrated not one jot of contrition or regret for
11 what you have done.

12
13 40. I should emphasise that when arriving at the NDS, I have left out of account any
14 question of risk and need to protect the public. That is taken into account by my
15 decision to pass a life sentence. To take those matters into account again when
16 fixing the minimum period you will serve, would amount to double-counting.

17
18 41. Had the offences of robbery and aggravated burglary (*Amity Street*) stood alone,
19 they would have attracted, in your case, a sentence of around 18 years'
20 imprisonment. However, they emphatically do not stand alone. They were the
21 culmination of a night of criminality.

22
23 42. If the events at *Camelot Palms* had stood alone, they would have attracted a total
24 sentence in the region of 10 years' imprisonment, particularly bearing in mind
25 firstly, the effect your actions had upon the householder; he, thanks to you, enjoyed
26 his home for only a few months.



27
28
29

1 Albeit, I approach matters on the basis that this was an imitation firearm, you were
2 nevertheless armed when burgling and, as subsequent events proved, prepared to
3 use it to threaten, to frighten, to terrify.

4
5 Had all other things been equal, the sentences for the Camelot Palms offences
6 would have been consecutive to the Amity Street offences. However, I keep in the
7 forefront of my mind the question of totality and I keep firmly in mind the remarks
8 of Rafferty, L.J. in *Attorney General's Reference No 80 of 2013*⁵, when she
9 emphasised the important thing is the total sentence rather than how it is made up.

10
11 **INDICTMENT 2 OF 2018**

12
13 43. There are no guidelines either in this jurisdiction or in the United Kingdom for
14 possession of ammunition or a bulletproof vest.

15
16 44. As I have said, the possession of such a large quantity of ammunition for at least
17 three different weapons together with the bulletproof vest strongly suggests
18 involvement in serious crime.

19
20 45. The attitude of these courts to firearms in these islands is very well known. There
21 must inevitably be a firm deterrent element in sentencing for offences such as
22 these. These courts will do whatever they can to rid these islands of illegal
23 firearms.

24
25 46. Additionally, of course, those offences were committed whilst on bail and only two
26 weeks after that release on bail.



⁵ [2014] EWCA Crim 342

1 47. I bear in mind that the minimum sentence provided by law for possession of an
2 unlicensed firearm is 10 years. That does not apply to ammunition but it provides
3 me with some guidance.

4
5 48. Had I been passing determinate sentences, a total sentence for those offences of
6 around 8 years would I think have been appropriate, particularly bearing in mind
7 your record, your obsession with firearms and your activities at Amity Street only
8 two weeks earlier.

9
10 49. If I add up the determinate sentences and the way I would have distributed them, I
11 arrive at a figure of 36 years' imprisonment. That sentence is somewhat too long. I
12 must then reduce the NDS to the sentence which properly marks the criminality
13 involved, viewed against the background of previous criminal offences, the need
14 for deterrence and to mark public abhorrence and outrage for offences such as this.

15
16 50. In all the circumstances, had I been passing a determinate sentence, it would have
17 been a total sentence of 30 years. In order to arrive at the minimum term to be
18 served under s.14 of the *Conditional Release Law*, I must apply a 40 percent
19 reduction to that sentence in accordance with usual principles. Having done so, I
20 arrive at a minimum term to be served of 18 years' imprisonment.

21
22 **SENTENCES**

23
24 51. Accordingly, upon counts 5 and 6 on Ind. 11/18:



- 25
26 a. **There will be concurrent sentences of life imprisonment.**
- 27
28 b. I order that the **minimum period** you must serve before your case can be
29 considered by the Conditional Release Board, is one of **18 years less the time**
30 **that you have already spent on remand.**

1 c. It does not follow that you will be released when you have served 18 years.
2 You will only be released when and if the Conditional Release Board is
3 satisfied that you no longer pose a risk of danger to the public.

4
5 52. On the remaining counts of the indictment 11/2018 I impose the following
6 sentences:

7 a. **Count 2:**
8 i. 5 years' imprisonment – concurrent to the sentence imposed for Counts
9 5 and 6;

10 b. **Count 3:**
11 i. 10 years' imprisonment – concurrent to the sentence imposed for
12 Counts 5 and 6;

13 c. **Count 4:**
14 i. 2 years' imprisonment – concurrent to the sentence imposed for Counts
15 5 and 6.

16 53. On Indictment 2 of 2018 I impose the following sentences:

17
18 a. **Count 1:**
19 i. 8 years' imprisonment – concurrent to the sentences imposed on
20 Indictment 11 of 18.

21 b. **Count 2:**
22 i. 5 years' imprisonment - – concurrent to the sentences imposed on
23 Indictment 11 of 18.

24



1 54. Unopposed by the defence, I herein make an order for forfeiture and destruction of
2 those items.

3
4 55. A summary of the Sentences imposed is as below:

5

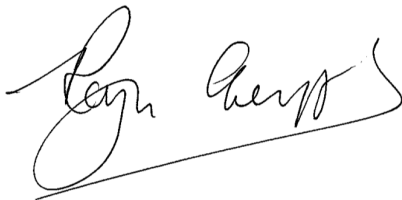
Ind. #	Count	Offence	Particulars	Sentence
11/18	5	Aggravated Burglary	Amity Street – firearms	Life imprisonment – 18 years minimum to be served before consideration for conditional release
	6	Robbery	Amity Street - \$30,000	Life imprisonment CONCURRENT - 18 years minimum to be served before consideration for conditional release
	2	Attempted Burglary	#2 Camelot Palms	5 years' imprisonment CONCURRENT
	3	Possession of an imitation firearm with intent to commit an offence	# 2 Camelot Palms	10 years' imprisonment CONCURRENT
	4	Damage to property	# 2 Camelot Palms – doors and a CCTV camera - \$11,800	2 years' imprisonment CONCURRENT
2/18	1	Possession of an unlicensed firearm (ammunition)	112 rounds	8 years' imprisonment CONCURRENT
	2	Possession of bulletproof vest		5 years' imprisonment CONCURRENT
				TIC to be deducted

6

7

8 **Dated this the 31st day of January 2020**

9



10

11

12 **Justice Roger Chapple**

13 **Acting Judge of the Grand Court**