

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

3
4 **INDICTMENT NO: 57/2020**
5

6
7 **THE QUEEN**



8
9 v.
10

11 **JAMES BRAZLEY BODDEN JR.**

12
13 **Appearances:**

Mr. Gavin Dixon for the Crown

14 **Mr. Crister Brady of Brady Attorneys at Law**
15 **for the Defendant**

16 **Before:**

Justice Cheryll Richards Q.C.

17 **Submissions on Sentencing:**

7th May 2021

18
19 **Sentence Judgment:**

10th May 2021
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21

22 **HEADNOTE**

23 *Criminal Law – Wounding with Intent – Section 203 of the Penal Code*
24 *– Mental Health issues*

25 *- United Kingdom Sentencing Guidelines on the Sentencing of offenders with Mental Disorders*
26
27
28

29 **SENTENCE JUDGMENT**

1 1. The Defendant, James Brazley Bodden is before the Court for sentencing in respect of
2 one count of Wounding with Intent contrary to s.203 of the *Penal Code* (2019 Revision).

3
4 2. The particulars are that he, on the 30th day of July 2019, at Pedro Castle Road, Bodden
5 Town, Grand Cayman, Cayman Islands, unlawfully and maliciously wounded Allan
6 Eden with intent to do him grievous bodily harm.

7
8 3. The Defendant first appeared in the Grand Court on this indictment on the 21st August
9 2020. Time was granted for instructions to be taken. On the 4th September 2020, a
10 Fitness to Plead (FTP) report was ordered to include the Defendant's mental condition
11 as at the time of the alleged commission of the offence.

12
13 4. On the 2nd November 2020, a report dated 31st October 2020 was received from Dr.
14 Arline McGill of the Cayman Islands Health Services Authority (HSA).

15
16 5. The report stated that the Defendant was fit to plead but did not address his mental state
17 at the time of the commission of the offence.

18
19 6. The Defendant was arraigned on the 13th November 2020 and pleaded guilty to the
20 offence. It is agreed that the plea was entered at the first reasonable opportunity.

21
22 **THE FACTS**

23
24 7. The facts as summarised by the Prosecution, are agreed by the Defence. The background
25 facts are as follows:



- 1 i. That the Defendant was known to the victim Allan Eden, because the
2 Defendant had been in a relationship with the victim’s daughter some 8-9
3 years ago;
4
- 5 ii. Approximately two years before the incident, the victim saw the Defendant
6 twice as the Defendant passed by his home. On one of these occasions, the
7 Defendant stopped by the victim’s home and asked if he was ‘doing ok’.
8 They spoke briefly and the Defendant left; and
- 9
10 iii. On the second occasion, the Defendant stopped by the victim’s house, asked
11 for his daughter, and requested other information which was not provided.
12 The victim had not seen the Defendant since then and later told the police
13 that he was not in any dispute with the Defendant, nor did he owe him any
14 money.



15
16 **CIRCUMSTANCES OF THE OFFENDING**

- 17
18 8. On the day of this incident, the 30th July 2020, sometime after 6:00 p.m., the victim was
19 inside his house when he heard dogs barking. His wife came inside and told him that
20 someone was outside. He went outside to look and realised that it was the Defendant.
21 The two men spoke and the Defendant said to the victim that he was “*here to collect*”.
22 The victim asked him “*collect what?*” and he said “*collect what you owe me from long*
23 *time*”. The victim replied “*James, I don't owe you anything, what are you talking*
24 *about?*” The Defendant said “*from the last time I came here you owe me.*”
25

1 9. The victim noticed that the Defendant kept putting his hands behind his back. His wife
2 said “*Allan lookout, he has something in his hand*”. The victim stepped back and realised
3 that the Defendant had a piece of metal pipe in his hand. The Defendant kept saying
4 “*look over there*” and “*what was that over there*”, pointing to the left from where they
5 were.

6
7 10. The Defendant raised a piece of metal pipe that he had in his hand and hit the victim.
8 The victim lifted his left arm to prevent being hit in his head. His arm was cut and the
9 Defendant continued to hit him all over his body. The victim fell to the ground and the
10 Defendant kept hitting him with the metal pipe and his fist. The victim’s wife was
11 shouting for help.
12

13 **ATTENDANCE AT SCENE AND PHOTOGRAPHS**

14
15 11. An officer, AC Frederick was nearby and heard screaming. She arrived at the location
16 and observed the victim to be bleeding from his head and that his right eye was swollen.
17 She requested the attendance of the ambulance and additional police assistance.

18
19 12. Officer Frederick saw the Defendant run from the property towards the main road and
20 attempt to enter a vehicle. The Defendant was pursued by another man who threw rocks
21 at him. The Defendant was subsequently detained by Officer PC Matthews and appeared
22 to him to be both very quiet and angry. No injuries were observed on the Defendant.
23 The Officer drove away with the Defendant in the police vehicle for the Defendant’s
24 safety.
25



1 13. SPC Coleman and other police officers arrived at the scene and observed the victim to
2 be bleeding profusely. Photographs of the victim's injuries were taken. The ambulance
3 arrived and subsequently transported the victim to the hospital.

4
5 14. Later that evening another police officer, PC Thompson returned to the residence and
6 recovered the piece of rusty metal pipe that had been used by the Defendant in the
7 commission of the offence.

8
9 **ARREST AND CAUTION**

10
11 15. The Defendant was taken to the Bodden Town Police Station by Officer Matthews and
12 he admitted to Officer Matthews that he had assaulted the victim and said that the victim
13 owed him money. He was subsequently arrested and cautioned to which he replied "ok",
14 before being transported to the Detention Centre.

15
16 **RECORD OF INTERVIEW**

17
18 16. The Defendant was interviewed on the 31st July 2020 in the presence of his attorney and
19 he exercised his legal right.



20
21 **MEDICAL EVIDENCE**

22
23 17. The victim was examined by Dr. Sean Teeling of the George Town Hospital (HSA) at
24 8:40 p.m., on the 30th July 2020. There was no loss of consciousness but he had
25 lacerations to his head and facial injuries. He was able to recall the events which had
26 occurred. He did not report any recent visual problems and he had normal vision from
27 his left eye although that eye was swollen.

1 18. The victim had sustained a linear laceration of approximately 6 centimetres across the
2 left parietal scalp. It was of a superficial nature with no underlying skull fractures
3 suspected. The injury to his left eye which was swollen was periorbital haematoma and
4 lateral subconjunctival hemorrhage. He had normal eye movements, with a visual field
5 that was also normal. He sustained a minor laceration to his nasal bridge which was
6 deviated to the right and compressed with signs of left nasal epistaxis. There was also a
7 minor laceration lateral to the cheek. He sustained a laceration to his left forearm in the
8 mid lateral dorsal aspect with loss of skin of approximately 10 centimetres and, there
9 was an irregular edged deep wound, but the muscles and tendons were intact with no
10 sensory deficits. There was also a 2-centimetre superficial v-shaped laceration to the
11 dorsum of the hand with no underlying bone injury suspected, and he had a tender
12 haematoma to the upper back.

13
14 19. In summary, the victim sustained a head injury, a fractured nasal bone which was
15 confirmed by CT scan, and lacerations to his scalp and left forearm. He was treated at
16 the hospital and released on the same day. Dr. Teeling gave his opinion that the
17 condition of the victim was not serious, was consistent with infliction by a physical
18 assault and that the injuries were not likely to be permanent.

19
20 **VICTIM IMPACT STATEMENT**

21
22 20. Mr. Eden is 61 years old. He provided a Victim Impact Statement which is dated the 15th
23 December 2020. In that statement he states that he just cannot grasp why the Defendant
24 did what he did, or why he would do that to him.

25
26 21. He said,





1
2 *“I would just like to know why I have never thought of something like this happening*
3 *to me. It makes you fear for your life when something like this happens.”*

4
5 22. He said that, since the attack he had been reluctant to go outside and explained further
6 that as he goes to work early in the mornings, he has his son sit outside, when he can, in
7 order to have some peace of mind that someone is not waiting there to attack him or,
8 more so, the Defendant.

9
10 23. He said, that he was assaulted by James Bodden at his own home. He said that it took
11 him about two months to go on the road and start walking his dog again. He explained
12 that he feels a lot better now, knowing that James Bodden is where he is.

13
14 24. Referring to the day of the incident he said that if it were not that his wife came home or
15 that the police were in the area, he would have probably been dead today.

16
17 25. He said that at the time of the attack, the Defendant said something to him which he had
18 not told the police. He does not know why. The Defendant said, *“You are ‘F-ing’ dead*
19 *today”*.

20
21 26. He said to see the look in his eyes, that day his eyes look inhuman. He said that his
22 injuries have now healed but he can slightly feel the mark in his head from where he was
23 injured. His nose has since straightened. He was worried about his ear as it was black
24 and blue for about two weeks after the attack.

25
26 27. He said at the time of the attack he had one CCTV camera outside. It was only able to
27 get a photograph of him, and of James Bodden standing in front of him before he attacked
28 him.

1
2 28. He had to attend the doctor three times after the first visit when he was brought to the
3 hospital by ambulance. His insurance covered some of his medical bills, but he had to
4 pay C\$725.00 from his pocket. He also had to get new glasses and he had to pay
5 \$300.00 in relation to those new glasses. The insurance covered the balance which was
6 \$600.00.

7
8 29. He said that he thinks that the Defendant needs help or some psychiatric treatment. He
9 is not like the same child that he had known years ago.

10
11 30. He said that he is fine now and he believes his family are too. They were scared at the
12 time but are doing well now.



13
14 **SOCIAL INQUIRY REPORT**

15
16 31. The Department of Community Rehabilitation (DCR) has provided a Social Inquiry
17 Report (“SIR”) dated 18th January 2021. This provides details about the Defendant, his
18 life and upbringing. He is 27 years old. He has no children. During his school years he
19 appears to have been the victim of bullying. Following completion of high school, he
20 has been employed intermittently at a number of odd jobs.

21
22 32. He has no previous convictions except for minor traffic offences. He is remorseful and
23 has expressed a willingness to pay compensation to the victim.

24
25 33. He is described by his father as being of generally good behaviour as a child and as an
26 adult to be hard working and doing well. His father is surprised at the allegation against
27 him, given that he is more of an introvert and avoids conflicts.

1 34. Under assessment/evaluation, the Probation Officer notes that as a young man he
2 experienced significant trauma and emotional turmoil with the separation of his parents
3 when he was about 3 years of age. This was further increased later in his life when a
4 close friend of his died.

5
6 35. The Defendant was assessed using the LS/CMI/Risk/Need Assessment tool. He is in the
7 medium range for re-offending with the only criminogenic factor in which he scored
8 high being leisure/recreation. This is due to his lack of involvement in pro-social
9 organized activity. The Probation Officer described his behaviour during this offence
10 as being out of character for him.

11
12 **SPECIFIC RISK/NEED FACTORS**

13
14 36. The Probation Officer lists the following specific risk/need factors:

- 15
16 i. Diagnosis of psychopathy as reported by Dr. McGill's findings;
17
18 ii. Problem solving/ self-management skill deficits as demonstrated in the
19 offence;
20
21 iii. Intimidating controlling behaviours;
22
23 iv. Poor social skills;
24
25 v. Physical assault, extra-familial - adult victim;
26
27 vi. Engages in minimization.



28 37. The conclusion is that these factors have the potential to significantly increase the
29 Defendant's risk of reoffending.



1 **MENTAL HEALTH REPORTS**

2
3 38. The Mental Health Report of the 31st October 2020 records Dr. McGill's findings as
4 follows:

5
6 *"Mr. James Brazley Bodden Jr., is a young man who from the background history*
7 *may have a mild schizophrenic disorder and also a complex personality disorder*
8 *with schizoid and obsessive traits which may present with components of shifting*
9 *presentations depending on the client's comfort level. This is evidenced by the*
10 *personality traits and odd behaviours indicated by his parents and his presentation*
11 *during the interview. To have a conclusive determination of this, a psychological*
12 *assessment will be necessary.*

13
14 *He reassured the interviewer that he was in his normal state of mind, calm and*
15 *collected at the time of the offence, however considering the low level of emotional*
16 *self-awareness he displayed, the veracity of this would require psychological*
17 *investigation.*

18
19 *According to the medical record, he does have a childhood history of severe*
20 *traumatic injuries related to conflict at school and other presentations suggestive of*
21 *severe anxiety or abuse.*

22
23 *Mother's report of suicidal behavior related to excessive and severe bullying in*
24 *Primary school, also makes his presentation typical of post traumatic sequelae,*
25 *which may involve mild dis-associative tendencies and would explain some of his*
26 *difficulties conversing. These could also be related to head injuries connected to*
27 *the extreme bullying he experienced as a child. Despite these, he is fit to plead."*

28
29 39. An additional report was provided dated the 6th April 2021, in which Dr. McGill
30 answered three questions as follows:



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i. Question:

At the time of the offence, did the offender’s impairment or disorder impair his ability to exercise appropriate judgment to make rational choices to understand the nature and consequences of his actions?

Answer:

In July 2020, based on the information provided to the writer, the client was in a psychologically deteriorated state, which could have involved dis-associative and or influence of hallucinations. In both cases, he would have impaired ability to process information and make reasonable decisions based on consequences.

ii. Question:

At the time of the offence, did the offender’s impairment or disorder cause him to behave in a disinhibited way?

Answer:

The client would have been less likely to have been disinhibited than to have magnified the social offence of the victim and its significance to him. This would have been based on his inability to properly coordinate his thinking.

iii. Question:

Are there other factors related to the offender’s impairment or disorder which reduce culpability?

Answer:

The client has a background of trauma which in itself would cause him to overreact to perceived threats especially in the presence of psychosis.

1 40. Given these findings of Dr. McGill, it is of note from the interview of the Defendant
2 with the Probation Officer for the SIR that the Officer records as follows:

3
4 *“In the second interview conducted on the 26th January 2021, Mr. Bodden was given*
5 *the opportunity to refresh his memory by reading the summary of facts. He clarified*
6 *that he had a relationship with the victim’s stepdaughter which ended, however, he*
7 *maintained a friendship with her brother whom he knew from high school.*

8
9 *He informed that he showed up at the victim’s home on New Year’s Day after about*
10 *two years of not seeing the family, and he made enquiries regarding the victim’s*
11 *stepdaughter. According to him, the victim refused to provide him with any*
12 *information and he felt that he was taken advantage of.*

13
14 *Mr. Bodden said he attended at the premises so as to have a discussion with the*
15 *victim’s stepdaughter regarding personal issues that had occurred between them*
16 *and for which he wanted clarity. He recalls visiting the victim’s premises on four*
17 *occasions and according to him, he got the impression that the victim did not want*
18 *him at the premises and further that the victim was not interested in getting his*
19 *messages to his stepdaughter.*

20
21 *When probed regarding what the victim owed him, Mr. Bodden said that he was*
22 *instructed not to divulge the details.*

23
24 *In closing Mr. Bodden said that he is very sorry the incident happened and he*
25 *regretted his actions.”*

26
27 **SENTENCING GUIDELINES**



28
29 41. The *Cayman Islands Sentencing Guidelines* provides general guidance as to the aims
30 of sentencing, assessing the seriousness of an offence, the custody threshold and the
31 principle of proportionality. The Court reminds itself of this guidance including that in



1 sentencing an offender, the Court has to balance a number of competing interests and
2 objectives and to tailor the punishment to the individual circumstances of the offender
3 while ensuring that it is in line with the seriousness of the offence. The Court should
4 consider which of the aims governing the sentencing process will be best served by the
5 sentence to be passed. The aims which are set out in the *Alternative Sentencing Act*
6 *2008* include deterrence, punishment, rehabilitation and restitution. The *Guidelines* also
7 provide that a custodial sentence should not be imposed unless the offence is so serious
8 that no other sentence can be justified for the offence. Custody should be reserved for
9 the most serious offences. Even where the custody threshold is passed, custody can still
10 be avoided in light of personal mitigation or if there is suitable community intervention
11 which would meet the aims of punishment and rehabilitation.

12
13 42. In the absence of offence-specific guidelines in the Cayman Islands, Counsel for the
14 Prosecution and Counsel for the Defence both referred to the *United Kingdom*
15 *Sentencing Council Guidelines* in respect of the offence of Wounding with Intent.

16
17 43. Prosecuting Counsel submits that the injuries which the victim sustained are not serious
18 in the context of the offence and referred to the case of *R v. Smith*¹

19
20 44. The case of *R v Smith* was concerned with an appeal which focused on the approach
21 adopted by the trial Judge in sentencing for an offence of Wounding with Intent. In the
22 course of an altercation, the victim received a final blow to the back of the head which
23 required three stitches. In his Sentencing remarks the learned Judge concluded that this
24 fell into the category of greater Harm and greater Culpability. This was on the basis that

¹ 2016 1 Cr. App. R. S. 8.

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1 the injury which was caused needed hospital treatment, stitching and had a considerable
2 lasting effect on him. The Appellate Court considered what is meant by the term “serious
3 in the context of the offence” and stated:

4
5 *“First, with regard to the injury, the question is whether the injury was serious “in*
6 *the context of the offence”. It is axiomatic that all violence within the context of a*
7 *section 18 offence is serious, but some violence is more serious than others. The*
8 *purpose behind the words “which is serious in the context of the offence” in the*
9 *guidelines is to distinguish between that level of violence which is inherent or par in*
10 *a standard section 18 offence and that which will, by definition, go beyond what may*
11 *be viewed as par for the course. In our view, given that there is such a marked*
12 *disparity in the starting point between categories 1 and 2, the sorts of harm and*
13 *violence which will justify placing a case within category 1 must be significantly*
14 *above the serious level of harm which is normal for the purpose of section 18”.*²
15

16 45. In considering the matter, the Court noted that while the blow to the back of the head
17 was inflicted when the victim was prone and defenceless and necessitated three stitches,
18 the victim was able, following the blow, to rise from the bed and pursue the Appellant
19 out of the house. The Court concluded that given the great disparity in the sentence of
20 six years between Categories 2 and 1, although it was a bad injury, standing alone, it was
21 not a Category 1 offence.

22
23 46. Having reviewed the medical evidence in the instant case, I conclude that the injuries
24 sustained by the victim were not serious in the context of this offence. There was no
25 evidence of incapacity or of serious harm to life-sustaining organs. The victim was
26 hospitalized but treated and released on the same day. This is an offence of lesser Harm.

27
28 47. With respect to Culpability, this offence involved the use of a weapon, a metal pipe
29 which would ordinarily cause the matter to fall into the category of higher culpability.
30 The Prosecution also submits, and I accept, that it was plainly an offence with a

Paragraph 14

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1 significant degree of pre-meditation. It was calculated and deliberate in that the
2 Defendant armed himself with a weapon and travelled to the residence of the victim to
3 confront him.

4
5 48. An offence of lesser Harm and higher Culpability would attract a sentence of a starting
6 point of 6 years' custody with a range of sentencing of 5 to 9 years.

7
8 49. However following the receipt of the second psychiatric report the Prosecution now
9 submits that this offence is one of lower Culpability.



10
11 **DEFENCE SUBMISSIONS**

12
13 50. Defence Counsel submitted that the Defendant's culpability in this case may well be at
14 the lower end of higher culpability or at the higher end of medium culpability.

15
16 51. Counsel invited the Court to consider the recommendations made in the SIR and the
17 assessments relating to the Defendant's risk of reoffending and pro-criminal orientation
18 and that they present as low. Counsel noted that the Probation Officer has identified the
19 unsteady nature of the Defendant's upbringing and work life and his odd behaviours as
20 observed by his parents. There was a concern as to his lack of prolonged close human
21 associations even while growing up – which appears to continue even while he has been
22 in custody.

23
24 52. Counsel submitted that the Defendant does not present as the typical young man in
25 several respects. He appears to have difficulty expressing himself in appropriate ways,
26 and appears to lack the social skills and presentation that are acceptable to most well-
27 thinking members of the community. He has experienced some childhood trauma and

1 the effects continue to affect his ability to process unpleasant stimuli appropriately and
2 respectfully. He accepts that he has committed a horrible offence and deeply regrets it.
3 He has difficulties talking about it but his remorse appears genuine.

4
5 53. Counsel notes that the victim continues to be out of pocket by some \$1,025.00 as stated
6 in his victim impact statement. Counsel said that the Defendant is prepared if ordered,
7 to pay compensation to the victim, and that the Defendant's father has given an
8 indication that he would be willing to assist.

9
10 54. Counsel also submitted that the Defendant will be 28 years old soon and that he has been
11 in custody since 30th July 2020, some 9 months now. This time spent in custody has
12 already been impactful to someone of his disposition and peculiarities who has not
13 previously been confined in his lifetime.

14
15 55. Counsel also submitted that, while the offence carries a maximum penalty of life
16 imprisonment, this Court should consider with wisdom and discretion the personal
17 circumstances of the Defendant and the circumstances of the case. The Court is asked to
18 temper justice with mercy.

19
20 56. The injuries sustained by the victim are not permanent and he should make a full physical
21 recovery, even if not mentally.

22 57. Counsel then referenced the psychiatric reports in some detail and noted that even the
23 victim recognised that the Defendant is not the same as he was years before and that he
24 must have needed psychiatric treatment.



1 58. The Court is asked by Defence Counsel to give significant weight to the Defendant's
2 peculiarities, and to note that, for the Defendant, in accepting his actions, this is a dark
3 spot on an already troubled man. Defence counsel asks the Court to accept that the
4 Defendant's remorse is genuine and real, that he has apologised to the Complainant, and,
5 is desirous to make good as far as is financially possible. Defence Counsel underscores
6 that the Defendant has no relevant previous convictions and has pleaded guilty at an
7 early stage to the offence charged. Counsel also submitted that the Defendant is prepared
8 to abide by any orders made by the Court.

9
10 **SENTENCE**

11
12 59. The *United Kingdom Sentencing Guidelines on the Sentencing of offenders with*
13 *Mental Disorders*, provides that these guidelines apply when sentencing an offender or
14 offenders who, at the time of the offence or at the time of sentencing, have a mental
15 disorder or impairment such as those listed in Annex A. One of the disorders listed in
16 Annex A is schizophrenia.



17
18 **ASSESSMENT OF CULPABILITY**

19
20 60. The *Guidelines* provide that Culpability may be reduced if an offender was at the time
21 of the offence suffering from an impairment or disorder or combination of both, such as
22 those listed in Annex A.

23
24 61. The *Guidelines* further provide that the Sentencer should make an initial assessment of
25 Culpability in accordance with any relevant offence-specific guidelines and, thereafter,
26 consider whether culpability was reduced by reason of the impairment or disorder.



1 62. Culpability will only be reduced if there is sufficient connection between the offender's
2 impairment of disorder and the offending behaviour.

3
4 63. In respect of the starting point for consideration, the *Guidelines* provide at paragraph 15,
5 that the Courts may find the following questions useful but not exhaustive:

6 i. At the time of the offence did the offender's impairment or disorder impair
7 his ability to exercise appropriate judgement, to make rational choices or to
8 understand the nature and consequences of his actions?
9

10 ii. Did the offender's impairment or disorder cause him to behave in a
11 disinhibited way?
12

13 iii. Are there other factors related to his impairment or disorder which reduce
14 culpability.
15

16
17 64. In this case I have considered the two mental health reports of Dr. McGill and I conclude
18 from those reports that there is a sufficient connection between the impairment suffered
19 by the Defendant and the offending behaviour. It is further concluded that Defendant's
20 culpability is reduced because of his mental state at the time of the offence. I therefore
21 propose that this case be treated as one of lesser Harm and lower Culpability rather than
22 high culpability.

23
24 65. From a starting point of four years' or 48 months' imprisonment, which is recommended
25 by the *Guidelines*, I accept the submissions of the Prosecution that there are two
26 aggravating factors. Firstly, the location of the offending and secondly the ongoing
27 effect upon the victim.
28

1 66. This was an attack that took place in the sanctity of the victim's home. Secondly, while
2 he has fully recovered physically, it is clear from his victim impact statement that there
3 is ongoing emotional effect upon him mentally, as well as a financial effect.

4
5 67. I propose that the sentence of forty-eight (48) months be increased by six months to one
6 of fifty four (54) months.

7
8 68. In mitigation, I take into account all that has been said and written about the Defendant.
9 This includes that he has no previous convictions and is of good character. This was an
10 isolated incident. It was entirely out of character for him. He is deeply and genuinely
11 remorseful. He has had traumatic incidents in his childhood and life. He has been
12 gainfully employed and has lived a quiet life throughout his adult years. His mental state
13 is such that I must also consider that the likelihood of the impact of incarceration upon
14 him would be greater, than for a person that does not have his mental health issues.

15
16 69. From a sentence of fifty four (54) months, the sentence is reduced significantly by
17 fourteen (14) months to one of forty (40) months imprisonment.

18
19 70. There then follows the proposed reduction to which he is due in respect of his guilty
20 plea. He was clearly caught red-handed by the Officer who was nearby and despite an
21 early guilty plea may not necessarily be entitled to receive the full discount³. However,
22 his mental state must also be considered in this context. I therefore propose to apply the
23 full reduction of one-third, which would reduce the sentence from forty (40) months to
24 one of twenty seven (27) months imprisonment.



³ Cayman Islands Sentencing Guidelines, paragraph 10.7.1

1 71. Standing back and considering whether this sentence is proportionate to the offending,
2 and whether the circumstances are such that it ought to be suspended, I give
3 consideration to the following.

4
5 72. This was a serious and persistent assault upon an elderly man in his home. It traumatised
6 him and continues to traumatise him emotionally. While due allowance must be made
7 for the Defendant's mental state, the twin aims of punishment and deterrence must also
8 be adequately reflected in any sentence to be imposed, in other words, a balance must
9 be struck in respect of all the aims of sentencing.

10
11 73. Due account having already been taken of the Defendant's mental state, in terms of the
12 reduction of culpability, in giving him the full discount for his guilty plea and the
13 reduction in mitigation, there is nothing in my view in the circumstances of this case or
14 in his personal circumstances which would justify any further reductions or suspension
15 of the sentence.

16
17 74. The sentence is therefore one of twenty-seven (27) months' imprisonment with time
18 served to be deducted.

19
20 75. In the course of his incarceration, he is to receive the appropriate mental health treatment
21 so as to ensure that upon release he will be able to return to a full, healthy and normal
22 life.

23 **Dated this 10th May 2021**



24
25 **Honourable Justice Cheryll Richards Q.C.**
26 **Judge of the Grand Court**