

1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**  
2 **CRIMINAL DIVISION**  
3

4 **INDICTMENT NO: 102 & 103 of 2023**  
5



6  
7  
8 **R**  
9

10 **V.**  
11

12 **OKIA RAINEL PORTER**  
13  
14  
15

16 **Appearances:** **Ms. Shauna-Kaye James, Crown Counsel, Office of the Director**  
17 **of Public Prosecutions for the Prosecution**  
18

19 **Mrs. Prathna Boddan of Samson Law for the Defence**  
20

21 **Before:** **The Hon. Justice Cheryll Richards KC**  
22

23 **Submissions Heard:** **27<sup>th</sup> June 2024**  
24

25 **Sentence Judgment:** **27<sup>th</sup> June 2024**  
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30 *Criminal Law – Sentencing, Robbery contrary to s.242 of the Penal Code (2022 Revision),*  
31 *Principles on Sentencing, Application of the Cayman Islands Sentencing Guidelines.*  
32  
33



## SENTENCE JUDGMENT

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3 1. The defendant is before the Court for sentencing following his guilty pleas to two  
4 offences. Count 1 charges him with the offence of Robbery contrary to s.242 of the **Penal**  
5 **Code** (2022 Revision). The particulars are that he on the 19<sup>th</sup> day of November 2023 at  
6 the 4-Way 24 Hour Convenience Store, located at #8 Town Hall Road, West Bay, Grand  
7 Cayman, Cayman Islands, stole \$1,029.00 the property of Matthew Tibbetts and at the  
8 time of doing so and in order to do so used force towards Rogelio Liao.
- 9  
10 2. The maximum penalty is life imprisonment.
- 11  
12 3. Count 2 charges him with the offence of Conspiracy to Commit Robbery contrary to  
13 s.242 and s.321 of the **Penal Code** (2022 Revision). The particulars are that he on the  
14 19<sup>th</sup> day of November 2023 in the jurisdiction of the Cayman Islands conspired together  
15 with Mylika General and others unknown to rob the 4-Way 24 Hour Convenience Store,  
16 located at #8 Town Hall Road, West Bay, Grand Cayman, Cayman Islands.
- 17  
18 4. The defendant first appeared before the Grand Court on the 8<sup>th</sup> December 2023. The case  
19 was adjourned for disclosure and legal aid issues to be addressed. On the 25<sup>th</sup> January  
20 2024, the defendant offered a plea to the offence of Theft on the full facts which was not  
21 acceptable to the prosecution.
- 22  
23 5. On the 7<sup>th</sup> February 2024, the defendant entered pleas of guilty to both counts of the  
24 Indictment. Sentencing which was initially set for the 5<sup>th</sup> April 2024 has been delayed  
25 because of a change of Counsel and time needed to take further instructions.
- 26  
27 6. It is agreed that the defendant is entitled to the full credit of one third for his guilty pleas.
- 28  
29  
30  
31



1 **THE FACTS**

2  
3 7. The prosecution has provided a summary of facts which is set out below.

4  
5 8. On Sunday 19<sup>th</sup> November 2023, at about 8:30 p.m., the defendant entered the 4-Way 24-  
6 Hour Convenience Store at #8 Town Hall Road, West Bay. He was wearing particular  
7 clothing and an animal mask to cover his face. He went to the cashier counter where the  
8 cashier was attending to a female “customer” who is alleged to be part of the conspiracy  
9 to rob the store. When the cashier opened the cash register, the defendant went behind  
10 the cashier who at first pushed him away. The defendant then started taking cash from  
11 the register and the cashier pushed the defendant in an attempt to stop him. The defendant  
12 pushed the cashier and removed the cash register along with the computer tablet which  
13 was attached.

14  
15 9. He went to the door of the establishment, but it was closed. He used the cash register to  
16 try to break the glass of the door in his effort to leave. The glass was shattered. In doing  
17 this, the mask fell off the defendant’s face and was later retrieved from the floor by the  
18 Police. Eventually the door was opened by the cashier and the defendant left the store.

19  
20 10. Cash amounting to \$479.00 was stolen along with the cash register which is valued at  
21 \$150.00. The tablet computer which was taken is valued at \$400.00. The total value of  
22 cash and items stolen by the defendant is \$1,049.00.

23  
24 11. Closed Circuit Television (“CCTV”) footage from the store recorded the incident.

25  
26 12. The mask which was retrieved was found to have DNA material from which the  
27 defendant could not be excluded to a calculation ratio of 2.4 septillion times more likely  
28 if it originated from him than if it originated from an unknown person unrelated to him.

1 13. Later that night at about 11:00 p.m., the defendant was seen in a vehicle at Fort Street in  
2 George Town. He was held by police officers and identified as being the same male in  
3 the CCTV footage of the robbery of the Store.  
4

5 14. On the 20<sup>th</sup> November 2023, the defendant was interviewed in the presence of his  
6 attorney and exercised his legal right not to answer questions put to him.  
7



8 **VICTIM IMPACT REPORT**  
9

10 15. The Department of Community Rehabilitation (“DCR”) has provided a Victim Impact  
11 Report (“VIR”) dated 26<sup>th</sup> March 2024.  
12

13 16. The cashier is described by the manager of the store as having been traumatised and as  
14 having resigned his post shortly after the incident. The manager also reports that there  
15 was stress caused from the need to secure alternative coverage for the store and that there  
16 was nervousness on the part of herself and her staff because of their concern that they  
17 would be revictimised. The manager also states that this is the seventh occasion on which  
18 the store has been robbed and that there is frustration at the repeat robberies.  
19 Compensation of \$1,029.00 and for the damage to the store of \$705.30 is being sought.  
20

21 17. In his statement dated 21<sup>st</sup> November 2023, the cashier indicated that he was traumatised  
22 as a result of the incident and had to seek medical attention the day following. His blood  
23 pressure was at a high level. He was prescribed medication which appears to be used to  
24 treat anxiety. He was also given a referral to have a psychological assessment conducted.  
25

26 **ANTECEDENT HISTORY**  
27

28 18. The defendant has convictions for traffic offences only. He has no previous convictions  
29 for an offence of a similar nature.  
30



1 **SOCIAL INQUIRY REPORT**

2  
3 19. The DCR has provided a Social Inquiry Report dated 12<sup>th</sup> March 2024 (“SIR”) in respect  
4 of the defendant. The Court has read this report in its entirety and takes into account  
5 everything said therein in his favour.

6  
7 20. The defendant is 23 years old. He has one child, aged 3 years old who is resident in  
8 Jamaica who he supports financially. He is a Jamaican national who was employed here  
9 since 2019 on a work permit to work in his aunt’s Janitorial service. His father was  
10 employed here in the construction industry but is now back in Jamaica for a period of  
11 one year.

12  
13 21. The defendant completed his schooling in Jamaica to high school level without  
14 difficulties. He reports using ganja since leaving high school and more recently since  
15 2020 he has been using ecstasy (MDMA), at least two pills per day. He says that on the  
16 day of the offence he had taken three pills and believes that he is addicted to the  
17 substance. He also states that he had been drinking heavily all of that day into the evening  
18 and knows that he was very intoxicated.

19  
20 22. The defendant reports that since being on remand, he has been employed as a cleaner and  
21 is productively occupied in the Prison. He also reports that he has received one  
22 adjudication for collecting something thrown over a wall at the Prison.

23  
24 23. The defendant expressed empathy for the victim and stated that he takes responsibility  
25 for his actions.

26  
27 24. He was assessed as being at low risk of re-offending with the only factor in the high  
28 category being alcohol/drug problem.

29  
30 25. The Probation Officer describes the defendant as remorseful and the offence as being out  
31 of character for him.



1 **THE SUBMISSIONS**

2  
3 26. Both Counsel referred the Court to the *Cayman Islands Sentencing Guidelines* for the  
4 offence of Robbery.

5  
6 27. Counsel for the prosecution submits that the offending is Lesser Culpability because  
7 minimal force was used against the victim. No weapon was produced, and it appears that  
8 there was little planning involved. Defence Counsel agrees with the classification of  
9 culpability.

10  
11 28. The Harm is submitted by the prosecution to be Category 2 because there is some  
12 psychological harm caused to the victim above the level inherent in the offence and the  
13 value of the goods taken is said to be at medium level. Defence Counsel disagrees and  
14 submits that the harm is no more than is inherent in the offence of robbery.

15  
16 29. This Court has considered the VIR and the statement of the victim in particular. The  
17 victim was affected to the point that he resigned his job shortly thereafter and needed  
18 psychological assessment and treatment for anxiety. The Court also notes the impact or  
19 effect on the small business as described by the manager. The submission that the Harm  
20 is at the level of Category 2 is accepted.

21  
22 **THE SENTENCE**

23  
24 30. This was a robbery of a small shop in the evening at 8:30 p.m. The defendant was masked.  
25 The entire cash register was taken as well as the cash within it. Property in the business  
26 was damaged, namely the door which was shattered. The offending is serious, and the  
27 Court is of the view that the custody threshold is firmly passed.

28  
29 31. The starting point for a Category 2 offence is 3 years (36 months) custody with a range  
30 of sentence of 2 to 5 years.



- 1  
2 32. It is noted and accepted that alcohol and drugs had been taken by the defendant in large  
3 quantities on the day of the offending. Being under the influence of alcohol or drugs at  
4 the time of the commission of the offence is an aggravating factor which serves to  
5 increase the sentence by 3 months for a sentence of 39 months.
- 6  
7 33. In mitigation the Court takes into account everything said and written in favour of the  
8 defendant in the SIR and by his Counsel. He is 23 years old, still relatively young. He  
9 has no previous convictions of a similar nature, and the Probation Officer notes that this  
10 offending is out of character for him. He is genuinely remorseful and expressed  
11 significant empathy towards the victim. He is productively employed while in the Prison  
12 and is at low risk of re-offending. The Court accepts that this offending as explained to  
13 the Probation Officer was on impulse and without significant planning. His Counsel  
14 submitted also that this is the lowest level of robbery, that custody for him will mean  
15 continued separation from his family and likely he will not be granted any further permit  
16 to work in the Cayman Islands. The impact upon him is also taken into account as urged  
17 by his Counsel. All these mitigating factors taken together serve to reduce his sentence  
18 by 12 months to 27 months imprisonment.
- 19  
20 34. The defendant is given the full one third discount for his guilty plea of 9 months, thus  
21 further reducing his sentence to one of 18 months imprisonment. The Court considers  
22 that the sentence is proportionate to the offending given the serious nature of it. Any time  
23 served is to be taken into account and deducted from this sentence.
- 24  
25 35. No separate penalty is imposed on Count 2, the offence of Conspiracy to Commit  
26 Robbery.
- 27  
28 36. The manager of the store has asked for compensation of \$1,029.00 for the value of items  
29 taken and for the damage to the store of \$705.30. However there is no evidence that the  
30 defendant has the ability to pay. The SIR records that he lost his gainful occupation once  
31 he was arrested for this offence. In line with legal principles no order for compensation

1 is made. The defendant faces a sentence of custody. He will not be able to work. The  
2 authorities are clear. A criminal Court should not order compensation where there is no  
3 means to pay. See the case of *R v York*<sup>1</sup>.

4

5 **Dated this the 27<sup>th</sup> June 2024**



6

7 **The Hon. Justice Cheryll Richards KC**  
8 **Judge of the Grand Court**

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<sup>1</sup> [2019] 1 Cr App R (S) 41