

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CRIMINAL SIDE

INDICTMENT NO: 7/09 (A&B)

THE QUEEN

V

TRENT BODDEN

Appearances: Crown Counsel – Kirsty Gunn  
Defence Counsel – Adam King of Samson and McGrath

Coram: Hon. Justice Quin Q.C.

Heard: 8<sup>th</sup> January 2009



SENTENCING RULING

1. On the 20<sup>th</sup> November 2009 the Defendant pleaded guilty to two counts of handling stolen property contrary to Section 260 of the Penal Code (2007 Revision).
2. On the first count the Defendant pleaded guilty to dishonestly receiving a blue Tamrac camera bag and a Fine Pix print camera, one silver and black Dell Laptop, a Dell power adapter, a Coby DVD player, and a black Blackberry bold head set, the property of Phillip Ebanks, and a silver and black Nokia cell phone, the property of Rebecca Smith, knowing or believing the same to have been stolen.
3. On the second count the Defendant pleaded guilty to dishonestly receiving a Panasonic Lumix digital camera, the property of Nicola Brown, knowing or believing the same to have been stolen.

4. On the 26<sup>th</sup> November 2008 the police executed a search warrant at the Defendant's premises and discovered these stolen items. At that time the police looked for the Defendant but they were told by his mother that he had left the house earlier that day.
5. A few days later the Defendant's mother attended the police station with the Defendant, and on the 2<sup>nd</sup> December 2008, the Defendant was arrested on suspicion of handling stolen goods and cautioned. The Defendant made no reply.
6. On the 3<sup>rd</sup> December 2008 the Defendant was interviewed by the police and during his interview he offered no comment to most of the questions put to him.
7. Mr King on behalf of the Defendant has confirmed that all the items found in the Defendant's possession have been recovered and that subsequently on the 20<sup>th</sup> November 2008 the Defendant entered a guilty plea. The Court ordered a Social Inquiry Report which was prepared and made available to the Court on the 7<sup>th</sup> January 2010.
8. I would like to thank Lisa Malice of the Department of Community Rehabilitation for her thorough report and her helpful recommendations.
9. It appears from the report, and from what Defence counsel has submitted that the Defendant foolishly exchanged cash and his own personal property for these stolen items. He confirmed to Ms Malice that his decision to trade items with a complete stranger was a very risky and immature decision to make.
10. In both Archbold's "Criminal Pleading Evidence and Practice 2010" and Blackstone's "Criminal Practice 2008" the learned editors rely on the English Court of Appeal decision of **R v. Webbe** (2002) 1 Crim. App. R. (S) 22, which set out guidelines on sentencing those convicted of handling stolen goods.

11. The Court of Appeal identified nine (9) aggravating features:

- i. The closeness of the handler to the primary offence (geographical or temporal);
- ii. The particular seriousness in the primary offence;
- iii. High value of the goods, including sentimental value;
- iv. Whether the goods were the proceeds of a domestic burglary;
- v. Sophistication in relation to the handling;
- vi. A high level of profit made or expected by the handler;
- vii. The provision by the handler of a regular outlet for stolen goods;
- viii. Threats of violence or abuse of power by the handler over others;
- ix. The commission of an offence whilst on bail.

12. The English Court of Appeal also identified the following mitigating features:

- i. Low monetary value of the goods;
- ii. The offence being a "one-off" offence committed by an otherwise honest Defendant;
- iii. Little or no benefit to the Defendant;
- iv. Voluntary restitution to the victim.

13. Although it does appear that the items found in the Defendant's possession were significant camera and computer items, it is fair to say that there is no evidence or suggestion that the Defendant was a regular outlet for stolen goods.

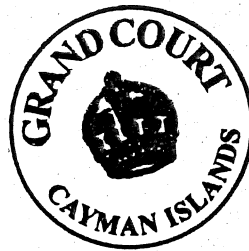
14. Furthermore the Defence has submitted that the Defendant had absolutely nothing to do with the burglary and the Crown has not challenged this assertion.

15. The Court can conclude on the basis of these submissions that the Defendant was not close to the primary offence, either on a geographical or on a temporal basis.

16. There is no real sophistication in relation to the Defendant's conduct, and he does not appear to have made any profit from the items.
17. Furthermore I do take into account that the goods have all been recovered with no evidence or suggestion that they were damaged.
18. Although the Defendant was not initially cooperative with the police, it is clear that his mother assisted the police in bringing him in to the police station.
19. I take into account and place significant reliance upon on the fact that the Defendant has no previous convictions and therefore I do accept that he gets the benefit of this being a "one-off" offence committed by an otherwise honest young man.
20. I revert to the above-referenced Social Inquiry Report and I note that the Defendant has agreed to perform community service.
21. The Defendant is a young, first-time offender, who has confirmed his intention to make positive changes to his lifestyle. Accordingly, I accept the recommendations of the Department of Community Rehabilitation and make an order for one year Probation on each count, with the following conditions:
  - i. That he completes at least 100 hours of community service;
  - ii. That he attends at the Counselling Centre for an assessment to address substance abuse issues;
  - iii. That he follows through with any recommendations made by the Counselling Centre;
  - iv. That he registers with the Department of Employment Relations.

22. I warn Mr Bodden that he must not commit any further offences whilst he is on probation as he can be brought back to this Court and sentenced for these offences.

23. I also warn the Defendant that it is very important for him to follow through with the recommendations of the Counselling Centre.



Dated this 15<sup>th</sup> day of January 2010

A handwritten signature in black ink, appearing to be "Quin J", written over the date.

**Quin J**  
**Judge of the Grand Court**