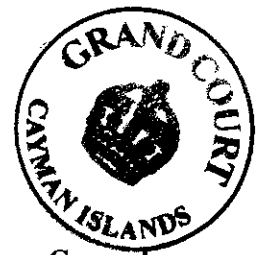


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**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL SIDE**

INDICTMENT NO: 87/10

**THE QUEEN
V
DEVON EMMANUEL WRIGHT JR.**



**Appearances: Ms. Marilyn Brandt Crown Counsel,
for the Crown**

Mr. John Furniss for the Defendant

Before: The Hon. Mr. Justice Charles Quin

Heard: 16th August 2011

SENTENCE RULING

Introduction

1. On the 16th August 2011 the Defendant, Devon Emmanuel Wright Jr., was found guilty, following a Judge Alone trial, on two Counts, namely, damage to property, contrary to s.267(1) of the Penal Code, and burglary, contrary to s.243(1) of the Penal Code Law (2007 Revision).

2. The particulars of the first Count were that the Defendant, together with a person unknown, on the 18th July 2010, at 150 Mary Street, George Town, Grand Cayman, without lawful excuse, willfully damaged the building known as Solomon's Grocery, the property of Mr. Louis Solomon, with damage totaling C\$23,000.00.

1 *Conclusion*

2 15. I do accept that generally the Courts regard a burglary of commercial
3 premises as less serious than burglary of a home or dwelling house.

4 16. The Chief Justice's Statement on Tariffs and Guidelines for Sentencing
5 points out that for aggravated offences of burglary, a first offence will attract
6 a tariff of four to six (4 to 6) years, but for a burglary without aggravating
7 circumstances, a second or subsequent offence will attract a tariff of three to
8 four (3 to 4) years.

9 17. However, I cannot impose a sentence without reminding myself that this was
10 a small family grocery shop, which is open seven (7) days per week to serve
11 the local community. Accordingly, there is what the President of the Cayman
12 Islands Court of Appeal, Sir John Chadwick, recently has called a "*sense of*
13 *violation and insecurity*" which gives rise to security concerns for fellow
14 shopkeepers, and indeed, to the general public.

15 18. I accept the argument from Defence counsel that the driver may have played
16 a more dominant role in acquiring the vehicle and actually crashing it into the
17 front of Mr. Solomon's shop. However, the Defendant was clearly on a joint
18 enterprise along with the driver, and he played the very active role of the
19 burglar in entering Solomon's Grocery as a trespasser – stealing the cash
20 register and its contents.

21 19. As far as I am aware, this is the first offence in the Cayman Islands of what is
22 known in the United Kingdom as "ram-raiding" where the Defendant and his
23 cohort use the vehicle belonging to another person in order to steal from a

1 building, not just by breaking and entering the building, but by breaking
2 down the building itself, and then stealing its contents.

3 20. It is clear that the Defendant and his partner in crime targeted Solomon's
4 Grocery store on Mary Street. The Defendant's partner drove the Ford F150
5 truck into the front door, knocking it, and the walls surrounding it, down, and
6 thereby allowing the Defendant to enter as a trespasser and steal its contents.

7 21. Some guidance can be found in the English Court of Appeal decision of the
8 late Lord Chief Justice Taylor in *R v. Byrne and Ors.* (1995) 16 Cr. App. R.
9 (S)140 where he stated at page 142:

10 *"The gravity can be stated in this way. First, it is almost always a*
11 *composite offence: it involves the theft of other vehicles before the main*
12 *theft is attempted. Secondly, it involves targeting a particular prize and*
13 *planning the offence with deliberation ... Thirdly, whatever may have*
14 *been obtained by thieves by this method ... there will almost always be*
15 *serious damage to property ... A further aggravating feature is that this*
16 *type of offence is aimed at defeating even the best security ... It is a kind*
17 *of military operation against whatever security precautions may be*
18 *applied to any building. Finally, there is the element of breach of the*
19 *peace. In the middle of the night ... there is an operation going on which*
20 *rouses people and puts some of them in fear. It is an affront to civilized*
21 *society; it is an outrageous offence. It transcends the ordinary type of*
22 *attempted theft."*

23
24 22. The two Defendants who pleaded guilty in *R v. Byrne and Ors.* were
25 sentenced to five (5) years imprisonment.

26 23. Professor Thomas's classic text book, *Current Sentencing Practice*, refers to
27 the *Attorney General's References Nos. 45, 46, 47, 48 and 49 of 2006 (Karl*
28 *Kevin Callaghan and Others) [2008] 1 Cr. App. R. (S.) 88.*

1 24. The English Court of Appeal reviewed a number of ram-raiding cases
2 including *R v. Byrne* and Ors and concluded by saying:

3 *“They seem to us to suggest that in the context of a single ram raid*
4 *offence, a starting point in the region of or approaching 7 years,*
5 *following a trial, is implicit in all of them.”*

6

7 25. Shopkeepers and their premises must be protected and so must the general
8 public. This sort of offence in the very early hours of the morning, (4 a.m.)
9 whilst most residents are still asleep, cannot be condoned. The Courts must
10 impose a sentence which will serve as a punishment to the offender and a
11 deterrent to others.

12 26. I have taken the submissions from both counsel into consideration. In light of
13 the Defendant’s relatively young age, I will impose a sentence of four (4)
14 years imprisonment on the burglary, with four (4) years for the criminal
15 damage, to run concurrently, with time spent in custody to be taken into
16 account.

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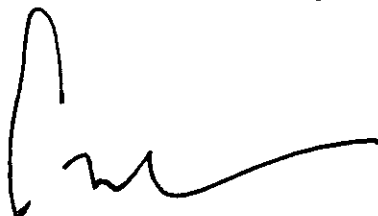
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19 **Dated this the 22nd day of August 2011**

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Honourable Mr. Justice Charles Quin

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Judge of the Grand Court