

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

3
4 **INDICTMENT NO: 45/11**

5
6
7 **THE QUEEN**

8 **v.**

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10
11 **LAVERNE OLIVINE GOULD**



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13
14 **Appearances:**

Ms. Trisha Hutchinson for the Crown

15
16 **Mr. Ben Tonner of Samson and**
17 **McGrath for the Defendant**

18
19 **Before:**

The Hon. Mr. Justice Charles Quin

20 **Heard:**

21st October 2011

21
22 **SENTENCE RULING**
23

24 1. On the 26th August 2011 the Defendant pleaded guilty to wounding with
25 intent contrary to s.194 of the Penal Code (2010 Revision).

26 2. The particulars of the offence are that the Defendant, on Sunday the 1st of
27 May 2011 at 16A Finch Drive, West Bay, Grand Cayman, unlawfully and
28 maliciously wounded Lina Clearstain Ebanks with intent to cause her
29 grievous bodily harm.

30 ***Facts***

31 3. Sometime after 11 p.m. on the 30th April 2011 Lina Clearstain Ebanks (“the
32 Complainant”) fell asleep on the sofa in the hallway between her bedroom
33 and her daughter’s bedroom at 16A Finch Drive, West Bay, Grand Cayman.

1 The Complainant fell asleep at around 1 a.m. on Sunday the 1st May 2011.
2 She recalls waking up sometime after that but went back to sleep for
3 approximately another half hour. She had been asleep on her back and when
4 she again woke up she felt something cold on her neck. She opened her eyes
5 and saw the Defendant, her daughter, in front of her, with her left hand on
6 top of her. The Complainant said the Defendant was holding her down by her
7 ribcage. Then the Complainant realised that the Defendant had a knife held to
8 her neck. The Complainant said that the Defendant was using both hands to
9 saw the knife at her neck in an attempt to cut her neck.

10 4. The Complainant's first reaction was to push the Defendant away, and then
11 to jump up and try to grab the Defendant. A struggle ensued and eventually
12 the Complainant got hold of the knife and ran through the front door,
13 carrying the knife with her.

14 5. The Complainant said the Defendant was shouting "*I hate you, I hate you*" so
15 she, the Complainant, ran out the front door carrying the knife with her to her
16 granddaughter's house.

17 6. The police attended the scene shortly after the attack and found that the
18 Defendant was still inside 16A Finch Drive. The Defendant had locked
19 herself into her bedroom and was refusing to open the door. Eventually the
20 Defendant came out of her room and the police took her to the West Bay
21 Police station where the Defendant was arrested and charged.

22 7. The Complainant received a deep wound to the left side of her neck, which
23 required sutures. The Complainant also suffered minor cuts to her hands and
24 arm, a cut on her right ear, and a long deep cut in her right hand from her

1 palm to her thumb. This latter wound required surgery. The Court
2 understands that the Defendant's initial attack on her mother caused the
3 wound to her mother's neck. The Court further understands that the other
4 injuries to the mother's hand, arm and ear all occurred during the struggle
5 when the Complainant was wresting the knife from the Defendant.

6 8. Counsel on behalf of the Defendant informed the Court that only a few days
7 after her arrest, the Defendant wrote a letter setting out her unqualified
8 culpability and remorse. Defence counsel said that the offence was totally out
9 of character for the Defendant and very hard to explain. He said the
10 Defendant has been a good daughter and a good mother to her child. Defence
11 counsel raises the possibility that the Defendant was the victim of harassment
12 from another individual who had a strong dislike for the Defendant's mother.

13 9. In summary, Defence counsel submits that credit should be given for the
14 Defendant's guilty plea and her early acknowledgment of her guilt. Defence
15 counsel points to the fact that the Complainant, fortunately, did not receive
16 any permanent injuries. He also highlights the fact that the Defendant's
17 mother has stated that she forgives her daughter. The Defendant has no
18 previous convictions and also, up to now, has a very good work record.

19 10. The Court has been greatly assisted by a Social Inquiry Report (SIR) dated
20 the 26th September 2011, prepared by Sophia Wilson-Leslie ("Mrs. Wilson").
21 The SIR confirms that the Defendant was reared singlehandedly by her
22 mother, the Complainant. It is a fact that the Defendant had some significant
23 medical problems and suffered a total loss of hearing at the age of six.
24 However, despite this handicap, the Defendant was a happy child, and was

1 able to co-exist with her teachers, peers and family members very well.
2 Although the Defendant's mother and father had separated, after which the
3 Defendant continued to live with her mother, the evidence is that her father
4 loves the Defendant dearly and has always maintained his support for her.

5 11. It appears that the Defendant lived with the father of her 4-year old son,
6 Devon, for about 7 years at the father's parents' house. However, this seems
7 to be a troubled relationship as Devon's father and the Defendant were
8 constantly quarrelling, and he would hit her.

9 12. The Complainant disapproved of this man because he abused her daughter,
10 the Defendant, and he refused to seek employment. The evidence from the
11 very helpful SIR is that the father of the Defendant's child does not assist
12 with the care and maintenance of their son, even though the Defendant still
13 loves him.

14 13. The SIR seemed to indicate that the Defendant had a number of challenges
15 namely current unemployment, financial challenges as well as this abusive
16 and unstable relationship with her boyfriend. The SIR does not rule out that
17 the Defendant's attack on the Complainant, her mother, could have been
18 provoked by the Defendant's boyfriend, who clearly had a strong dislike for
19 the Complainant.

20 14. It is noted that the Defendant had her bag packed and suffered from a sense
21 of fear that the child's father could harm her or the child.

22

1 19. As the English Court of Appeal stated in the Attorney General’s Reference
2 Number 17 of [2002] EWCA Crim 1292:

3 *“Sentencing decisions have to reflect the specific facts and circumstances*
4 *of each case, and guidelines are not to be tramlines.”*

5

6 20. The Defendant’s attack was a very clumsy attempt to injure and hurt her
7 mother. I accept that the majority of injuries the Complainant received
8 occurred during the struggle that ensued after the Defendant’s initial attack.
9 It is very difficult to understand what made the Defendant commit this
10 assault on her mother. I note from Dr McGill’s psychiatric report dated the
11 8th July 2011 that she confirms that the Defendant was not suffering from any
12 major psychiatric disorder, nor did she exhibit any bizarre tendencies. Dr.
13 McGill does confirm that the Defendant suffers from neuro-sensory deafness
14 and communication with the Defendant is limited because of the simplicity
15 of sign language. There is some evidence that the Defendant was under the
16 influence of her boyfriend, and that may have resulted in the aberration of
17 her judgment because she resented her mother’s dislike for her boyfriend,
18 and the fact that her mother tried to limit their relationship.

19 21. The Defendant’s former teacher and interpreter, Ms. Ferryman, says that she
20 has never known the Defendant to be an indisciplined person. Ms. Ferryman
21 says she was shocked when she learned of the Defendant’s involvement in
22 such a violent crime. Finally, Ms. Ferryman says that she will help to find
23 employment for the Defendant when she comes out of prison. I also note that
24 the SIR confirms that, whilst the Defendant has been in prison, the prison
25 officers have found her to be “helpful, kind, loving and respectful.”

1 22. In conclusion, I have to find that this is not an ordinary case. Sometimes we
2 have exceptional cases that do not fall within the normal sentencing
3 guidelines. I do find that the circumstances of this case are exceptional
4 circumstances. What is clear is that the Defendant was a person of good
5 character who has shown genuine remorse. She accepted her culpability at a
6 very early stage. She is a 32-year old woman who clearly loves her mother,
7 the Complainant, and her son, Devon. It is apparent from the SIR that both
8 her mother and Devon want her to come home. Although Courts cannot act
9 upon the victim's recommendations I do find that the Complainant has
10 forgiven the Defendant, and I do take into account the Complainant's wishes
11 for the Defendant to return home.

12 23. The Court has to impose a term of imprisonment to reflect the gravity of the
13 offence to which the Defendant has pleaded guilty. I do note that the
14 Defendant has been in custody for six months since her arrest and I take that
15 period of incarceration into account. I therefore sentence the Defendant to
16 two years' imprisonment. However, in light of the exceptional circumstances
17 surrounding this case, I suspend the sentence for two years.

18 24. In addition I do order that the Defendant stay in regular contact with Mrs.
19 Wilson-Leslie or her nominee, and further, that the Defendant undergo the
20 psycho-educational programmes recommended by Mrs. Wilson-Leslie.

21 25. In conclusion I reiterate the suggestions and recommendations made by Ms.
22 K. Bramwell of the Probation Services that the Defendant must exhibit good
23 behaviour towards the Complainant and be firmly reminded that she and her
24 son's father must respect and abide by the conditions of the fit-person order

1 for its duration, or until any changes are made by the relevant agency or the
2 Courts.

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4 **Dated this the 28th October 2011**

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7 **Honourable Mr. Justice Charles Quin**
8 **Judge of the Grand Court of the Cayman Islands**

