

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

3  
4 INDICTMENT No: 74/11  
5 (74/11; 74A/11; 74B/11;  
6 74C/11; 74D/11)  
7

8 THE QUEEN

9  
10 V

11 DEVON WRIGHT  
12 ~~DOUGMORE WRIGHT~~  
13 ~~KRISTIE McFIELD~~  
14  
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16  
17 **Appearances:**

Ms. Trisha Hutchinson, Senior Crown  
Counsel for the Crown

18  
19  
20 Mr. John Furniss for Devon Wright

21  
22 ~~Mr. Nick Hoffman of Priestleys for~~  
23 ~~Kristie McField~~

24  
25 ~~Fiona Robertson of Samson and~~  
26 ~~McGrath for Dougmore Wright~~  
27

28 **Before:**

The Hon. Mr. Justice Charles Quin

29 **Sentencing Submissions Heard:**

13<sup>th</sup> June 2012

30  
31 **SENTENCE RULING**  
32

33 *Preamble*

34 *At the commencement of this trial on the 24<sup>th</sup> April 2012 there were three Defendants on*  
35 *this Indictment. On the 25<sup>th</sup> April 2012 the Crown entered a Nolle Prosequi in relation to*  
36 *Dougmore Wright. During the course of the trial, no-case-to-answer submissions were*  
37 *made in relation to Devon Wright and Kristie McField and, on the 27<sup>th</sup> April 2012, the*  
38 *Court handed down its ruling that the trial should continue against Devon Wright, but*  
39 *acceded to the no-case-to-answer application in relation to Kristie McField.*

40 *On the 1<sup>st</sup> May 2012 Devon Wright was found not guilty of burglary (Counts 1 and 2) but*  
41 *guilty of handling stolen goods (Counts 3 and 4).*

1       1.     The Defendant was found guilty of two counts (Counts 3 and 4 on the  
2             Indictment) of handling stolen goods contrary to s.260(1) of the Penal Code  
3             (2010 Revision), after a trial by Judge Alone.

4       2.     The particulars of Count 3 are that, the Defendant, on the 27<sup>th</sup> day of May  
5             2011 at Hickory Drive, Prospect, George Town, Grand Cayman dishonestly  
6             undertook or assisted in the retention, removal, disposal or realization of  
7             stolen goods, namely, an Acer laptop belonging to Hugh Maxwell, by or for  
8             the benefit of another or dishonestly arranged to do so, knowing or believing  
9             the same to have been stolen.

10            The value of this laptop was estimated at eight hundred dollars (\$800.00.)

11       3.     The particulars of Count 4 also relate to another laptop, in that, the  
12             Defendant, on the 27<sup>th</sup> day of May 2011 at Hickory Drive, Prospect, George  
13             Town, Grand Cayman dishonestly undertook or assisted in the retention,  
14             removal, disposal or realization of stolen goods, namely, a Toshiba laptop  
15             belonging to Marlon Birch, by or for the benefit of another or dishonestly  
16             arranged to do so, knowing or believing the same to have been stolen.

17            The value of the second laptop was estimated at \$1,090.00. Accordingly, the  
18             total value of the stolen property that the Defendant handled was \$1,890.00.

19       4.     Senior Crown counsel pointed out that although the Defendant has just  
20             turned 20 years of age he already has a total of eleven (11) convictions  
21             between 2009 and 2011 – that is, nine (9) for burglary, one (1) for handling  
22             stolen goods and one (1) for damage to property.

1           5.       Senior Crown Counsel pointed out that the Defendant was on bail in relation  
2                   to other charges for which he was convicted. Senior Crown counsel  
3                   highlighted the fact that there had been very few cases of handling stolen  
4                   goods before the Grand Court and helpfully provided the Court with the UK  
5                   Sentencing Guidelines for handling stolen goods. The leading case is the  
6                   English Court of Appeal decision of *R v. Bernard Webbe & Ors.* [2002] 1  
7                   Cr. App. R. (S.) (22). Lord Justice Rose, the President of the Court of Appeal  
8                   in the *Webbe* case referred to the sentencing panel guidelines and identified  
9                   nine (9) factors which may be regarded as aggravating the offence. I deem it  
10                  necessary and helpful to set these out in full, which are as follows:

11                i.       The closeness of the handler to the primary offence (I add that closeness  
12                   may be geographical, arising from presence at or near the primary  
13                   offence when it was committed or, temporal, where the handler  
14                   instigated or encouraged the primary offence beforehand, or, soon after,  
15                   provided a safe haven or route for disposal;

16                ii.       Seriousness in the primary offence;

17                iii.       High value of the goods to the loser including sentimental value;

18                iv.       The fact that the goods were the proceeds of a domestic burglary;

19                v.       Sophistication in relation to the handling;

20                vi.       A high level of profit made or expected by the handler;

21                vii.       The provision by the handler of a regular outlet for stolen goods;

1           viii. Threats of violence or abuse of power by the handler even over others,  
2                 for example, an adult commissioning criminal activity by children, or a  
3                 drug dealer pressurizing addicts to steal in order to pay for their habit;

4           ix. The commission of an offence whilst on bail.”

5           6. In addition, the English Court of Appeal agreed with the Sentencing panel  
6                 and stated at paragraph 29 on page 6:

7                 “...For more serious offences there will some for which a sentence  
8                 within the ranges of 12 months to 4 years will be appropriate, and there  
9                 will be others for which a sentence of considerably more than four years  
10                 up to the maximum may be appropriate.”

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12           7. Senior Crown counsel has stated that the following aggravating factors are  
13                 relevant to the case before me:

14           i. The closeness (in time and geography) of the Defendant to the primary  
15                 offence: In that, the Defendant was close in geography to the burgled  
16                 premises and also was found with the goods close to the time when the  
17                 premises were burgled.

18                 The Defendant arrived at his uncle’s house only a few hours after the  
19                 domestic burglaries had taken place. His uncle’s premises were also in  
20                 the Prospect area, close to the houses which were burgled.

21           ii. The relatively high value of both goods: In one instance, the laptop was a  
22                 gift, so it had sentimental value.

23           iii. The goods were the proceeds of two domestic burglaries;

1           iv. The items/goods can be easily sold

2           v. The Defendant committed this offence whilst on bail.

3           8. Senior Crown Counsel referred to the Cayman Islands Court of Appeal  
4           decision in *R v. Harrington Rivers* CICA No. 9 of 2008. The Defendant in  
5           this case had previous convictions for like offences. These offences were  
6           committed not long after his release from prison and the probation report had  
7           concluded that he had a high risk of re-offending. The Grand Court imposed  
8           a sentence of three (3) years which was upheld by the Court of Appeal.  
9           However, Crown counsel points out that, unlike this Defendant, in the *Rivers*  
10          case, the Defendant pleaded guilty, and therefore there was no trial and  
11          conviction.

12          9. Defence counsel has accepted the contention of the Senior Crown counsel  
13          that the appropriate sentence for this Defendant is in the range of 12 months  
14          to 4 years. Mr. Furniss properly accepts that the Defendant has previous  
15          convictions and committed these offences whilst on bail.

16          10. Defence counsel highlights that the Defendant does not seem to want to have  
17          a break from his criminality. He also points out that if the Defendant does not  
18          take a break from his criminality, he is liable to spend most of his life in  
19          HMPS Northward prison.

20          11. Defence counsel also highlights that the Defendant has been smoking ganja  
21          since he was 12 years old, which is a problem the Defendant describes as “a  
22          family problem” and he smokes between twelve (12) to fifteen (15) ganja  
23          “spliffs” per day.

1           12.    I am grateful to the Department of Community Rehabilitation and in  
2                    particular to Jhanelle Ennis for her in-depth report dated the 10<sup>th</sup> June 2012.

3                    Ms. Ennis points out that, despite being tried and found guilty, the Defendant  
4                    continues to maintain his innocence, claiming that his uncle took advantage  
5                    of him by saying that the goods were the Defendant's.

6                    Ms. Ennis however points out that the Defendant is clearly bright,  
7                    knowledgeable and full of potential, but, in relation to the Level of  
8                    Service/Case Management Inventory (LS/CMI) test, the Defendant scored  
9                    very high – pointing out that the high-risk bracket, as outlined in the  
10                  LS/CMI, incorporates scores 30 and above. The Defendant scored 32 points  
11                  – putting him at a one hundred percent probability of committing a new  
12                  crime, leading to conviction within one year of his release. This makes for  
13                  depressing reading.

14           13.    What is particularly disturbing is that despite attempts to contact the  
15                    Defendant's parents, they could not be reached to verify or supplement any  
16                    information.

17                    It has been said before, but it still bears repeating: it is this apathy, and total  
18                    lack of concern for the welfare of their children, shown by parents, that is  
19                    one of the major reasons for the high level of serious crime committed by  
20                    young persons in the last two or three years.

21                    Nevertheless, the Defendant is now 20 years old and must be responsible for  
22                    his actions.

1        14.     Despite the best endeavours of Defence counsel, the Defendant has not made  
2                    his task an easy one.

3        15.     In light of the several aggravating factors highlighted by Senior Crown  
4                    counsel, and the Defendant's previous convictions for burglary and handling  
5                    stolen goods, I impose, in relation to Count 3, a sentence of three (3) years of  
6                    imprisonment.

7                    However, in view of the fact that the Defendant is currently serving a  
8                    sentence of four years for crimes that were committed near in time to these  
9                    offences, I am prepared on the basis of the "totality principle" to make one  
10                   (1) year concurrent with the sentence he is now serving, and the two (2) years  
11                   consecutive to the sentence he is currently serving.

12                   In relation to Count 4, there is no separate penalty imposed.

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16     **Dated this the 25<sup>th</sup> June 2012**

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20     **Honourable Mr. Justice Charles Quin**  
21     **Judge of the Grand Court**

