

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
3

4 INDICTMENT NO: 0016/2012
5

6 THE QUEEN
7

8 V
9

10 JARRON NOEL CONOLLY
11



12
13 **Appearances:**

Mr. Kenneth Ferguson for the Crown

14
15 **Ms. Fiona Robertson of Samson and**
16 **McGrath for the Defendant**
17

18 **Before:**

The Hon. Mr. Justice Charles Quin

19 **Sentencing Submissions Heard:**

16th November 2012
20

21 **SENTENCE RULING**
22

23 1. On the 24th September 2012 the Defendant pleaded guilty to Wounding, contrary to
24 s.204 of the Penal Code (2010 Revision).

25 2. The particulars of the offence are that the Defendant, on the 24th day of June 2011
26 at 28 Poplar Street, Bodden Town, Grand Cayman, unlawfully and maliciously
27 wounded Nathaniel Pearson.

28 3. The Crown and the Defence presented an agreed Basis of Plea in the following
29 terms:

30 i. That there was an altercation between the Defendant and the
31 Complainant, Nathaniel Pearson;

32 ii. That Nathaniel Pearson had a knife;

- 1 iii. That the Defendant used a piece of construction rebar to knock the
2 knife from Nathaniel Pearson's hand;
- 3 iv. A tussle ensued between the Complainant and the Defendant and the
4 Complainant ran off;
- 5 v. The Defendant chased after the Complainant and kicked him and the
6 Complainant fell to the ground;
- 7 vi. The Defendant accepts that he caused injury to the Complainant's head;
- 8 vii. The Defendant accepts that although his initial reactions were in self
9 defence, by chasing after the Complainant and kicking him he, the
10 Defendant, was no longer acting in reasonable self defence.



- 11 4. The medical report of Dr. Obinna Eleweaza dated the 16th September 2011
12 confirms that the Complainant sustained a 3 cm laceration of the forehead and a
13 swollen tender wrist.
- 14 5. Although the Defendant pleaded guilty on the 24th September 2012, the Court
15 accepts that the guilty plea was offered on the 2nd August 2012, which is some eight
16 or nine weeks earlier.
- 17 6. It is accepted that the Defendant was provoked before the incident by false rumours
18 being spread by the Complainant that he, the Complainant, had sex with the
19 Defendant's girlfriend. Also, it is accepted that the Complainant pulled a knife on
20 the Defendant, and that, in order to defend himself the Defendant used a piece of
21 construction rebar to knock the knife from the Complainant's hand.

1 7. However, in chasing the Complainant and then kicking him, the Defendant accepts
2 that he was acting beyond reasonable self defence. And, as the Defendant stated to
3 the Probation Officer, he went overboard in carrying out what was initially an act of
4 self defence.

5 8. The Complainant's injuries were not described as serious.

6 9. The Department of Community Rehabilitation (DCR) arranged for a meeting with
7 the Complainant on Tuesday the 30th October 2012, in order to prepare a Victim
8 Impact Report. The Complainant did not attend that meeting. The Probation Officer
9 assigned to the case attempted to make contact with the Complainant and left a
10 voicemail message. Following on that the Complainant dropped in to the DCR
11 office and said that he had just lost his job and did not feel like having a
12 conversation with the DCR officers. The Complainant was advised to schedule an
13 appointment when he was in a better emotional state. The urgency and importance
14 of the appointment was made clear to the Complainant and he was told that he
15 should ensure that the appointment was made before the 6th November 2012. The
16 Complainant did not re-establish contact with the DCR.

17 10. The Court finds that the DCR gave the Complainant ample opportunity to assist the
18 Department in providing a Victim Impact Report, but that he did not take up the
19 several opportunities to give the necessary information for such a report.

20 *ANTECEDENTS*

21 11. The Defendant has one conviction in 2004 for possession and consumption of
22 ganja. The Crown and the Defence agree this ganja conviction is not relevant to the
23 case in question.



1 *ANALYSIS AND CONCLUSION*

2 14. I note that the Defendant has an excellent work record and has been working for 10
3 years with Caribbean Utilities Company (CUC). I have also read the references
4 from Messrs. Bramwell and Wood. The Defendant's employers describe him as an
5 intelligent, capable, dedicated and personable young man.

6 15. I note also that Mr. Tomlinson from the DCR assesses that the Defendant is at a one
7 percent risk of reoffending within the next 12 months, and that the Defendant's
8 overall risk of recidivism was assessed as very low.

9 16. As Defence counsel has stated: This offence appears to be totally out of character
10 and one where the Defendant, faced with provocation initially acted in self defence
11 but then overreacted and wounded the Complainant.

12 17. I am grateful to both counsel for setting out the UK Sentencing Guidelines of 2011.
13 This offence falls within Category 3, which relates to offences causing lesser harm,
14 and where there is lower culpability.

15 18. I accept that there was a significant degree of provocation, and that there was a
16 complete lack of pre-mediation on the part of the Defendant. I accept from the
17 evidence that when the Complainant pulled a knife on the Defendant the Defendant
18 honestly believed it was necessary to use force to defend himself. I find that his use
19 of the piece of rebar to knock the knife out of the Complainant's hand was, in all
20 the circumstances, perfectly reasonable. However, then to chase after the
21 Complainant and kick him, which consequently resulted in the injuries sustained by
22 the Complainant, constituted unreasonable force.



