

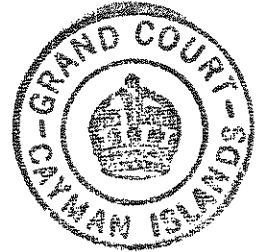
1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL SIDE**

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5 **INDICTMENT NO: 0047B/12**

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7
8 **THE QUEEN**

9
10 **V**

11 **ARRON MARQUISS MCLAUGHLIN**



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15 **Appearances:**

Ms. Candia James for the Crown

16
17 **Mr. Clyde Allen for the Defendant**

18
19 **Before:**

The Hon. Mr. Justice Charles Quin

20 **Submissions heard:**

19th November 2013

21
22 **SENTENCE RULING**
23

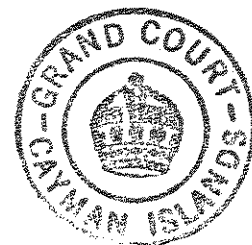
24 1. On the 25th September 2013 the Defendant, Arron Marquiss McLaughlin,
25 pleaded guilty to Counts 1, 2, and 4 on Indictment 47B of 2012. The DPP has
26 accepted these pleas and has therefore advised that Count 3 can be left on
27 file.

28 2. Count 1 is a charge of Robbery contrary to s.242 of the Penal Code. The
29 particulars of that offence are that the Defendant, on the 30th May 2012, at
30 Cash Wiz, #281 Bodden Town Road, Bodden Town, Grand Cayman, stole
31 CI\$612.00 and a gold ring from Lianne MacDonald, and immediately at the
32 time of doing so, and in order to do so, put the said Lianne MacDonald in
33 fear of being then and there subjected to force.

1 7. As soon as the Defendant left the store the manager telephoned the police
2 and reported the robbery. The two police officers who responded to the scene
3 were told that the robber ran in the direction of a pathway leading to Leroy
4 Fredrick Drive, following which they made checks on that Drive and came
5 upon the Defendant walking along. The police drove alongside him and
6 ordered him to stop, saying that they wanted to speak to him. The Defendant
7 continued walking and the police officer stopped the vehicle. As the police
8 officers exited the vehicle the Defendant took off running towards Persia
9 Way. DC Berry gave chase, whilst continuing to shout at the Defendant to
10 stop and drop the bag. The Defendant actually entered the parking lot of an
11 apartment complex. The Defendant stop running and pulled what appeared to
12 be a black long-barrelled handgun out of the bag and pointed it at DC Berry
13 whilst repeating, "*I will shoot you, I will shoot you.*" The Defendant
14 continued to advance upon DC Berry who retreated with his arms upraised,
15 begging the man not to shoot. DC Berry asserts that he heard a clicking
16 sound coming from what he believed was a handgun.

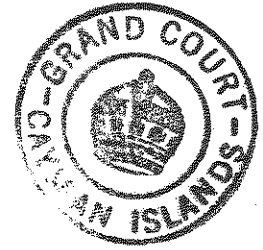
17 8. Meanwhile a police helicopter began approaching the scene and the
18 Defendant walked away and threw the gun into a flower patch. WDC
19 Barboram, then ran towards the man, who threw the bag towards a fence and
20 started running. WDC Barboram then jumped on him and wrestled him and
21 wrestled him to the ground, where he was eventually restrained and arrested.

22 9. The Defendant identified himself as Arron McLaughlin and the following
23 items were retrieved from him:



24

- 1 (a) A black mask with the word 'skull'
- 2 (b) A pair of blue jeans
- 3 (c) One black glove
- 4 (d) One red glove
- 5 (e) CI\$580.00
- 6 (f) A gold ring and pendant



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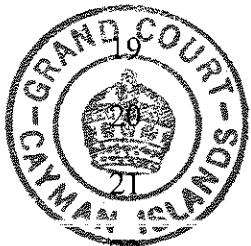
8 10. The gun was also retrieved and examined by ballistic expert, Alan
9 Greenspan, who found that the gun was actually an Orion Flare Gun which
10 had been modified to accept the calibre 12 gauge shot shell by the insertion
11 of a piece of metal tube into the chamber of the signaling device. However,
12 Mr. Greenspan also found that the gun would likely suffer catastrophic
13 failure, in that, it would blow up or explode if it were to discharge
14 conventional ammunition. Accordingly, Mr. Greenspan said that the resulting
15 projectile would be unlikely to cause death or serious injury. It is for this
16 reason that the gun is being treated as an imitation firearm, rather than a
17 firearm within meaning of the Firearms Law (2008 Revision).

18 11. The items retrieved from the Defendant were exhibited and sent for
19 examination and analysis and the Defendant's DNA was found on the black
20 mask with the following match ratio to the Defendant's DNA – 1 in 400
21 trillion. That is, the chance that an unrelated person from the general
22 population could be included as a contributor to the DNA profile recovered is
23 1 in approximately every 400 trillion individuals.

1 16. It is clear from the SIR that the Defendant was raised in a good home.
2 Unfortunately his parents separated when he was approximately 9 years of
3 age. However, both his parents held senior positions in the Department of
4 Education and his father is currently a pastor of the Countryside Church of
5 God. His parents, though separated, continued to be excellent role models for
6 this Defendant and continued to teach him firm Christian values.

7 17. The Defendant attended Red Bay Primary, George Hicks Middle and John
8 Gray High Schools. The Defendant was Valedictorian upon graduation from
9 his primary school and he won the Thomas Russell award at George Hicks
10 Middle School for the highest achieving male in the class. The Defendant
11 attained passes in ten CSE classes and was awarded a Cayman Islands
12 Government Scholarship to pursue an Associate Degree in Business at the
13 University College of the Cayman Islands.

14 18. The Defendant has been employed – working as a Teachers’ Aide at Prospect
15 Primary School and taught Physical Education alongside coaches. The
16 reference from Dr. Philip Palmer stated that although the Defendant’s time
17 keeping was poor, he was very pleased with the quality and volume of the
18 Defendant’s work in the Data Services Department. Mr. Philip Jackson of the
19 Department of Education said he always found the Defendant to be a bright
20 young man of good character. Mr. Jackson describes the Defendant as
21 respectful and possessing a lot of potential to succeed at any task he set his
22 sights on. In addition to being a student who excelled academically, the
23 Defendant was an excellent sportsman – representing the Cayman Islands in
24 track and field events and playing football for the “Bodden Town 11”.



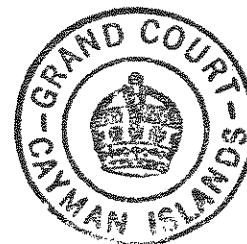
1 19. The Defendant exhibited all the early signs of becoming a productive and
2 successful adult. However, the Defendant's father said he noticed that the
3 Defendant began using ganja some six or seven months before this offence
4 was committed. Furthermore there is evidence from the report that the
5 Defendant started associating with persons who used drugs, and he, himself,
6 began using cocaine shortly before this offence occurred.

7 20. In my view there is a clear indication that the Defendant's use of ganja and
8 cocaine and associating with people supplying illegal drugs has led him into
9 criminal activity.

10 I also take note of the fact that the Defendant had been shot just before this
11 offence, and there is evidence to suggest that he committed the offence in
12 order to honour his debt to persons who were pursuing him for payment for
13 drugs supplied to him.

14 21. It is nothing short of tragic to see such a talented young man falling victim to
15 the influence of criminal associates, getting involved with the use of illegal
16 drugs, and now committing these serious criminal offences of robbery,
17 possession of an imitation firearm and assault on a police officer.

18 22. The maximum sentence for the offence of robbery is life imprisonment. The
19 maximum sentence for possession of an imitation firearm is 20 years and a
20 fine of \$100,000.00. And the maximum sentence for common assault is one
21 year.



1 23. When one looks at the offences to which the Defendant has pleaded guilty,
2 they all warrant a significant custodial sentence. The UK Sentencing
3 Guidelines Council stated:

4 *“It is the element of violence that is the most serious part of the offence*
5 *of robbery, but it is not the only determining factor. The relative*
6 *seriousness of each offence depends on factors such as the degree of*
7 *injury to the victim or the nature and the duration of the threats. The*
8 *degree of force used is important in determining the seriousness of the*
9 *offence but the degree of fear which is experienced by the victim is a*
10 *relevant consideration.”*

11

12 24. I find that Count 1 come within level 2 of the United Kingdom Sentencing
13 Guidelines because a weapon was produced and used to threaten the
14 employees of Cash Wiz. This Court noted in the case of *R v. Josh Alexander*
15 *Bodden* Indictment 68 of 2010 dated the 22nd December 2010,

16 *“The Court accepts that the Defendant used an imitation gun, but, at the*
17 *same time, notes that this is a very serious offence, and one which put the*
18 *Complainant in considerable fear for his life.”*

19

20 25. Also the Sentencing Guidelines Council state:

21 *“Whether the firearm is real or an imitation is not a major factor in*
22 *determining the appropriate sentence because the amount of fear created*
23 *in the victim is likely to be the same.”*

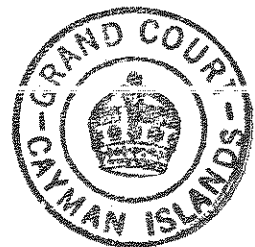
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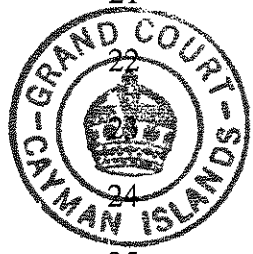
1 26. There is evidence before this Court that some planning went into this offence
2 owing to the fact that the Defendant wore a black mask and, in addition to
3 the imitation firearm, carried a black bag, in order to transport his takings.
4 The photograph of the imitation firearm demonstrates that it looked like a
5 real firearm and therefore must have caused the employees in the shop
6 considerable terror and fear.

7 27. The Defendant was 20 years of age at the time of the offence and is classified
8 as an adult offender. The starting point under the Sentencing Guidelines
9 Council – which has been adopted by both the Cayman Islands Court of
10 Appeal and the Grand Court – is 4 years in custody, and the sentencing range
11 is two years to seven years, depending on the number of aggravating and
12 mitigating factors.

13 28. The President of the CICA, Sir John Chadwick, stated at paragraph 11 in the
14 case of *R v. Haylock, Avilla, McLaughlin and Watson* CICA (Crim) No. 33
15 of 2010:

16 *“Nevertheless those who arm themselves with weapons and undertake*
17 *pre-meditated robbery of small commercial businesses in these islands*
18 *must expect at least five years’ imprisonment if they are convicted.”*

19
20 29. Both Crown counsel and Defence counsel accept that this is a level 2
21 offence, for which the starting point is 4 years’ custody in relation to a
22 Defendant who pleads not guilty and has no previous convictions. Bearing in
23 mind the Guidelines and the Court of Appeal decision in *R v. Haylock,*
24 *Avilla, McLaughlin and Watson (supra)* I find that, with the aggravating
25 features of this case, the starting point has to be 5 years imprisonment.



1 30. However, as the Defendant pleaded guilty I am prepared to reduce his
2 sentence by 20 percent, due to the delay in his guilty pleas to Count 1 and
3 Count 4, and I therefore impose a sentence of 4 years' imprisonment for
4 Count 1.

5 31. In relation to Count 2 I take into account that, for the robbery, he used an
6 imitation firearm and, accordingly, I impose a sentence of 3 years'
7 imprisonment to run concurrent with the four years on Count 1.

8 32. I come now to deal with the offence of assault against a police officer.

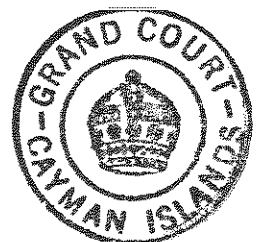
9 33. To have a firearm, whether imitation or real, pointed at you, with the robber
10 shouting "*I will shoot you, I will shoot you,*" must have been a terrifying
11 experience for DC Berry.

12 34. The maximum sentence for this offence is 12 months' imprisonment. In light
13 of the Defendant's guilty plea and his young age, I will impose a sentence of
14 six months' imprisonment, to run consecutively with the four years'
15 imprisonment for Count 1.

16 35. Time spent in custody is to be deducted from the total sentence imposed for
17 Counts 1, 2, and 4.

18 36. I publicly record the community's appreciation for the bravery of DC Berry
19 and WDC Barboram. They acted quickly and with considerable courage in
20 apprehending an armed robber and bringing him to justice.

21



1 37. I conclude by strongly recommending to the Defendant that he continues
2 with his education whilst he is in HMPS Northward. He had six courses
3 remaining to complete his degree and he must immediately enroll in
4 programmes that will lead to the completion of these courses and to sit the
5 necessary exams in Northward or as soon as he is released from custody.

6 38. Mr. McLaughlin, on the evidence before me, you are a young man with
7 considerable potential. If you stay away from illegal drugs and criminals you
8 can fulfill that potential. It is up to you.

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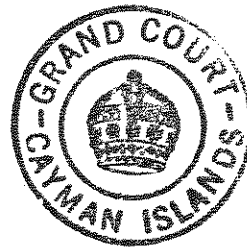
12 **Dated this the 3rd day of December 2013**

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17 **Honourable Mr. Justice Charles Quin**
18 **Judge of the Grand Court**