



1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL DIVISION**
3

4 **Neutral Citation Number: [2026] CIGC (Crim) 8**
5 **INDICTMENT NO: 56 of 2025**
6

7
8 **R**

9
10 **V.**
11

12 **DIEGO ALEXANDER BODDEN**
13
14
15

16 **Appearances: Mr. Martin Mulgrew, Senior Crown Counsel, Office of the Director of Public**
17 **Prosecutions for the Prosecution**
18

19 **Ms. Amelia Fosuhene, Brady Law for the Defence**
20
21

22 **Before: The Hon. Justice Cheryll Richards KC**
23

24 **Submissions Heard: 6th March 2026**
25

26 **Sentence Judgment: 10th April 2026**
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31 ***Criminal Law – Sentencing, Robbery contrary to s.242 of the Penal Code (2022 Revision), Application of***
32 ***the Cayman Islands Sentencing Guidelines; Whether level of harm inherent in the offence.***
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SENTENCE JUDGMENT

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4 1. The defendant is before the Court for sentencing following his guilty plea to the single count
5 of Robbery contrary to section 241(1) of the *Penal Code* (2022 Revision).
6
- 7 2. The particulars are that he on the 12th day of December 2024 robbed Maravis Ebanks of a
8 quantity of cash.
9
- 10 3. The maximum penalty is life imprisonment.
11
- 12 4. The defendant first appeared in the Grand Court on the 30th May 2025. He was arraigned on
13 the 27th June 2025 and pleaded not guilty. A trial date of the 11th November 2025 was set. On
14 the morning of the 12th November 2025, a jury was empaneled and stood down to 2:30 pm for
15 the trial to begin. At that time the defendant was re-arraigned at the request of his Counsel and
16 pleaded as aforesaid.
17
- 18 5. The basis of plea provided states as follows: -
19 "I have seen the evidence against me in the matter that I face with ... I am willing to enter
20 a guilty plea to the robbery. I do so on the basis that I had with me an imitation firearm and
21 that item was a toy gun. I do so of my own free will and knowing that I will be sentenced
22 for it."
23
- 24 It is dated 12 November 2025 2:05 pm and signed by the defendant.
25
- 26 6. At the request of the prosecution, Count 2, Possession of an Offensive Weapon is to lie on the
27 file. No evidence was offered against his co-defendant.
28
- 29 7. Pre-sentencing reports were ordered at the request of Counsel.
30
31
32



1 **THE FACTS**
2

3 8. The prosecution has provided a summary of the facts which is not disputed.
4

5 9. The victim, Ms. Ebanks is employed as a cashier to the 24 hour Convenience Shop which is a
6 retail business located on Town Hall Road in West Bay. She was on duty from 10:00 pm to 6:00
7 am on Wednesday the 11th of December 2024. The entrance to the store is controlled by a
8 remote button which is operated by the cashier. At about 5:13 am on the morning of the 12th of
9 December 2024 Ms. Ebanks heard the doorbell and opened the door. Instead of the single male
10 that she had seen seeking entry, the defendant entered immediately behind the first male. The
11 defendant was wearing a mask. Upon entry he drew what appeared to be a pistol from his jacket
12 pocket and approached the victim as she stood by the cash register. He pointed the object at
13 her and demanded that she open the cash register. Ms. Ebanks opened it and handed it over. It
14 contained approximately \$150.00. The defendant took it from her and quickly left the store. He
15 was arrested later the same day and neither the cash nor the firearm like object have been
16 recovered. The defendant was interviewed under caution by the police and he exercised his
17 right to make no comment.
18

19 10. The prosecution has provided still photographs of the defendant from Closed Circuit Television
20 “CCTV” footage from the store and other businesses in the area. These show the defendant
21 outside the store just before he entered it, when his face could be seen without the mask. He is
22 also shown inside the store pointing what appeared to be a firearm at the victim and then leaving
23 the store with the cash register.
24

25 **VICTIM IMPACT REPORT**
26

27 11. The Department of Community Rehabilitation (“DCR”) has provided a Victim Impact Report
28 (“VIR”) which is dated the 21st January 2026. The victim reports ongoing emotional distress
29 and that she continues to work in constant fear. She states that she feels particularly anxious
30 around people wearing masks or hooded clothing.
31

1 12. She explained to the Probation Officer that the offence has had a significant psychological
2 impact on her and that she believes that she would benefit from therapeutic intervention. She
3 is now more cautious, particularly during the nighttime. She tries to reassure herself that she is
4 safe but remains hypervigilant and alert to her surroundings.

5
6 13. The Officer's assessment is that the primary impact upon the victim is psychological and that
7 the offence resulted in significant psychological distress and ongoing emotional impact. The
8 Officer notes that the victim described intense fear during the incident and a freeze response
9 during which she felt unable to think or react clearly such that it affected her ability to
10 remember how to contact emergency services.

11
12 **ANTECEDENT HISTORY**

13
14 14. The defendant has no previous convictions recorded against him.

15
16 **SOCIAL INQUIRY REPORT**

17
18 15. The DCR has provided a Social Inquiry Report ("SIR") which is dated the 19th of January 2026
19 in respect of the defendant.

20
21 16. This provides a grim picture of childhood exposure to drugs and alcohol and a somewhat
22 unsupportive family environment through his growing years. The defendant is now twenty-
23 nine years old. He is married with a stepdaughter who is aged sixteen years old.

24
25 17. He reports a happy childhood growing up with his siblings and with his father. His mother had
26 particular difficulties which forced him to leave home at fourteen years of age to live with a
27 friend. He became involved in selling drugs to support himself. His parents separated in
28 November 2025, and his home life became more difficult. He was married at age twenty-one,
29 a relationship which he describes as being up and down.



- 1 18. The defendant completed primary and high school and commenced tertiary education. He
2 reports no suspensions or assessments for negative behaviours while at school. His employment
3 thereafter has been intermittent and he worked at different places for short periods of time. He
4 lost some of these jobs because of his unpunctuality and drug use.
5
- 6 19. Since being on remand, he has been involved in educational and rehabilitative programmes. He
7 commenced the electronic data preparation and management and electrical programmes as well
8 as the Sycamore Tree Project.
9
- 10 20. The Probation Officer's assessment is that based on the lifestyle that the defendant describes,
11 it appears that he was involved with persons who engage in pro-criminal activities, and he has
12 also admitted to associations with gang members. The defendant has a lengthy history of
13 alcohol misuse. At the age of eighteen years, one of his brothers was killed and this led to
14 increased use of alcohol thereafter. The defendant began using ganja and cocaine at an early
15 age and continued through to adulthood. He reports using these substances to self-medicate
16 which he says hides the underlying issues such as depression. In 2022 he self-referred to the
17 Caribbean Haven Residential Treatment Centre where he stayed for one month before
18 discharging himself.
19
- 20 21. The defendant's brother describes him as a good person but says that he had a difficult
21 childhood as the family went through hard times and sometimes, they were in grave need of
22 basic supplies. Another community member who has known the defendant for three years and
23 has employed him in the electrical field describes him as an industrious young man who is very
24 smart, ambitious, trustworthy and knowledgeable.
25
- 26 22. The defendant expressed remorse to the Probation Officer and said that he was sorry for
27 pointing the gun at the victim and making her feel scared. He said that he needed the money
28 because he did not have much money to buy drugs and he overreacted.
29
- 30 23. The Officer's assessment is that the defendant's response to the offences shows minimal
31 awareness or concern for the emotional impact of his actions on the victim. The Officer states
32 that his narrative reflects emotional detachment and justification rather than remorse and that

1 his description of the offences shows a combination of impulsivity, entitlement and intimidation
2 based on aggression. It also shows some element of premeditation.

- 3
4 24. The defendant's overall risk of reoffending was assessed as very high with four of the eight
5 criminogenic factors in the very high category and two in the high category. The Officer
6 describes the defendant's family unit as showing some dysfunction and notes his associations
7 with persons who engage in pro-criminal activities, his history of alcohol and drug misuse and
8 a very high pro-criminal attitude and orientation. The Officer says that he showed support for
9 crime and scant respect for the laws of the Cayman Islands. The recommendation is that should
10 the defendant be incarcerated that he should be encouraged to utilise the rehabilitation
11 programmes offered in the Prison.



12
13 **THE SUBMISSIONS**

- 14
15 25. Both Counsel referred the Court to the *Cayman Islands Sentencing Guidelines* for the offence
16 of Robbery.
17
18 26. Counsel for the prosecution submits that this offence is one of high culpability because of the
19 production of an imitation firearm to threaten violence. As to harm, the submission is that there
20 is some physical and or psychological harm caused to the victim above the level of the harm
21 inherent in the offence of Robbery. Counsel therefore submits that this is a Category A2
22 offending with a starting point of 5 years and a sentence range of 3 to 8 years imprisonment.
23
24 27. In terms of aggravating factors, Counsel for the prosecution submits that the victim was
25 vulnerable because she was alone in the store in the early hours of the morning.
26
27 28. Defence Counsel submits that it is accepted that the offending falls within the range of high
28 culpability because of the production of an imitation firearm which was brandished to give the
29 appearance that violence would be used.
30
31 29. As to harm, Counsel submits that this falls into Category 3 harm rather than Category 2.
32 Counsel submits that the reference to the victim being in fear which is ongoing is the natural

1 occurrence which would be expected of any person who had been the victim of a robbery.
2 Counsel said that the harm referred to in Category 2 is physical or psychological harm caused
3 to the victim above that which would be inherent in the offence. Counsel said that there is no
4 mention of a detrimental effect on the business, nor could it be suggested that the goods were
5 of medium or high value. Counsel accepts that there is some psychological harm but submits
6 that it is not over and above the level of harm inherent in this offence. The victim is able to go
7 back to work albeit with a heightened sense of fear. Counsel submits that the offending is
8 Category 3 A with a starting point of 5 years and a sentencing range of 4 to 8 years custody.
9

10 SUBMISSIONS IN MITIGATION

11
12 30. Counsel for the defence submits in mitigation that at the time of the offending the defendant
13 was a drug addict. He was a drug addict in denial. While he was functioning to the extent that
14 he had various jobs he could not retain the jobs for prolonged periods due to his drug addictions.
15

16 31. Counsel says that the defendant's history is a sorry one. It appears that he was introduced to
17 drugs from an early age by his very own family members. He was used by a family member to
18 make deliveries of drugs and to collect money from a very young age. Counsel said that what
19 is clear is that there are very few functioning and supportive members of his family who have
20 been able to assist him and to provide a stabilising and positive impact. His marriage is to an
21 older individual and is not a conventional one. It appears that sometimes he is present in the
22 matrimonial home and at other times he is absent. He has been addicted to illicit substances
23 since childhood, and his addiction has gotten worse over the years. He is said to suffer from
24 depression and to often cry and speak of feeling bad.
25

26 32. Counsel said that the defendant accepts that his drug use is becoming more and more frequent
27 and was being used to cover up his depression. He concedes that this offence was committed
28 because of his drug addiction and to fuel it. He was caught in a vicious cycle said Counsel
29 where he needed the drugs that he was addicted to in order just to feel normal. The defendant
30 accepts that what he did was wrong and he is sorry for the anxiety that he has caused the victim
31 in this case.
32



- 1 33. Counsel said that notwithstanding what is said in the SIR, the defendant does fully appreciate
2 what he has done and also fully accepts the horrific impact it would have had on the victim and
3 is truly remorseful. He has taken steps to address his addiction while in custody and has been
4 seeking both educational and rehabilitative programs. Counsel asks the Court to take into
5 consideration in mitigation the defendants' obvious remorse and his willingness to attempt to
6 address the root cause of his offending.
7
- 8 34. Counsel asks the Court to take into account all the factors raised in mitigation and the fact that
9 the defendant has been working towards becoming a productive member of society when he is
10 released.
11
- 12 35. Counsel refers the Court to the case of *R v Oris Tomney*¹. This was an appeal brought by
13 reference against a sentence of 2 years imprisonment suspended for 2 years with certain
14 rehabilitative conditions.
15
- 16 36. The respondent had been convicted of an offence of burglary and other offences. The issue on
17 appeal was whether the sentencing court had been unduly lenient in not applying the minimum
18 term for the offence of burglary. The Appellate Court noted that the sentencing judge was
19 entitled to find that the particular circumstances which related to the offender made it unjust to
20 impose a sentence of 3 years. The circumstances are said to include that the respondent having
21 been a drug addict since his teen years had finally at age forty-one stopped taking drugs and
22 had addressed his drug offending. The Court said that in these circumstances the sentencing
23 judge was therefore entitled to conclude that the public could be better protected by suspending
24 the sentence for 2 years which would provide the respondent with a strong incentive to remain
25 drug free and continue his rehabilitation rather than a sentence of immediate custody.
26
- 27 37. Defence Counsel submits that it is accepted that the defendant's plea in the instant case was not
28 entered at the first available opportunity and that any consideration of credit will factor in the
29 time of the plea. Counsel asks the Court to consider that the defendant had been on bail for a
30 significant period of time before he removed his electronic monitor and breached the conditions
31 of his bail.

¹ [2024] EWCA Crim 101





1 38. Counsel asks that all dates on bail while electronically monitored count towards the total
2 sentence as well as any days spent on remand.

3
4 **THE SENTENCE**

5
6 39. The offending in this case is serious. It was likely deliberately planned to take place in the early
7 hours of the morning, when the store may not have been busy. The defendant was masked and
8 armed with what appeared to be a firearm. He produced and pointed it at the victim in what
9 must have been an effort to enforce compliance to his demand and to strike immediate fear into
10 the heart of the victim. The custody threshold is firmly passed.

11
12 40. In the above cited case, the respondent is recorded in the pre-sentence report as reporting that
13 following an earlier conviction, on release he had engaged with the Recovery Hub and had
14 been medically assisted in relation to his long standing drug use. Thus at the time of his
15 conviction for the burglary offence, he had been clean. He had been assessed as being at
16 medium risk of re-offending and at medium risk of harm. The report writer had noted that the
17 respondent could benefit from a number of programmes which could be attached to a non-
18 custodial sentence which might lead to his getting a job and finally making a contribution to
19 society.

20
21 41. In contrast, in the instant case, this defendant is assessed as being at high risk of re-offending.
22 His extensive drug use continued up until he was remanded and while on remand he has
23 continued to use ganja.

24
25 42. While he has engaged in rehabilitative programmes since being on remand, there is nothing in
26 the SIR which suggests that he is as yet firmly on a rehabilitative path such that this Court
27 should treat his personal circumstances in the same light as those of the respondent in the cited
28 case. Given the defendant's level of risk there is understandably no recommendation from the
29 Probation Officer for him to be treated outside of a prison environment.

30
31 43. The aims of sentencing in this case must not only be punishment and deterrence but also
32 rehabilitation. The defendant must receive the necessary treatment while in Prison to assist with
33 his addictions and prevent a re-occurrence of this type of conduct.

1 44. The Court accepts the submission of the defence that this offending is a category 3 A offence
2 with a starting point of 5 years or 60 months custody and a range of sentence of 4 to 8 years
3 custody.

4
5 45. From a starting point of 60 months, no aggravating factors are taken into account. The
6 prosecution argues that the victim was particularly vulnerable because she was alone in the
7 store in the early hours of the morning. In the context of a 24 hour store which may or may not
8 have had customers at the material time this appears more to be a feature of planning rather
9 than vulnerability. This is not considered sufficient to justify a departure from the starting point
10 in this case.

11
12 46. In mitigation, everything written and said in the defendant's favour is taken into account. These
13 include all his personal circumstances, that he has no previous convictions and has faced the
14 trauma and grief of his brothers' death. His paternal grandmother passed away two years ago.
15 There is family dysfunction and early exposure to drugs. He is remorseful and has enrolled in
16 available rehabilitation programmes. All the mitigating factors serve to reduce his sentence by
17 7 months to one of 53 months imprisonment.

18
19 47. The defendant's plea came at the door of the Court. He is afforded the recommended 10% credit
20 for a final sentence of 48 months imprisonment.

21
22 48. The defendant was on bail with an electronically monitored curfew between the hours of 7pm
23 to 6am. Counsel have advised that the period was from the 27th May 2025 to the 12th October
24 2025, a total of 138 days. The defendant is afforded 50 percent credit for this or 69 days.

25
26 49. Time served is to be taken into account.
27

28 **Dated this the 10th day of April 2026**

29 

30 **The Hon. Justice Cheryll Richards KC**
31 **Judge of the Grand Court**