



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

4 **Neutral Citation Number: [2025] CIGC (Crim) 28**

5 **INDICTMENT NO: 68-70 of 2023**
6
7

8 **THE KING**

9 **V.**

10 **THEODORE O'NEIL MORGAN**
11

12 **Appearances:** **Mrs. Angelique McLoughlin, Crown Counsel for the Prosecution**

13 **Mr. Clayton Phuran for the Defence**
14

15 **Before:** **Justice Cheryll Richards K.C.**

16 **Submissions Heard:** **14th February 2025**

17 **Sentence Judgment:** **7th March 2025**
18
19
20

21
22 ***Criminal Law – Sentencing, Stalking contrary to s. 155 of the Penal Code (2022 Revision, Reckless and***
23 ***Negligent Act contrary to section 210 of the Penal Code (2022 Revision), Cayman Islands Sentencing***
24 ***Guidelines.***
25

26
27
28 **SENTENCE JUDGMENT**
29

- 30 1. The defendant before the Court for sentencing following his convictions after trial of two
31 counts on the Indictment. Count One charges him with the offence of Stalking contrary to s.155

1 of the *Penal Code* (2022 Revision). The particulars are that he between the 1st day of April
2 2022 and the 1st day of April 2023, within the jurisdiction of the Cayman Islands, intentionally
3 engaged in a course of conduct towards [the victim], on two or more occasions, which caused
4 [the victim] to fear for his safety, and Theodore O’Neil Morgan knew or ought to have known
5 that the course of conduct engaged in, would cause [the victim] to fear for his safety. The
6 maximum penalty is four years imprisonment.

7
8 2. Count Two charges the defendant with the offence of Reckless and Negligent Act contrary to
9 s.210 of the *Penal Code* (2022 Revision). The particulars are that he on the 23rd day of May
10 2023, in the vicinity of Bella Close, West Bay, Grand Cayman, drove Mercedes Benz motor
11 vehicle (registration number 124 606), in a public place in a manner that was so rash or
12 negligent as to endanger human life or safety. The maximum penalty is four years
13 imprisonment.



14
15 **THE FACTS**

16
17 3. The facts may be briefly stated. The defendant and the victim were in a relationship which
18 ended in April 2022. In the course of the relationship, the defendant would visit the victim at
19 his home. On the 22nd April 2022, the victim sent the defendant a message which stated: -

20
21 “don’t call me, don’t talk to me, don’t ever see me again, you crossed the line after
22 entering my house with the key you stole.”

23
24 4. The victim gave evidence at trial that thereafter there were several incidents where the
25 defendant followed him in a motor vehicle, came to the victim’s home and looked through his
26 window, would drive by his house and or was parked on the road outside his house, urinated
27 on his car, and approached him as he went to and from the gym. In October 2022 the defendant
28 was arrested by the police in the vicinity of the gym which the victim attended.

29
30 5. A housemate of the victim gave evidence of seeing the defendant outside the house staring at
31 it.

1 6. The defendant sent photos and messages to the victim's family. He also sent videos which
2 appeared to have been taken of the victim through the victim's bedroom window. He sent
3 indecent photos and messages to the victim's fiancée and to her employer and family.
4

5 7. With respect to Count 2, the victim and his fiancée were out for their usual morning run when
6 the defendant drove on the wrong side of the road and swerved at them. They had to move out
7 of the way to avoid being hit.
8

9 8. At trial the defendant denied stalking the victim and said that he was visiting other people who
10 lived nearby or was going about his own activities in the vicinity of the gym. He testified that
11 he was not driving his motor car on the morning of the 23rd May 2023. His car had been
12 borrowed by another person.
13

14 **VICTIM IMPACT REPORT**



15
16 9. The Department of Community Rehabilitation ("DCR") has provided a Victim Impact Report,
17 ("VIR") in relation to the victim which is dated 13th January 2025.
18

19 10. In describing the impact of the offence upon him, the victim said that he had to stay indoors for
20 long periods to avoid any run ins with the defendant. He states that he started therapy as a result
21 of the offending and is still in therapy. He gets very anxious when he sees a red vehicle around
22 his space and is anxious on his morning runs when he hears any type of sound. This remains a
23 part of his daily life. He has been impacted financially because he has had to take days off from
24 work to recover mentally and attend therapy.
25

26 11. The victim says that he has made life changes including moving apartments so that the
27 defendant does not know where he lives, taping his curtains to the walls to prevent the
28 defendant recording him through his windows and changing the route for his morning runs for
29 safety reasons. He stopped going out with friends to avoid running into the defendant.
30

31 12. The defendant sent videos, personal messages between them and photographs to his family his
32 employer, his fiancée's employer and friends and to a news organisation, Cayman Marl Road.

1 This caused the victim to stay home and avoid social events. Family relationships were
2 affected. The victim says that his life has completely changed because of the offending. His
3 freedom and personal life were taken from him and shared with others which made him hide
4 from the world.

5
6 13. The victim says also that while the defendant was on bail, the defendant frequently visited his
7 residence and followed him, which made him feel unsafe and lost. He has concerns for his
8 safety when the defendant is released from prison.

9
10 14. The Probation Officer concludes that the victim was most significantly impacted at the
11 psychological level and to a lesser extent at the social level and that he continues to be
12 impacted. The Officer recommends a protection order to include the condition that the
13 defendant not contact the victim directly or indirectly.

14
15 15. There is also a VIR in relation to the second victim who is the fiancée of the first victim. This
16 victim states that she was living in fear and always looking over her shoulder. The stress and
17 anxiety of being watched affected her mental health. She was unable to go out for exercise
18 because of her fear of being followed. The defendant sent inappropriate pictures and false
19 claims to her family, friends and employer. She says that she is concerned for her safety once
20 the defendant is released. The Probation Officer concludes that this victim was most
21 significantly impacted at the psychological level and to a lesser extent at the social and physical
22 levels. It is noted that she had ongoing safety concerns due to the defendant's lack of regard
23 for his bail conditions. A protection order is recommended.

24
25 **ANTECEDENT HISTORY**



26
27 16. The defendant has four previous convictions. Two of these convictions date back to 2010 and
28 are spent. Insulting Modesty of a Woman and Using an ICT Network to Abuse. In January
29 2023 he was convicted of two offences of Doing an Act Intended to Pervert the Course of
30 Public Justice and Forgery of an Insurance Certificate.



1 **SOCIAL INQUIRY REPORT**

2
3 17. The DCR has provided a Social Inquiry Report (“SIR”) in respect of the defendant dated 22nd
4 January 2025. The defendant is forty-two years old. His childhood years are described as
5 having been good. Although his parents separated, he is said to have had unwavering support
6 and love throughout his life from his mother. He graduated high school and enrolled in tertiary
7 education here and overseas. Following completion, he was employed in the financial industry
8 and undertook a degree in law. He volunteered with a number of local community
9 organisations. He reports that he suffered from anxiety in 2018 due to the stress of studying
10 overseas and feeling pressure to pass examinations.

11
12 18. Under the heading Attitude Towards Offence, the Officer records the following: -

13
14 “Mr. Morgan reported that in relation to the incident in May 2023, he admitted that the car
15 swerved on a deep corner where the victims was walking. He acknowledged that this was
16 a tactic to shock the victim after he and his companion in the car saw the victim showing
17 signs of insult “middle finger”. Mr. Morgan shared that he felt “used” when he saw the
18 way the friendship ended. When asked to elaborate, he stated that he was “used for money,
19 and angry that the victim did not appreciate his support”. He asserted that his actions were
20 not as a result of jealousy as he and the victim were casual and seeing other people. Mr.
21 Morgan explained that he was infatuated with caring for the victim. He admitted that he
22 developed an “obsession and just could not let go of a friendship”.

23
24 When questioned about what he would do differently, Mr. Morgan stated that he should
25 have upheld stronger boundaries and stayed away. He asserted that he “stayed away” after
26 the first warning was given by the police. He mentioned that he did not realise his actions
27 had such an impact on the victim until the victim expressed himself on the stand. He
28 asserted that he was shocked to hear the victim disclose he was fearful of him given that
29 he (the victim) was a “big strong guy”. Mr. Morgan shared that he should have taken a step
30 back when he realised he could not be the “hero in the victim’s life” saving the victim from
31 ..., and that he would not engage in anything past their friendship.”
32

1 19. The Probation Officer’s view is that the defendant is minimising the incident and his actions.
2 It is stated that although the defendant has admitted victim empathy after having had time to
3 reflect on the offence, his behaviour is similar to previous offending behaviours which
4 highlights a lack of self-management and problem-solving skills. His actions are said to be
5 cause for concern and it is suggested that he would benefit from a psychological assessment.
6

7 20. The defendant was assessed as being at medium risk of re-offending. The Officer states with
8 respect to the factor of Pro-Criminal Attitude/Orientation: -
9

10 “Mr. Morgan asserts that he “is remorseful and accepts full responsibility”. It is assessed
11 that Mr. Morgan has justified the gravity of his offending behaviour; in that he felt it was
12 merited during the circumstances at the time of the index offence and sought to minimise
13 the impact of his actions. ... He also exhibited limited insight into how the offending
14 behaviour was escalating in seriousness.”



15
16 **DEFENDANT’S LETTER TO THE COURT**
17

18 21. The defendant has written a detailed letter to the Court in which he apologises for his actions
19 and expresses remorse. He says that he has now come to appreciate the impact of his actions.
20 He states that: -
21

22 “...This experience has definitely become the wake up call for me, and it’s time for me to
23 get my act together and get my life back to where it should be.
24

25 ..., I wish in those moments that I had made better decisions, in regards to [the victim]
26 Maybe we would have still remained friends to this day. I didn’t realise how my actions
27 and behaviours would have affected and impacted him in this way.
28

29 Therefore, I take full responsibility for my actions towards [the victim] (a man that was
30 once a close friend). I never meant nor was it ever my intention to cause [the victim] any
31 psychological harm or distress. When the friendship/relationship ended on April 22nd 2022,
32 I was angry. I felt extremely used and I didn’t know how to handle my emotions. ...

1 I take this opportunity to take full responsibility for my actions towards my former
2 friend/partner ... I never meant him any harm in anyway and just wish that things would
3 have ended differently. I would like to take this time to apologise to him .. and his partner
4 ... as well as this Honourable Court. I believe that life is a learning experience and I've
5 definitely learnt from this experience. I have made peace with the whole situation, with
6 myself and with God. And now I want nothing but peace for [the victim], and his partner
7 ... I don't want him to continue to have any fear of me.

8
9 All I want now is peace for everyone and hopefully rehabilitation to ensure that I don't
10 make the same mistakes in the future. Indeed, it makes me feel good to know that I've let
11 go of all the hate, anger and that I've taken full responsibility for any actions and any
12 wrong-doing, as that was a great weight taken off my shoulders and this has given me the
13 desire to want peace for everyone. Indeed, I am now ready to face punishment for my
14 actions.”



15
16 **THE SUBMISSIONS ON THE OFFENCE OF STALKING**

17
18 22. Both Counsel referred the Court to the *Cayman Islands Sentencing Guidelines* for the offence
19 of Stalking. This provides for three categories of Harm and Culpability as follows:

20
21 “HARM

22 Category 1

23 Very serious distress caused to the victim

24 Significant psychological harm caused to the victim

25 Victim caused to make considerable changes to lifestyle to avoid contact

26
27 Category 2

28 Harm that falls between categories 1 and 3, and in particular:

29 Some distress caused to the victim

30 Some psychological harm caused to the victim

31 Victim caused to make some changes to lifestyle to avoid contact
32



1 Category 3
2 Limited distress or harm caused to the victim

3
4 CULPABILITY

5 A: Higher Culpability

6 Conduct intended to maximise fear or distress

7 High degree of planning and/or sophisticated offence

8 Persistent action over a prolonged period

9 Hostility to the victim based on religion, race, disability, sexual orientation or transgender
10 identity

11
12 B: Medium Culpability

13 Cases that fall between categories A and C, and in particular:

14 Conduct intended to cause some fear or distress

15 Some planning

16 Scope and duration of offence that falls between categories A and C

17
18 C: Lower Culpability

19 Offender's responsibility substantially reduced by mental disorder or learning disability

20 Conduct unlikely to cause significant fear or distress

21 Little or no planning

22 Offence was limited in scope and duration"

- 23
24 23. The prosecution submits that the offending falls within Category 1 Harm because the victim
25 has suffered very serious distress and significant psychological harm. Counsel submits that the
26 victim has been in counselling for many years because of the constant harassment and stalking
27 as well as there is increased substance intake because of his situation. Counsel notes that the
28 victim continues to be afraid to leave his house and only does so when the defendant is in
29 prison. He has made lifestyle changes in that he has had to tape down his window curtains, has
30 stopped going out and changed his various routes.
31

- 1 24. Counsel also submits that the Culpability is at the highest level because it was intended to
2 maximise fear or distress. There was a high degree of planning to ensure that he was present at
3 locations where the victim was, as well as to send personal and private pictures of the victim
4 to the Immigration Office, Cayman Marl Road and the Police.
- 5
6 25. Counsel described the actions of the defendant as persisting over a prolonged period. He
7 threatened to expose the victim's sexual orientation, knowing that the victim did not wish this
8 to be exposed to his friends and family.
- 9
10 26. Defence Counsel disagrees with the prosecution and submits that the harm should be classified
11 at the lowest level of Category 3 or at most the lower end of Category 2. It is argued by the
12 defence that there was no serious distress or significant psychological harm.
- 13
14 27. It is said that while the conduct caused distress, such distress is inherent in the nature of the
15 offence. Counsel notes that the victim had already been engaged in counselling prior to the
16 conduct of the defendant. This is due to his difficult upbringing and other issues. Counsel
17 submits that the Court should carefully examine any claims of harm and avoid automatically
18 attributing such to the defendant's conduct.
- 19
20 28. Counsel submits that the Indictment period is one year and not two as is urged upon the Court
21 by the prosecution and that the Court should limit its consideration of harm to the period of the
22 Indictment and to the video evidence. It is argued that this evidence is not comparable to more
23 severe stalking cases and does not support a claim that it is at the very top of the scale of harm.
- 24
25 29. As to lifestyle changes, it is said that the victim continued to attend the gym and may well have
26 moved house for no other reason other than that his lease at that location had come to an end.
27 As to the change to his running route, Counsel said that while the victim testified that he had
28 made the change because of the conduct of the defendant, this may have been no more than a
29 matter of practicality because the new route was closer to his home.



1 30. Defence Counsel’s submission is that the culpability for this offence is at the level of Category
2 C. Counsel argues that the defendant’s conduct was not intended to maximise fear or distress
3 to the victim. It was not planned or sustained over a prolonged period. Counsel notes that the
4 videos tendered at trial showed the defendant in his car either driving or parked at a distance
5 from the victim’s home. Counsel submits that as fear is inherent in the offence, there must be
6 “tumultuous fear to elevate the offending above Category C”.

7
8 31. Counsel submits that “while the defendant’s visits to the home of the victim required conscious
9 consideration they should not be characterised as planned but were opportunistic”. The
10 defendant was at times visiting friends in the neighborhood. Counsel notes that one of the
11 videos tendered at trial appeared to show a second person in the defendant’s car. The
12 defendant’s case was that this second person was the neighbour who he had been visiting.

13
14 32. Counsel submits that the defendant’s perception of himself as a victim and his reports to
15 authorities such as the Immigration Department and the Police should not be considered as
16 planning. Neither should his attempts to alert others to what he believed was a threat posed by
17 the victim even if he was misguided. Counsel said that the suggestion of the prosecution that
18 the defendant used the victim’s sexuality to incite hostility is inaccurate¹.

19
20 33. Defence Counsel submits that a suspended sentence would be the appropriate sentence in this
21 case.

22
23 **AGGRAVATING FACTORS**

24
25 34. Counsel for the defence acknowledges that the defendant received a warning on the 22nd April
26 2022 with respect to his conduct but suggests that this should not be given significant weight
27 as the victim also received a warning at that time.



¹ Defence Counsel’ written submissions dated 9th February 2025, paragraph 14



1 **RECKLESS AND NEGLIGENT ACT**
2

3 35. Counsel for the prosecution refers to the general sentencing guidelines in determining
4 culpability and submits that this offending is at least at the level of Category 2 because the
5 defendant was reckless as to whether harm was caused. He gave no thought to the consequences
6 even though the extent of the risk would be obvious to most people.
7

8 36. Defence Counsel submits that this offending falls within the lowest category of harm. Counsel
9 submits that the defendant did not intend to cause any harm even though he knew of the
10 potential risk which his actions entailed. Counsel notes that the defendant said in the SIR that
11 his sole intention was to “shock the victim after feeling used”. His action was not premeditated
12 but was a “heat of the moment lapse in judgment”. Counsel notes that the vehicle never left the
13 road and did not contact the victim.
14

15 37. Counsel references the judgment of the Court in the case of *R v Basil Nwosu*² in which a
16 compensation order was made in respect of the offence of Reckless and Negligent Act.
17

18 **SUBMISSIONS IN MITIGATION**
19

20 38. Defence Counsel submitted in mitigation that the defendant is 42 years of age. He has a tertiary
21 level education. He has a close relationship with his mother and provides her with care and
22 emotional support. By his letter to the Court, the defendant expresses remorse and accepts
23 responsibility for his actions. He seeks the Court’s assistance with rehabilitation. Counsel asks
24 that the factual circumstances be considered. The defendant was hurt following the end of a
25 relationship.
26

27 39. Counsel submits that the SIR indicates that the defendant is from a relatively stable family
28 background with good educational achievements and employment history. While on remand,
29 he has worked at ad hoc jobs and demonstrates his willingness to use his free time productively

² Grand Court Ind. 60/2023 – Unreported Judgment dated 1st May 2024

1 in clubs and community projects. He aspires to complete his education and achieve professional
2 qualifications.



3
4 **THE SENTENCE**

5
6 40. The Court notes that what is striking about this case is the persistence of the defendant's
7 conduct. The defendant was warned by the Police in April 2022. There were incidents in June,
8 July and October 2022. He was arrested by PC Lazzari in October 2022 and interviewed. He
9 knew then that his actions were considered serious enough to warrant the intervention of the
10 Police. He did not stop. His actions continued, culminating in Count Two of the Indictment in
11 May 2023.

12
13 41. The impact on the victim and the distress to him was evident at trial and was detailed. The
14 victim's evidence was that as the behaviour continued it affected him more and more. The VIR
15 also sets out the impact upon the victim.

16
17 42. In the Court's view the harm is at the level of Category 1. The victim was caused to make
18 considerable changes to his lifestyle to avoid contact. The victim stopped going out. He
19 avoided social events and interaction. This is in circumstances where the evidence at trial was
20 of many parties and visits to clubs during the start of their relationship. The victim moved
21 house. He changed his morning routine. He taped his window curtains shut. There is a
22 substantial change to his lifestyle.

23
24 43. The culpability is at the higher level because of the persistent action over a prolonged period
25 of a year. There were multiple incidents of a varied nature over a period of time.

26
27 44. In the Court's view this is a case of Category 1 harm and Culpability A offence. The starting
28 point is 30 months custody with a range of sentence of 18 to 42 months.

29
30 45. It is an aggravating factor that the defendant sent offensive material, namely pictures and
31 messages to the victim's family and to his fiancée and her family, to the Immigration
32 Department and others. The offending affected other persons, the victim's fiancée. Added to

1 this is the significant factor in the Court's view which is that the defendant failed to respond to
2 warnings about his behaviour.

3
4 46. The sentence is increased by 6 months to 36 months by reason of these factors.

5
6 47. In mitigation the Court takes into account everything said and written in the defendant's favour,
7 He has no previous convictions of a similar nature. Any previous offending of similarity is
8 some fifteen years old and is not taken into account. He is now remorseful and has apologised
9 for his behaviour. He is willing to engage in rehabilitation. He provides support to his mother.
10 His risk of re-offending is not at the highest level. The emotional circumstances of the ending
11 of the relationship is also taken into account. All these factors serve to reduce his sentence by
12 8 months to one of 28 months imprisonment.

13
14 48. The defendant maintained his innocence throughout the trial as was his right. While he now
15 accepts what he did and is remorseful, it does mean that there can be no further discount for a
16 guilty plea. Of necessity, the victim had to attend and give evidence at a public trial. This was
17 an ordeal for him. Not only did he have to relive the experience, but he was also subjected to
18 searching and probing cross-examination, about his most personal, private and intimate
19 activities.

20
21 49. With respect to the offence of Reckless and Negligent Act, the Court notes that this offence
22 although charged separately, was a continuation and escalation of the stalking behaviour which
23 brings into sharp focus the impact of that behaviour.

24
25 50. It is noted that the circumstances are entirely different from the cited case of *Basil Nwosu*,
26 which involved two co-workers at an office event, a family fun day, both engaged in riding
27 wave runners.

28
29 51. In this case, the Court accepts that the culpability is at least at level 2 under the general
30 **Guidelines**. From a starting point of 18 months, the offence is mitigated by the personal
31 circumstances outlined above by 5 months to one of 13 months imprisonment.



1 52. The Court has considered whether the proposed sentences are proportionate and considers that
2 they are. The offending is serious, passes the custody threshold, caused serious harm and
3 persisted over time.

4
5 53. The two offences arise out of related facts and thus the sentences are to run concurrently.
6

7 54. As recommended by the Officer, while in custody, the defendant is to have access to
8 intervention services aimed at building awareness and insight into his behaviour and thought
9 processes with the aim of reducing his risk of reoffending.

10
11 55. Time served is to be taken into account.
12



13 **ELECTRONIC MONITORING**
14

15 56. Defence Counsel submits that the defendant was on strict bail conditions by which he was
16 subject to curfew between the hours of 8pm and 7am. He wore an electronic monitoring device
17 from 22nd August 2023 to the 20th August 2024 except for time in custody and a 30-day travel
18 period. The total number of days calculated by defence Counsel is 243 days.
19

20 57. The prosecution has provided an Electronic Monitoring report which shows that over the period
21 that the defendant was on bail there were 424 violations. Of this total, 235 relate to his home
22 address and 37 relate to the area where the victim's gym is located.
23

24 58. The explanation from the Electronic Monitoring Office where the violation relates to the
25 defendant's home address is that these signify "*any time the device was outside of the Geo-
26 Fence around the client's home. In other words, the amount of violations that are shown is
27 when the device was outside the Geo-fence when it should have been inside.*" In relation to the
28 area of the gym these relate to any time that the device "*crosses that area*".
29

30 59. Defence Counsel submits that these violations are relatively minor. Counsel said that these
31 relate to where the defendant was a few minutes late, battery issues, connection problems and
32 potential strap tampering. Counsel submitted that these do not support the Court waiving or not

1 providing the usual credit for being on an electronic monitor or being subject to strict bail
2 conditions over the period.

3
4 60. The Court has considered the submissions of both Counsel on this. In circumstances where the
5 period of the curfew was from 8pm, mostly in the night hours, the Court would usually exercise
6 its discretion to grant 50% credit or one half of 243. However, in these circumstances where
7 the prosecution has highlighted so many potential violations, the credit granted is limited to
8 40% or 94 days.



9
10 **PROTECTION ORDER**

11
12 61. The prosecution has applied for a Protection Order. The defence did not object in principle to
13 the grant of a Protection Order but asks the Court to consider this in the context of the
14 circumstances of the offending.

15
16 62. The Court is satisfied that the defendant has committed acts of domestic violence against the
17 victims and that having regard to all the circumstances, the order is necessary for the protection
18 of the victims. The application for the protection order is granted in terms of the draft provided.

19
20 **SCHEDULED OFFENCE**

21
22 63. The defendant has now entered a plea of guilty to the Scheduled Offence of Causing Fear and
23 Provocation of Violence contrary to s. 88 of the *Penal Code* (2022 Revision). This relates to
24 the same victim and the same date of the 23rd May 2023. No separate penalty is imposed in
25 relation to this offence.

26
27 **CONCLUSION**

28
29 64. The defendant is sentenced as follows: -

30
31 Count One – Stalking – 28 months imprisonment

32 Count Two – Reckless and Negligent Act- 13 months imprisonment

1 Scheduled Offence - Causing Fear and Provocation of Violence - No separate penalty

2

3 The sentences are to run concurrently with time served to be taken into account. In addition,
4 the defendant is given 94 days credit for the time spent on curfew whilst on bail.

5

6 **Dated this the 7th day of March 2025**

A handwritten signature in blue ink, appearing to be 'Cheryll Richards', written in a cursive style.

7

8 **The Hon. Justice Cheryll Richards KC**
9 **Judge of the Grand Court**