



**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CRIMINAL DIVISION**

**Neutral Citation Number: [2025] CIGC (Crim) 57**

**Case Number: IND. 38, 41 of 2025 & GCR 1 of 2025**

**THE KING**

**V**

**JAMES ROMANO WHITTAKER**

**Appearances: Mr. Kenneth Ferguson, Counsel for the Prosecution**

**Mr. Crister Brady, Counsel for the Defence**

**Before: Hon. Justice Emma Peters**

**Sentence Ruling: 7<sup>th</sup> November 2025**

**SENTENCE RULING**

**Background**

1. Mr. Whittaker has pleaded guilty to two matters for which he faces sentence.
2. He was committed to the Grand Court on Indictment GCR1/2025 having pleaded guilty to a Burglary that took place on the night of the 3/4th July 2024. That was on a night when Hurricane Beryl was forecast to be heading towards the Cayman Islands. At about 10pm that night the occupants of that



house (Mr. and Mrs. Henry) went to shelter elsewhere in readiness for the potential impact of that Hurricane.

3. When they returned to their home the next morning, they found doors opened or insecure and a window that had been smashed using a large block (that was found inside the house and upon which the defendant's DNA was discovered). They found that a quantity of jewelry, colognes, a mobile phone, shoes and other items valued at approximately CI\$450.00 had been stolen. The defendant was arrested later that month and in interview denied the offence and refused to provide DNA.
4. He pleaded guilty before the Summary Court on 30<sup>th</sup> July 2024. He was granted bail in October 2024 in response to his plea to be given the chance to receive assistance for his addiction issues from the Caribbean Haven, a residential centre for such addictions. He was given that chance but unfortunately left there just 57 days later. It was whilst in breach of that bail in January 2025 that he committed the aggravated burglary.
5. That second offence was committed on the morning of the 3<sup>rd</sup> January 2025 whilst he was on the run, in breach of bail and awaiting sentence for the July 2024 burglary.
6. The occupant of that property on the North Sound Estate had gone to collect some food from a nearby establishment and was away from home for less than half an hour.
7. When he returned, he noticed a white truck with three people inside parked on a lot adjacent to his house but his suspicion was not aroused at the time. As he drove into his yard, he realized that the front door to the house was open and so he left his vehicle engine idling and ran upstairs to see what was going on.
8. As he walked through the front door, he observed two masked men leaving the living room and heading to the kitchen. One of those men was this defendant. One man had on a white baseball cap, and both were wearing gloves and were masked and fully covered with black clothing. Both men began to rummage through the kitchen drawers and as they saw him, both lifted knives at him and he backed off and ran back downstairs.



9. The victim says that the men ran after him, and he ran into his vehicle. He tried to reverse and one of the men tried to open his driver's door and the other ran behind his vehicle and began to slap the rear of the vehicle. The victim then drove his vehicle towards the man who tried to open his driver door and hit him. This man then shouted a threat, and the men ran away, one of them being seen with a knife in his hand. The fact that the men were interrupted by the victim returning home meant that they did not actually leave with any of the victim's possessions although they had started to remove an X-Box from the living room.
10. The defendant's DNA was found on items left at the scene and when interviewed on the 30<sup>th</sup> January 2025 he admitted to being one of the burglars. He refused to name his fellow offenders. He accepted he had a knife with him, but he said it was not to harm anyone but for protection.
11. There were, at various stages, various indications as to possible guilty pleas in this case and, in May 2025, the defendant entered a guilty plea to Burglary and not guilty to Aggravated Burglary. That plea was subsequently rejected by the Crown. A trial date in September 2025 was fixed. In August 2025 a request for the matter to be listed for an application for a Goodyear indication was made.
12. That application was listed on 9<sup>th</sup> September 2025. At that hearing I refused to give a Goodyear Indication as I was unwilling to accept the Basis of Plea contained within that application. The defendant nevertheless decided (without such an Indication) to enter a Guilty Plea to the aggravated burglary charge.
13. That turn of events means that I am not bound by the basis of plea, but I shall outline it anyway:
  - (a) The defendant will plead guilty to aggravated burglary on the basis that he went to the property with the help and use of a pocket knife but not to cause harm. He did not believe that any person was inside the property as the occupier was observed to have left the property, which made it ideal for the burglary. Upon entry, checks were again made to ensure the property was unoccupied so that he wouldn't be confronted. He accepts that the owner returned and found him inside the property and they both



ran out. He ran out of the property scared and intending to escape the wrath of the occupier.

- (b) He does not accept that he chased the occupier or that he went to the front of the occupier's vehicle to confront him or attempted to open the vehicle's door. He asserts that he only wanted to escape because he believed the occupier had gone to fetch a weapon or for support to apprehend him so he ran away. He asserts that the occupier was much closer to the doorway of the house in any event and ran out of the house first. He had little choice but to run out after he saw the occupier run out quickly. He asserts that the occupier drove in his direction, hitting him to the ground while he was outside and in the process of leaving and would have succeeded in doing so had the vehicle not got stuck in some rocks. After he was struck by the occupier with the vehicle and was still attempting to leave, the occupier was pursuing him with a stick and screaming profanities. He denies the account of ever threatening the occupier to come back to harm him.

### **Sentencing Guidelines**

14. The maximum sentence for burglary is one of 14 years imprisonment. The maximum sentence for aggravated burglary is life imprisonment. There are Cayman Islands sentencing guidelines for burglary but not for aggravated burglary. For the latter the Court is entitled to have regard to the England and Wales guidelines for that offence which carries the same statutory maximum.
15. I do not have the advantage of Victim Impact Statements for either offence.
16. So far as the July 2024 burglary is concerned, the prosecution submissions were that this fell into the highest category due to deliberate targeting of an empty home during a hurricane warning and involved ransacking of the house and the stealing of personal items. If they are right that would place this within a category with a start point of 7 years' custody and a category range of 5-14 years custody. They point



to the aggravating factors of the defendant's previous convictions and in mitigation the full one third credit that he is entitled to.

17. So far as the aggravated burglary is concerned the Crown submit that the offence category is higher culpability due to (i) the significant degree of planning or organisation by this defendant and his companion – as borne out in his interview under caution (ii) knife or other weapon carried (iii) going equipped for burglary with the use of a vehicle – again as borne out in his interview under caution; and group activity – again, as borne out in his interview under caution.
18. They say that the level of harm is also Category 1 due to the fact that the victim returned to the property whilst the defendant was present and threatened harm against him.
19. The Crown points to the fact that under the UK guidelines, the culpability factors and category of harm are broadly similar to those identified in the Cayman Islands Guidelines and that under the UK guidelines, Category 1 harm and high culpability attracts a starting point of 10 year's custody and a category range of 9-13 years' custody.

### **The Defendant's Antecedent History**

20. The defendant has an extensive criminal history running to six pages. Of those convictions, 25 were convictions for burglary and 5 were convictions for robbery.

### **Defence Submissions**

21. Mr. Brady accepts that the defendant has a long history of offending. He observes that Mr. Whittaker is an habitual hard drug user whose adult life has been consumed by and dictated with his dependence on drugs. Each time he has offended it has been to satisfy his insatiable cravings. He voluntarily agreed to enter Caribbean Haven, but it is conceded that it was a condition of his bail that he remain there for 6 months, but he only stayed for two months before he left following an argument with a staff member.
22. The second offence occurred some weeks after he left Caribbean Haven and was in the community, a warrant having been issued for his arrest by his leaving. Leaving Caribbean Haven is a decision he



sorely regrets. It is his only 2 months in many years that he can recall being clean and feeling like he had hope of becoming drug free and a productive citizen.

23. He knows and accepts that a custodial sentence is inevitable. At age almost 46, any lengthy sentence will have significant impact at this stage in his life. He feels lost, hopeless and anxious. The decades of drug use and the irreparable damage to his body have taken their toll on his mind as well. He dreams of life as a normal working person, free from drugs and free from custody. He wonders if that will ever happen during what remains of his poorly spent youthful years.
24. Mr. Brady notes that he faces sentence for two burglaries committed within 6 months of each other, the latter while on bail and abandoning treatment. He has a lengthy history of offending, but the court is nonetheless urged to consider the totality principle. Mr. Brady observes that if there ever was a reason to take account of totality, this defendant rather loudly exemplifies why. He says that it is often the case that those who need mercy the most are often the ones who deserve it least. It is said that he is now on bruised bended knees, hoping and praying for mercy nonetheless, his mind slowly clearing from the fog that having no access to drug use has wrought and appreciating with some solemnity, the gravity of his predicament.

### **Social Inquiry Report**

25. An SIR was prepared in October 2024 which is what led to the defendant being granted bail to go to the Caribbean Haven. He is now 45 years of age and was brought up primarily by his mother and stepfather. His mother died when he was just 9 years old. Then at 13 he began to be abused by his stepfather who then moved away without informing him. He was sent to live with an aunt and then his father and then placed in care.
26. By the age of 18 he received his first sentence of imprisonment for burglary and was already involved in drugs use. Since then, he has been frequently incarcerated. His drug use escalated from soft to hard drugs and it is his use of cocaine that he blames for much of his offending. He spent 5 months in Caribbean Haven in 2009 but left without completing the programme. Clearly in this set of proceedings he was given another chance, but he also squandered that.



27. He was released from prison in April 2024 having served over 4 years for burglary and drug related offences and clearly the first of the offences for which he is being sentenced today happened just a few months later.
28. In October 2024 he wrote a letter to the Learned Magistrate dealing with his case asking for a “chance to prove myself at redemption and recovery”. He was generously afforded that chance but squandered it.

### **The Court’s Conclusions**

29. In determining the proper sentence to pass, I take on board all that I have heard in mitigation and in particular the cruel start that the defendant had in life, a start from which he has never really recovered. I also must note however that he has had two chances at rehabilitation amongst his numerous prison sentences when he was sent to Caribbean Haven in both 2009 and then again in 2024 and he failed to use those opportunities. Whilst he had a terrible childhood, as a man in his 40s he must at some stage take responsibility for his actions.
30. He is a prolific burglar, and burglary is a cruel offence that often leaves victims feeling uncomfortable and insecure in their own homes for months if not years thereafter. The fact that the victims of the July 2024 burglary were away from their home because they were sheltering from the possible onslaught of Hurricane Beryl is a significant high culpability factor. The Cayman Islands are sometimes the victims of such meteorological events and society pulls together and looks after each other through such moments. That this defendant took advantage of that fact to access, ransack and burgle the home of a family away seeking safe shelter is a cruel and unpleasant feature of that offence.
31. He was then given a chance by the grant of bail, despite his very significant criminal history. No doubt the Learned Magistrate wanted to do all that was possible to recognise the very difficult start he had in life and the havoc that his drug addiction has wreaked on his life. Had he stayed and taken advantage of that residential facility he might have gained real benefit but instead after just 57 days (he arrived on the 10<sup>th</sup> October and left on the 6<sup>th</sup> December) he breached the terms of his bail, went on the run and then committed an even more serious burglary by it being aggravated by his carrying a knife during it.



32. I recognise that the precise events that followed that victim's return home during that burglary are disputed by the defendant, but I am also clear that I am not bound by his basis of plea given the circumstances in which he pleaded guilty. However, as was discussed during sentencing submissions, the principle of totality is such that I concluded that the precise details are such that no material difference will be made to the sentence. The victim must have suffered real fear returning home to find masked armed men in his house.

### **The Court's Sentence**

33. So far as the July burglary is concerned, for the reasons I have set out relating to the fact that the premises were deliberately targeted whilst they were empty due to the Hurricane warning, that offence is very clearly higher culpability.

34. The fact that the victims came home from their no doubt anxious night in a shelter to a house that had been ransacked unquestionably places it in category one harm.

35. So, for that offence I conclude that a starting point of 7 years is justified. That starting point is then increased by virtue of the defendant's significant previous convictions, especially for burglary. If I were sentencing this offence on its own then considering the real public interest in deterrent sentences being passed when residents of these Islands have to leave their home during Hurricane warnings together with the antecedent history would lead me to a start point of 9 years to which I would then apply the full one third discount for the early guilty plea resulting in a sentence, were this to be the only offence, of 6 years. Taking account of his personal mitigation would reduce my sentence by a further 6 months to 5 years and 6 months imprisonment.

36. So far as the aggravated burglary is concerned, and considering the UK Guidelines, I disagree with the Crown's assertion that driving to this house with others amounts to a "significant" degree of planning or organisation. There are no factors which justify it being considered to be lower culpability and therefore I conclude that it is a medium culpability offence on the UK aggravated burglary guidelines.

37. So far as harm is concerned, the fact that the victim returned home whilst the defendant and his fellow offenders were present in his home makes this unquestionably category one harm. I note the defendant's



argument in relation to what happened next and I am not bound by the basis of plea. The violence threatened against the victim by these masked knife wielding men in his home would at the least put this into category 2 harm. However, I remain at category one due to the fact of the victim's return.

38. On the UK guidelines, absent any previous convictions or other factors increasing seriousness, the start point would be 8 years with a range of 6-11 years.
39. However taking into account the defendant's previous convictions, the fact that the offence was committed whilst on bail and as part of a group who were masked would combine to lead me to an increased start point of 10 years. I consider that pleading guilty the month before trial merits a discount of 20%. That would lead on its own, to a sentence of 8 years for this offence. Taking account of his personal mitigation here I would reduce the sentence to one of 7 years and 4 months imprisonment.
40. However, the chronology and facts of this offending very clearly requires that I pass a consecutive sentence for these two offences.
41. Totality is an important principle that must be taken into account and must lead to a discount such that the eventual total sentence is one that is just and proportionate.
42. Therefore, applying the discount that I consider properly reflects the principle of totality, my sentence is as follows:
  - (i) For the July 2024 Burglary on Indictment GCR1/2025 I pass a sentence of 4 years and 8 months imprisonment.
  - (ii) For the January 2025 Aggravated burglary on Indictment numbers 38 & 41/2025, I pass a consecutive sentence of 6 years imprisonment.
  - (iii) That makes a total sentence of 10 years and 8 months imprisonment.
  - (iv) The defendant's time in custody in respect of these matters is to count automatically towards his sentence.

- (v) His time on bail for the 57 days he remained at Caribbean Haven is to count at 50% so 29 days are to be deducted from the sentence I have passed to take account of that period of adherence to his bail.

**Dated the 7<sup>th</sup> day of November 2025**



**The Hon. Justice Emma Peters  
Judge of the Grand Court**