

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



Neutral Citation Number: [2025] CIGC (Crim) 40

Case Number: IND. 3 of 2025

THE KING

V

ALEXANDER EARL SMILEY

Appearances: **Mr. Orrett Brown, Counsel for the Prosecution**
 Mr. Oliver Grimwood, Counsel for the Defence

Before: **Hon. Justice Emma Peters**

Sentence Ruling: **5th September 2025**

SENTENCE RULING

Background

1. In April 2025 the Defendant, Alexander Smiley, was convicted by a jury after trial of Count one on the indictment which was a charge of wounding with intent contrary to section 203 of the Penal Code (2024 Revision).
2. It is of note that he was acquitted by that same jury of the charge of Assault Causing Actual Bodily Harm contrary to section 216 of the Penal Code - that charge concerned the dislocation of the same complainant's finger as part of the same incident. I shall return in due course to the relevance of that acquittal to the decisions that I make regarding this sentence in due course.



The Facts Giving Rise To The Indictment

3. In July 2024 the defendant went to the Public Beach on Cayman Brac to attend an outdoor party. He went on his own although he expected to meet other people that he knew when he got there.
4. At some stage his wife was also at the party although she was in the company of others. Perhaps that fact was an early indicator of the situation between them that led to the defendant and his wife now being estranged and indeed may have been the genesis of the incident itself.
5. On that night there appears to have been some concern in the defendant's mind as to his wife's fidelity and at one stage he challenged the complainant in the case, Mr. Alvares, accusing him or enquiring of him whether he was involved with his (the defendant's) wife.
6. Mr. Smiley and Mr. Alvares had never met before and yet, after challenging Mr. Alvares as to whether he had been with his wife, the defendant approached Mr. Alvares and an altercation ensued. Recollections differed between witnesses as to exactly where and how that altercation took effect but I make clear straight away that I reject the defendant's account that he was attacked by the complainant and others whilst he was lying on his back. I am sure of the complainant's account that at the relevant time when these wounds were caused that Mr. Smiley was standing.
7. Equally though, given the jury's verdict on count three, which on a proper interpretation of the legal directions the jury were given, could only sensibly have been because they concluded that that injury (the dislocated finger) was or may have been caused by the defendant in lawful self defence in response to Mr. Alvares actions, I accept that Mr. Smiley was convicted of count one on the basis that he was acting in excess of what would have been lawful self defence at the time that he wounded Mr. Alvares.
8. Both men suffered injury that night.
9. The main wounds suffered by Mr. Alvares that were the subject of count one for which Mr. Smiley is to be sentenced today were:
 - (i) 6cm wound over left shoulder
 - (ii) 3cm wound to upper arm



- (iii) 1cm wound to armpit
- (iv) 3cm wound to chest

10. Those wounds were caused by a knife wielded by Mr. Smiley. On the evidence at trial, I accept that Mr. Smiley may have picked up that knife at some stage during the altercation. I cannot be sure that he brought that knife to the scene with him. However, by the jury's verdict on count one, it is clear that they were sure that Mr. Alvares suffered these various stab wounds at Mr. Smiley's hands by reason of the knife that he wielded and that he did so unlawfully. But I do accept that the verdict on count 3 must mean that they concluded that the infliction of these wounds was caused by actions in excess of what would otherwise have been lawful self defence.
11. On the other hand, Mr. Smiley also had to seek medical attention after the incident and he has suffered life changing injuries as a result of that night. He had a prior injury to his left eye and on the night in question he somehow (this issue was not entirely clear in evidence) sustained further injuries to his eye which is now permanently blind. Mr. Grimwood produced medical evidence at sentence (from Mellisa Hudell OD) which I accept to that effect.
12. Mr. Alvares refused to cooperate in the provision of the requested Victim Impact Report.

Character

13. The defendant is 31 years of age and is a man who has just one previous conviction that is relatively minor and of some age. I accept that conviction is not relevant in the context of this offence and I shall treat him for the purposes of sentence as effectively a man of good character.

Social Inquiry Report

14. Mr. Smiley had a tough start in life and was born to a mother with substance misuse addictions. He was adopted by a distant relative at a few weeks of age and has suffered trauma through his childhood by reason of his biological mother attempting to kidnap him on a number of occasions. He had challenges through his early years which, exacerbated by his diagnosed ADHD, led to him spending some of his



teenage years in care. His young life included episodes of him being bullied and teased and he was eventually expelled from school.

15. He has had no father figure in his life at any time. He has two children from different relationships and is now estranged from his wife with whom he was living on the Brac at the time of this incident. He has suffered from excessive alcohol consumption in the past but that is now ceased and on the night of this incident he was not intoxicated.
16. From all that the DCR were able to outline in a very helpful report, Mr. Smiley's complexities lead to the conclusion that he is at a high risk of reoffending.

Mitigation

17. In addition to the matters outlined in the SIR and the medical report concerning his sight loss, Mr. Grimwood relied on Mr. Smiley's relative good character. He is said to be a working man who even until the date of sentence held down full time employment. Mr. Grimwood sensibly did not suggest that the custody threshold had not been crossed but invited the court to pass the shortest sentence possible in light of all the circumstances and also in light of the fact that the jury must have found the defendant to have acted in lawful self defence at some stage of the altercation.

Sentencing Guidelines

18. I am grateful to both Prosecution and Defence counsel for their written and oral submissions on the Sentencing Guidelines.
19. I agree with them both that in the context of a charge of wounding with intent, the injuries in this case are correctly said to amount to lesser harm for the purposes of the guidelines.
20. So far as culpability is concerned, I agree that there was no planning or premeditation. Clearly the wielding and use of the knife is a very obvious and serious higher culpability factor. There were several stab wounds, but I accept Mr. Grimwood's submissions that when considering the case of *R v Xue* [2020] 2 Cr App R (S) 49, that the relatively short duration of the incident means that the attack cannot



properly be described as “prolonged or repeated”. However, the fact of the knife and its use to inflict several stab wounds is the clearest possible higher culpability factor.

21. That must be balanced by the lesser culpability factors which, in this case (especially since I must be true to the jury’s verdict on count three) include a level of provocation and the use of excessive force in self defence.
22. The start point on the guidelines for a category 2 offence (if I were to find this to be a higher culpability case) is 6 years with a range of 5-9 years. The start point for a category 3 offence (if I were to find this to be a lesser culpability offence) is 4 years with a range of 3-5 years.

The Court’s Conclusions

23. The maximum sentence for this charge is one of life imprisonment.
24. I have considered the parties’ submissions regarding harm. A charge under section 203 of the Penal Code includes, by its very nature, serious harm. It is a charge that presupposes the intentional causation of grievous bodily harm. In the context of the injuries in this case I agree with both counsel that this is a lesser harm case.
25. For the reasons I have already set out I consider that there are features of both higher and lesser culpability. The use of the knife to inflict several wounds is a very clear higher culpability factor that, even on its own in that category, justifies this case being considered to be a higher culpability case. Conversely, the necessity for me to be true not only to the jury’s conclusions as to conviction but also to their conclusions as to acquittal mean that I must approach this as being a case involving an excessive use of force in self defence, That is an important factor which again, even on its own, justifies this case as being categorised as lesser culpability. The existence of both of these factors pulling both ways within the guidelines, leads me to conclude that a start point based on the actions of this defendant of five years is appropriate. There is nothing further that leads me to aggravate that start point.
26. I must then take account of the mitigating factors to reach the appropriate sentence. The compelling nature of what I have read in the SIR as to the defendant’s early years combined with his ADHD

diagnosis are important considerations. He has lived an otherwise blameless life in which he has continued to earn a decent living right up until the date of sentence. Those factors together with the life changing injuries that he has suffered all lead me to reduce the eventual sentence substantially from that start point.

27. When a person picks up and uses a knife during an altercation such as this, people get hurt. That includes offenders themselves. There is a clear public interest in punishing and in seeking to deter knife attacks. But that need for punishment and deterrence must be balanced by the need to reflect the fact that this defendant will live with the effects of that night for the rest of his life.
28. Therefore, the sentence that I passed today is one of three (3) years and six (6) months imprisonment which in my judgement is the least possible sentence that reflects the facts of the case and the relevant mitigation and yet still discharges my public duty.
29. The defendant has been on bail throughout the proceedings none of which has been on any form of qualifying curfew.

Dated the 5th day of September 2025



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