IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL DIVISION

Neutral Citation Number: [2025] CIGC (Crim) 65

Case Number: IND. 60 of 2025

THE KING

V

JAMES HERBERT MCLEAN JR.

Appearances: **Mr. Kenneth Ferguson, Counsel for the Prosecution**
Ms. Amelia Fosuhene, Counsel for the Defence

Before: **Hon. Justice Emma Peters**

Sentence Ruling: **17th December 2025**

SENTENCE RULING

Background

1. The defendant, a 34-year-old Caymanian man, has pleaded guilty and comes to be sentenced on Counts 1, 3, 4, 5 and 6 of indictment 60/2025.

2. Count one is a charge of Robbery – the value of that offence being the theft of over CI$190,000 of jewellery from Cash Wiz on North Church Street on the morning of the 28th May 2025. Counts 3 and 4 are the charges concerning the possession of two unlicensed firearms that were used in that robbery and counts 5 and 6 concern the ammunition in those two firearms.

The Facts

3. The affected business is Cash Wiz, a buy-back and sell option jewellery and electronics store that also stocks new and pre-owned products including jewellery.

4. The defendant and another man, identified by the police but as yet not before the court, arrived at the scene just after 11am on that Wednesday morning on bicycles and approached Cash Wiz and smashed the door open. The CCTV shows that at the time there were customers and staff inside who ran, clearly terrified, as a result of this violent intrusion.

5. Both men were disguised with masks. One of the men used a concrete boulder and smashed the glass front door of the business and entered. He is seen on CCTV to be holding a firearm which he pointed in the direction of the fleeing customers. Upon entry, that man then used a solid object to smash the display counter, took jewellery from the cabinet and placed it into a bag.

6. The second robber took a firearm hidden in his trousers and used it to forcefully strike another glass display counter in an attempt to break it. Then, as he held the firearm up, a round was fired into the ceiling of the store. He then placed the jewellery from that counter into a bag before jumping over the counter and stealing more items.

7. We do not know which of these men was the defendant but by his plea he accepts that he was one of them and it is clear that this was a joint enterprise offence thus his attorney accepts that he is legally responsible for all that happened.

8. Both men then ran from the building and made their escape, dropping some of the stolen items as they fled. They were seen by a witness as they ran away. The men then used a blue Honda Fit as their get-away vehicle. The investigation discovered that vehicle had been hired by the defendant 7 days before and, just the day before the robbery, Mr. McLean had contacted the person from whom he had hired it asking to extend the hire and explaining that he lacked the money to do so immediately.

9. The manner in which the Honda Fit was driven aroused the suspicion of police officers who pursued the vehicle and found it abandoned with the engine still running. Scenes of Crime officers searched the car and found within it the firearms that are the subject of counts 3 and 4 loaded with the ammunition that is the subject of count 5 and 6. They also discovered clothing including a black balaclava and a pair of black gloves and a significant quantity of jewellery and a backpack containing the defendant's drivers licence and banks card.

10. The defendant was found hiding and arrested. The second robber was not at that stage apprehended.

11. Forensic enquiries confirmed that the ammunition that had been fired into the ceiling at the scene of the robbery came from one of the firearms found in the car (the count 3 firearm). That firearm is linked to a number of other ongoing investigations.

12. The business confirmed that the value of the stolen items was CI$194,104.65. Although much of it was recovered, the Victim Impact Statement from the business manager confirms that there is still a portion of that jewellery worth circa CI$60,000 that has not been recovered.

13. The defendant refused, for reasons that his attorney explained, to be interviewed.

The Defendant's Antecedent History

14. In addition to some minor (and for these purposes irrelevant) convictions, the defendant has a very relevant previous conviction for robbery and possession of an unlicensed firearm committed in 2014 for which he was given a total sentence of 12 years imprisonment in January 2015. That sentence related

to a robbery with an unlicensed firearm of the jewellery store Diamonds International. He was released from prison on that sentence in November 2021.

Victim Impact Statement

15. Mr. Jamison is the manager of Cash Wiz, and he has provided a statement as to the impact this offence has had on his business and his staff. As can be seen on the CCTV, as soon as the defendant and his accomplice smashed their way into the store, the customers fled and the staff retreated to a safe room in the back from which they did not emerge until the defendant had left. Their fear was heightened however when they heard the gunshot. He explained that the employees were traumatised and took several days off to recover.

16. He said that there was a significant decline in business following the incident and that the business also suffered thousands of dollars of extra costs in upgrading their security and making good the damage caused by the offenders smashing the door and the display cases. There remains about CI$60,000 of unrecovered items stolen.

17. The individual staff members who were interviewed talked of their fear at the time but bravely they say they are now recovered.

The Submissions on the Sentencing Guidelines

18. The Crown submits that the relevant guidelines are the Cayman Islands Commercial Robbery guidelines and that this offence is a Category A1. Culpability is at Category A on the basis of the production and discharge of one of the firearms to threaten violence – although no actual violence was inflicted directly to any of the people inside the store at the time of the robbery.

19. They say that harm is category 1 on the basis of the value of the items stolen.

20. The defence accepts that category A1 is the correct category into which to put this offence although Ms. Fosuhene agrees with my observation that so far as value alone is concerned, it is more on the cusp of category one and two harm.

21. Category A1 offences have a starting point of 16 years with a range of 12 to 20 years. Category A2 offences have a starting point of nine years custody with a sentencing range of 7 to 14 years custody.

22. The prosecution says that based on the aggravating factors, particularly the prior relevant conviction, that the court would be justified in applying an uplift of the sentence in line with these aggravating factors.

23. The prosecution points to the following aggravating features:

(i) The robbery involved a significant amount of planning;

(ii) The robbers made prior arrangements to rent the getaway vehicle;

(iii) The robbery occurred in broad daylight when the store had customers;

(iv) They also targeted the jewelry store as they were of the view that any cash/jewelry would have been insured;

(v) Attempts were made to disguise/conceal the identities of both robbers - the use of face masks, hoodie and balaclava to conceal their identities;

(vi) The clothes worn by the defendant were disposed of in the trunk of the getaway vehicle between the time of the robbery and the time of his later capture;

(vii) This offender appears to play a leading role in what is obviously a joint enterprise.

Counts 3, 4, 5 and 6

24. Counsel both agree that the provisions in section 39 of the Firearms Act 2025 Revision mean that each of these counts attracts a mandatory minimum sentence of at least 10 years imprisonment.

Section 39 Firearms Act 2025 Revision

(1) This section applies where —

(a) an individual is convicted following a trial or a plea of guilty, by a court of summary jurisdiction or the Grand Court, of an offence under section .....15(5)(a)…;
(b) the offence was committed on or after 15th November, 2005; and
(c) the offence is in respect of a firearm or a prohibited weapon.

(2) Notwithstanding sections 6(2) and 8 of the Criminal Procedure Code (2021 Revision), the court of summary jurisdiction or the Grand Court before which the individual pleads guilty or is convicted, shall —

(a) in a case where the individual pleads guilty, impose a sentence of imprisonment for a term of at least ten years (with or without a fine); or
(b) in any other case, impose a sentence of imprisonment for a term of at least fifteen years (with or without a fine),

unless the relevant court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so; and such exceptional circumstances shall be stated by the relevant court.

25. It is not suggested that there are any exceptional factors here.

The Applicability of Section 23 of the Penal Code

26. In advance of the hearing, I invited submissions from counsel as to the applicability of this provision concerning the imposition of life sentences for a second serious indictable only offence. Mr. Ferguson said it did apply. Ms. Fosuhene submitted that the phraseology of section 23 is such that I should not impose a life sentence.

27. I shall deal with this issue as briefly as I can. Ms. Fosuhene submits that because of the fact that the phrase "found guilty of" is only used in this one statutory provision of the Penal Code and different phraseology is used at every other stage of that statute, that the provision is limited in its applicability

to those who have been convicted after trial rather than those who have, as this defendant did, pleaded guilty.

The Submissions on Credit for Plea

28. The prosecution rightly points to the mitigating factor that arises from the defendant's guilty pleas. The defendant entered those pleas on 17 October 2025 after full disclosure was made. The prosecution's initial position with regard to any reduction in sentence for the guilty pleas entered was that this defendant was entitled to a 33% reduction as he entered his guilty pleas at the first reasonable opportunity available to him after full disclosure had been made by the Crown. In his revised written submissions, Mr. Ferguson altered his position to say that it should be just 10%. During his oral submissions he adopted more of a middle ground. Ms. Fosuhene invites full credit.

29. I shall return to this issue in due course as credit is, of course, a matter for the discretion of the Judge.

Sentence Structure and the Principle of Totality

30. The Crown suggests that since the conduct of the defendant in counts 3, 4, 5 and 6 are an integral part of his overall criminal conduct on count 1, the sentence on these four latter counts ought to be ordered to run concurrently to the sentences imposed in respect of count one. This is, they say, in accordance with the principle of totality of sentence provided for in the Cayman Islands sentencing guidelines. I shall say immediately that I entirely agree that is the correct approach.

Mitigation

31. Ms. Fosuhene points to the defendant's letter expressing his contrition and remorse and also to his youth at the time that he committed the first offence, suggesting that subsequent authorities may suggest that sentence was too high in the first place and therefore I should not feel bound to give a greater sentence on this occasion. She accepts that the later authorities on the issue of age (she cites R v ZA) are not retrospective in their effect and the defendant's sentence was not appealed.

32. He had a financially challenging upbringing, and Ms. Fosuhene suggests that the defendant was not assisted by the various business ventures into which he entered, being disappointingly ineffective.

33. At the conclusion of the submissions the defendant himself expressed his remorse and begged for mercy.

34. She invites credit for the defendant's guilty pleas and sets out the chronology that led to those pleas. In her oral submissions Ms. Fosuhene conceded that the contents of the car would be correctly described as "overwhelming evidence" for the purposes of credit but so far as the chronology was concerned, she submitted that was nonetheless deserving of 30% credit.

Social Inquiry Report

35. I am grateful to the DCR for their helpful report. The defendant is from a Caymanian family. He was raised mainly by his mother but his separated parents together with his respective step parents all took a part in his upbringing.

36. He was expelled from schools both on Grand Cayman and on Cayman Brac. He said he could not concentrate at school due to the financial situation of his family. He has been variously employed, including as a barber, a trade he learned in prison.

37. He is single and has no children. He has abused alcohol, ganja and cocaine during his life and has some health conditions.

38. The defendant expressed his remorse and his apologies to the business and to the community for his offending. He recognised how terrified the staff and customers may have felt. He intends to become an asset to society in the future. He is, in the meantime, assessed by the DCR as being at a high risk of reoffending.

The Court's Conclusions and Sentence

39. Robberies of this sort are clearly a highly prevalent offence in Grand Cayman. There are a shocking number of young men who don masks as disguises (and feel able to wander the streets in that condition without challenge), gather up weaponry and feel confident enough to brazenly enter commercial premises in broad daylight and threaten those staff and customers in those shops with weapons in order to steal.

40. Such offending not only impacts those who live here and causes them a great deal of fear, but such offences also have the potential not just to cause economic harm to the businesses targeted in this way but there is a risk of economic harm to these Islands as a whole.

41. The Cayman Islands are an idyllic tourist destination for travelers who are reassured and attracted by the safe reputation that the Cayman Islands has. If tourists and cruise ship passengers are to find that visiting George Town on their day on this Island is to be put at risk by masked criminals wielding loaded firearms, seeing fit to rob the many jewellery businesses around George Town in broad daylight then the island as a whole will suffer, not just those who live here.

42. Just this week the prevalence of such offending has led Her Excellency The Governor and the Honourable Premier to make a joint statement that was video recorded and distributed through media outlets seeking to reassure the public as to the steps being taken to deal with such lawless criminality given how prevalent such offending has been in recent days. The regularity with which young men in broad daylight don construction tops and masks and rob jewellery stores within a short radius of this very courthouse, using violence and carrying weapons is truly shocking. The defendant's sentence will be no greater this week than it would have been last week, however that statement is indicative of the concerns that all those who live on these Islands have as to the scourge of armed robbery.

43. This offending committed by this defendant will come today with a heavy price for him in order to punish him, deter him from such offending in the future and deter the criminals of these islands from this kind of dangerous and lawless criminality.

Culpability

44. The defendant and his companion took these two loaded firearms to the scene. Their actions, for which this defendant is jointly responsible, resulted in the discharge of one of those weapons, thankfully into the ceiling. The fact of the production of those two firearms in order to threaten violence by pointing them at staff and customers and in fact to discharge one of them, even if into the ceiling, is clearly such as to properly put this offence into High Culpability.

Harm

45. The value of the sum of the items stolen alone – over CI$190,000 - is such as to put this unarguably into, at the very least, category two harm. Ms. Fosuhene accepts that there is a respectable argument that it is category one harm.

46. The question is, where is the line between a high value of goods and a very high value of goods? The retail value of the jewellery in this case is, in my view, on the cusp of those two categories.

47. There was also some detrimental impact on the business as set out by the manager – that is a category two harm factor.

48. It is my conclusion that based on the use of those weapons to threaten and the fact that one of them was discharged, together with the significant value of that which was stolen that this is an offence for which, at this stage just on the factors of harm and culpability I have set out merits a sentence of 15 years. I must then turn to the aggravating and mitigating factors.

Aggravating Factors

49. There are aggravating factors which serve to further increase the sentence.

50. There was planning. Ms. Fosuhene urges me to note that the performance of the defendant as a robber was "woeful." I accept that the execution of this robbery may not have been of the highest quality, but it was nonetheless planned. This was no spur of the moment offence as is apparent from the defendant hiring the getaway car 7 days before. That fact together with the presence of the firearms shows the extent of planning involved. The defendant and his fellow offender (whom he has never named) were both disguised with masks. The business targeted by these men armed with loaded weapons was open to customers in the middle of the day in a populated area of George Town. Those factors are all aggravating.

51. The most significant aggravating factor is the defendant's antecedent history. He was given a 12 year sentence for a very similar offence (albeit I accept that the value of that was highly significant and, if dealt with today, would be considered unquestionably to be Category one harm) in 2015. That factor is a very considerable aggravation. I have read the Late Honourable Justice Quin's sentencing ruling on that case, and it was (albeit with a higher value) a strikingly similar case involving a group robbery by armed masked men (where this defendant also refused to name his accomplice) of a jewellery store within yards of this Court house.

52. Criminals must know that there is a heavy cost associated with committing these kind of offences, and a particularly high price if you repeat them. After I had begun to draft my conclusions, I received a copy of Quin J's sentencing ruling for that last robbery. I was struck by how similar Quin J's concerns were nearly 11 years ago to those that I have outlined today. I note that Mr. McLean will have heard those comments and ought to have gone to Prison in 2015 with them ringing in his ears and reflected on them over the years that followed. That he has again committed such a similar and serious offence is therefore an aggravating factor of the utmost severity. That factor alone in my view requires serious consideration to be given to the use of section 23 of the Penal Code.

Section 23 of the Penal Code

53. This statutory provision gives a judge the power to consider the imposition of a life imprisonment for second serious offence of this type. It provides that:

> *(1) This section applies where —*
>
> *(a) a person is convicted of a Category A offence committed after the 31st August, 2004; and*
>
> *(b) at the time when that offence was committed, that person was eighteen or over and had been convicted in the Islands of at least one other Category A offence.*
>
> *(2) Where a person is found guilty by a court of committing a Category A offence for the second time, the court may in its discretion, sentence that person to imprisonment for life for that second offence.*
>
> *(3) When determining whether it would be appropriate not to impose a life sentence, the court shall have regard to the circumstances relating to either of the offences or to the offender.*
>
> *(4) "Category A offence" means an offence triable upon indictment.*

54. Ms. Fosuhene submits that the use of the phrase "found guilty" in subsection 2 means that this legislation does not apply. I disagree. I invited Ms. Fosuhene to consider the principles set out in *R (Edwards-Sayer) v Secretary of State for Justice* [2008] EWHC 467 (Admin). I consider that it is well established law that being found guilty includes a finding of guilt by a defendant's own admission. However, the arguments were not fully developed by counsel as I had by that stage decided (and informed counsel) that I would not impose a life sentence therefore this ruling should not be seen as any authority on the issue either way.

55. In any event Ms. Fosuhene accepted that I could, at the very least, derive from this legislative provision the fact that the Cayman Islands Parliament had expressed the view, by the very fact of the passage of this legislation, that a second offence of this severity should always be met by a significant uplift in sentence.

56. I have decided not to impose a life sentence and to stop short of taking that step but I make clear that when I conclude that the aggravating factors (including the antecedent history) take me altogether above the sentencing range for a category 2A offence and well into the category 1A range, I do so in circumstances where it would have been open to me to consider the use of this power.

57. I took into account all that Ms. Fosuhene said on the defendant's behalf as I have outlined at paragraphs 32 – 35 above. Ms. Fosuhene relies on the credit to which the defendant is entitled for his guilty pleas. I deal with the arguments on that point separately below, but I confirm that he will get credit for those pleas. Furthermore, she observes that the letter written by the defendant to the court demonstrates his clear remorse. He has expressed an insight and understanding for the harm he has caused. I took all that she submitted on the issue of mitigation into account and also all that which was set out by the DCR in the SIR. The central mitigation is his guilty plea. I also note his remorse as set out both by Ms. Fosuhene and by the defendant himself.

The Court's conclusions regarding the correct sentence before credit for plea

58. That being so, putting all of those factors together that takes me to a sentence (before the necessary discount for credit) of 18 years and 6 months. Were it not for the mitigation of the defendant's remorse and his letter, my sentence at this stage would have been one of 19 years.

59. The other counts involving the firearm and the ammunition are clearly part and parcel of that assessment and therefore will attract concurrent sentences with no additional uplift simply for those factors otherwise I would be wrongly double counting. I note however that each of the remaining counts are, in themselves, even if the weapons and ammunition had not been used in a robbery such as to justify (on a mandatory basis) sentences of ten years each.

Credit for Guilty Pleas

60. The defendant first appeared on this indictment (in a largely identical form) in the Grand Court on the 13th June 2025. It was on his 8th appearance in this court that he pleaded guilty.

61. The chronology is worthy of exploration:

13 June 2025	Legal aid was not yet in place and there was outstanding disclosure
27 June 2025	Adjourned at defence request as they wanted more time
25 July 2025	Adjourned at the prosecution request as they were serving more evidence
22 August 2025	The prosecution intended to apply to amend the indictment (in due course they added counts 5 and 6 but the indictment otherwise remained unaltered)
5 September 2025	The prosecution had received even more evidence which they said they intended to serve
19 September 2025	The defence wanted more time to review the amended indictment
3 October 2025	The defence wanted more time to meet with the defendant
17 October 2025	the Guilty pleas were entered

62. The prosecution initially suggested that 33% credit was appropriate. They now suggest that it should be 10%. It is my conclusion that the position is somewhere in between those two extremes. There must always be an incentive for a defendant to plead guilty. On the other hand, I do not consider that this was a plea entered at the first reasonable opportunity.

63. A trial date was never set, however in June 2025 the defendant knew what he had done and knew what had been found. He knew he had committed the offence; he knew that his belongings with his name and photograph had been found in the car that he had hired and in which the vast majority of the jewellery and the two loaded firearms were found.

64. He also knew about the principle of credit. Quin J addressed this issue at paragraphs 111 – 116 of his sentencing judgment over a decade ago and the principles have not changed. In order to gain the full one third reduction, the defendant must either plead guilty or give an unequivocal indication that he will plead guilty at the first possible opportunity. When the admission comes later than that, the reduction will be less.

65. Importantly, however, where the prosecution case is overwhelming then it may not be appropriate to give a full reduction in any event. As set out by Quin J at para 114 of his ruling on the last case in which the defendant was convicted of this type of offending and as appears at para 10.7 of the Cayman Islands Sentencing Guidelines:

> *"Where the prosecution case is overwhelming it may not be appropriate to give the full reduction that would otherwise be given…. The fact that the prosecution case is so overwhelming without relying on admissions from the defendant may be a reason to justify departing from the guideline."*

66. The Guidelines state that in such circumstances it might be appropriate to make a reduction of only 20% even where the guilty plea was indicated at the first reasonable opportunity. Ms. Fosuhene accepts that the car and its contents made the case overwhelming. The defendant knew of that fact when he first appeared in June, and the substantive charges have not changed since that day. I accept that the evidence just kept on getting stronger, but the contents of the car made it overwhelming at that early stage.

67. But having heard from the parties about the circumstances in which Mr. Ferguson said more than once that he was considering amending the indictment without making it clear that any amendment was only going to concern the ammunition charges, I consider that it is fair to put credit as being between 20 and 25%.

68. **So, the sentence that I pass today will be as follows**:

(i) Count 1 – Robbery – 14 years & 6 months imprisonment.

(ii) Count 2 – Possession of an Unlicensed Firearm with Intent to Commit an Offence – Withdrawn.

(iii) Counts 3 & 4 – Possession of an Unlicensed Firearm – 10 years concurrent on each count.

(iv) Counts 5 & 6 – Possession of Ammunition – 10 years concurrent on each count.

(v) **The total sentence will therefore be 14 years and 6 months imprisonment**.

(vi) The time the defendant has spent in custody will count automatically towards that sentence.

Dated the 17th day of December 2025

The Hon. Justice Emma Peters
Judge of the Grand Court