



**THE COURT OF APPEAL OF THE CAYMAN ISLANDS  
ON APPEAL FROM THE GRAND COURT CRIMINAL DIVISION**

**Neutral Citation Number [2026] CICA (Crim) 1  
Criminal Appeal 020 of 2023  
Ind# 0035/2022  
SC#00646/2022**

**OMAR BADOU ROBINSON**

Appellant

-and-

**HIS MAJESTY THE KING**

Respondent

**BEFORE**

**The Rt Hon Sir John Goldring, President  
The Hon Sir Michael Birt, Justice of Appeal  
The Rt Hon Sir Jack Beatson, Justice of Appeal**

**Appearances**

**Appellant in person  
Mr Kenneth Ferguson of DPP for the Respondent**

**Date of Hearing:**

**15 May 2025**

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**Transcript of oral judgment dated 15 May 2025 and Approved for Release 19 January 2026**

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**GOLDRING JA, PRESIDENT:**

1. Omar Badou Robinson applies for leave to appeal the sentence of seven years' imprisonment passed on him by Justice Palmer in the Grand Court on 18 August 2023, following his conviction by the judge after a trial of the offence of wounding the complainant, Joshua David Miller, with intent, contrary to s. 203 of the Penal Code (2019 Revision).

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2. The applicant had faced an indictment charging two counts. Count 1 charged the offence of wounding with intent. Count 2 charged the lesser offence of wounding contrary to s. 204 of the Penal Code. After the commencement of the trial, the applicant unsuccessfully sought to enter a plea of guilty to Count 2. This offer was rejected by the Prosecution.
3. The prosecution essentially relied on the evidence of the complainant and video footage that captured the attack that the applicant mounted on the complainant at Brown's On-The-Run Esso Service Station on Shamrock Road in George Town on 18 July 2022, where both men had gone to get food. The applicant gave evidence on his own behalf claiming that he acted in self-defence and had at no time used a blade.
4. It was alleged the attack followed a confrontation caused by a misunderstanding during which the applicant used a sharp blade secreted in his hand, to slash Mr Miller's neck several times, which required 24 sutures. The medical evidence was that the complainant's condition was not serious and the injuries were unlikely to be permanent. However, had it not been for the intervention of a person at the scene, the likelihood was that the complainant's injuries would have been significantly worse.
5. The applicant was aged 36 years when he committed the offence, 38 years when sentenced. He had two previous convictions for offences involving violence when he was considerably younger. The first was for an assault and the second for wounding with intent, also committed at On-The-Run Esso Service Station on Shamrock Road, for which he was sentenced on a guilty plea to six years' imprisonment. The injuries caused to the victim in the course of this earlier offence were significantly more serious than those in the present offence.
6. The Social Inquiry Report disclosed that the applicant was in a stable marriage and that he was gainfully employed from time to time. It suggested that the previous convictions for assault and wounding were linked to the influence of alcohol.
7. At the sentencing hearing, the judge had before him letters from both the applicant and his wife. The applicant offered a formal apology for his actions on the night in question. He acknowledged his actions were unacceptable. He said he was deeply remorseful. He said that he had not been looking for trouble but admitted he had difficulty controlling his temper, for which he desired to seek counselling.

8. The judge had also been provided with a letter from the Hon. Dwayne S Seymour, JP, MP, stating that the applicant was a caring and friendly person whom he had known for 30 years, was well respected in the community and desired to be a good citizen.
9. The judge was asked by the applicant's counsel to give consideration to the fact that the applicant had offered a plea to the lesser offence at an early point in the trial.
10. Section 203 of the Penal Code provides that the maximum sentence for wounding with intent is a period of life imprisonment.
11. The sentencing judge agreed with both counsel for the prosecution and counsel for the defence that under the Cayman Islands Sentencing Guidelines for Violent Offences this was a case of lesser harm that fell within the category of high culpability. The evidential factors that led the judge to conclude that there was a high degree of culpability were: (i) the applicant used a blade concealed in his left palm which he used to slash the complainant's neck; (ii) more serious harm was intended than turned out to be the case as evidenced by the repeated slashes to the complainant's neck which would have led to more serious injuries but for the intervention of a stranger who pulled the applicant off his victim; (iii) such provocation as was experienced by the applicant was something that a man of his age and experience ought to have ignored; (iv) there was a degree of premeditation evidenced by the applicant's repeated charging at the complainant or in his direction; (v) although the video footage did not reveal when the applicant armed himself, it showed the applicant scanning his surroundings before the final attack, even though he had already purchased his food and he already had the blade in his hand when he was rocked by the complainant's defensive blow; and (vi) the psychological impact on the complainant who was traumatised by the incident.
12. In the judge's view the offence fell within the category range 2 under the Guidelines with a starting point six years' imprisonment. He went on to cite the decisions of *R v Robinson (OA)* [2011] (2) CILR Note 1]; *Hewitt v R.*, *Mohen v R* [2019 (1) CILR Note CILR [20]; and *Hyre v R* [2009 CILR Note 25]. He considered the custody threshold was met given that the applicant's prior six-year sentence for wounding with intent had not deterred him from committing the offence. He set out what he considered to be the following aggravating factors:
  - (i) A sharp implement was used as a weapon, which the complainant could not have defended himself against, as it was concealed in the applicant's hand.

- (ii) Although the medical condition of the victim was not considered serious, it was evident from the concealed blade being repeatedly used to slash the complainant's neck that the intention was to cause more serious harm than that which resulted from the attack.
- (iii) The psychological impact of the attack on the complainant who said he was traumatised by the event.
- (iv) The applicant had a previous conviction for the same offence, though the injuries were more serious in that case. The applicant also has a previous conviction for assault. It was to be noted, however, that these convictions were recorded when the applicant was in his early 20s.
- (v) Despite the video evidence showing the concealed weapon in the applicant's palm being used to slash the complainant, the applicant had continued to deny that he used the weapon to slash complainant's neck and had implied that the injuries resulted from a ring he was wearing that unintentionally caused the wounds.
- (vi) The matter proceeded to a trial albeit that the applicant offered a plea to the lesser offence under section 204 of the penal code.
- (vii) The applicant had several opportunities to leave even after he had purchased his food and the video showed the several times that his wife intervened to take him away from the victim.
- (viii) The applicant appeared to have a problem controlling his temper.
- (ix) The view expressed in the Social Inquiry Report that the applicant had a pattern of violent behaviour whilst under the influence of alcohol.
- (x) The view expressed in the Social Inquiry Report that, of the 8 factors that increase the risk of reoffending, the applicant was assessed to be at a high risk of reoffending for 3 of them and a medium risk for 2.

13. The mitigating factors found by the Judge were:

- (i) The applicant was a hard and industrious worker who seems to get along well with his family.
- (ii) The applicant is married and his family is dependent upon him for financial support.
- (iii) There was a moderate level of provocation prior to the incident which had an effect on a man with the temperament of the applicant.
- (iv) Though a bit belated, the applicant says in the letter handed to the court that he is sorry for what occurred and that he does in fact have an anger issue.

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- (v) The applicant is capable of rehabilitation and is prepared to obtain counselling for his anger problem.
14. The judge considered there was a high degree of culpability in the present case. The attack involved a degree of premeditation. A blade had been concealed. He added 5 years' imprisonment to the starting point of six years in view of the aggravating features and deducted from the total of the 11 years, 4 years for the mitigating factors, giving a total sentence of seven years. The judge, wrongly, appeared to regard as an aggravating factor the applicant's insistence at trial that he did not use a blade to injure the complainant in the face of CCTV footage showing he clearly did. The judge also appeared not to recognise when calculating the appropriate length of sentence, that the starting point was on the basis of a not guilty plea.
15. That said, however, a sentence of seven years' imprisonment was fully justified. It cannot begin to be held to be manifestly excessive.
16. It follows that this application is refused.