



1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL SIDE**

4 **Neutral Citation Number: [2025] CIGC (Crim) 30**

5 **INDICTMENT NO: 44 of 2024**

8 **THE KING**

11 **v.**

13 **JAVIER DAVIS HOWELL**

16 **Appearances:** **Mr. Kenneth Ferguson, Crown Counsel of the Office of the Director**
17 **of Public Prosecutions for the Prosecution**

18 **Ms. Lee Halliday-Davis of Brady Law for the Defence**

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

20 **Sentence Hearing:** **16th June 2025**

22 **Sentence Judgment:** **16th June 2025**

25 ***Criminal Law – Sentencing, Possession of Unlicensed Firearm and Ammunition contrary to section 15 of***
26 ***the Firearms Act, (2008 Revision). Mandatory Minimum Sentences. Aggravating factor of previous***
27 ***conviction for firearms.***



1
2 7. The maximum sentence for the offence of Dangerous Driving upon conviction on Indictment,
3 is a fine of three thousand dollars or imprisonment for a term of two years, or to both. The law
4 provides that in addition the offender shall, without an order by a court, automatically be
5 disqualified for two years or such longer period as the court may order, from holding or
6 obtaining a driver's licence or driving a vehicle on the road. The period of disqualification is
7 to run from the date of conviction or the date of expiration of the sentence of imprisonment, as
8 the court may order.

9
10 8. Following his convictions for the four offences above, the defendant pleaded guilty to six
11 scheduled offences as follows: -

12
13 9. **Charge 1** – (SC 00685 - (4)) is Possession of a Controlled Drug simpliciter, contrary to section
14 3(1)(k) of the *Misuse of Drugs Act* (2017 Revision). The particulars are that he on the 23rd day
15 of April 2024, within the jurisdiction of the Cayman Islands, without lawful excuse or being
16 authorised to do so, had in his possession 14.17g of a controlled drug, namely ganja.

17
18 10. The maximum sentence for the offence of Possession of a Controlled Drug (ganja), is a fine of
19 three thousand dollars and or imprisonment with hard labour for three years.

20
21 11. **Charge 2** - (SC 00685 - (5)) is Failing to Provide a Specimen of Urine for Laboratory Testing,
22 contrary to section 5(2) of the *Misuse of Drugs Act* (2017 Revision). The particulars are that
23 he on the 23rd day of April 2024, at the Cayman Islands Detention Center, Fairbanks, Grand
24 Cayman, Cayman Islands, without reasonable excuse, failed to provide a specimen of urine
25 when requested to do so by DS Dave Howell.

26
27 12. The maximum sentence for the offence of Failing to Provide is a fine of one thousand dollars
28 and imprisonment for one year.

29
30 13. **Charge 3** - (SC 00686 - (2)) is Driving without Insurance, contrary to section 3(2) of the
31 *Vehicle Insurance (Third Party Risks) Act* (2012 Revision), as read with section 3(1). The
32 particulars are that he on the 23rd day of April 2024, did unlawfully drive a Toyota Vitz motor
33 vehicle bearing registration number 181 538 on South Sound Road, George Town, Grand
34 Cayman, Cayman Islands, without there being in force in relation to the use of the vehicle by

1 Javier Davis Howell, a policy of insurance or such security in respect of third-party risks as
2 complies with the requirements of the law hereinbefore cited.

3
4 14. The maximum penalty is a fine of two thousand dollars and or imprisonment for three months.
5 There is a mandatory period of disqualification from holding or obtaining a licence for twelve
6 months from the date of the conviction.

7
8 15. **Charge 4** - (SC 00686 - (3)) is Using a Vehicle with Expired Registration, contrary to section
9 12(2) of the *Traffic Act* (2024 Revision) as read with section 12(1). The particulars are that he
10 on the 23rd day of April 2024, did unlawfully drive a Toyota Vitz motor vehicle bearing
11 registration number 181 538 on South Sound Road, George Town, Grand Cayman, Cayman
12 Islands, the licence of which had expired and in respect of which payment for the renewal of
13 vehicle licences had not been made by the date specified, to wit: 7th September 2023.

14
15 16. By section 138 of the *Traffic Act* the maximum penalty is a fine of two thousand five hundred
16 dollars and or imprisonment for six months or to both.

17
18 17. **Charge 5** - (SC 00686 - (4)) is Driving a Vehicle Without a Valid Certificate of
19 Roadworthiness, contrary to section 65 of the *Traffic Act* (2024 Revision). The particulars are
20 that he on the 23rd day of April 2024, did unlawfully drive a Toyota Vitz motor vehicle bearing
21 registration number 181 538 on South Sound Road, George Town, Grand Cayman, Cayman
22 Islands, without the said vehicle being issued with a certificate of roadworthiness.

23
24 18. The maximum penalty on summary conviction is a fine of six hundred dollars or to
25 imprisonment for six months, or to both.

26
27 19. **Charge 6** - (SC 00686 – (5)) is Driving a Vehicle Without Being Licensed, contrary to section
28 24(1) of the *Traffic Act* (2024 Revision). The particulars are that he on the 23rd day of April
29 2024, did unlawfully drive a Toyota Vitz motor vehicle bearing registration number 181 538
30 on South Sound Road, George Town, Grand Cayman, Cayman Islands, without being licensed
31 to drive such a vehicle.



1 20. The maximum penalty on summary conviction is a fine of four thousand dollars or to
2 imprisonment for twelve months, or to both.



3
4 **THE FACTS**

5
6 21. The facts may be briefly stated. After a police pursuit, the defendant crashed his car on South
7 Sound Road and ran from it, thus escaping from the police. The firearm with a magazine loaded
8 with three live rounds of .45 ammunition and a black sock with four live rounds of .45
9 ammunition were recovered from a backpack which he had left in the rear seat of the car. The
10 ganja was found in a transparent jar in the said backpack. His wallet containing his expired
11 Cayman Islands Driver's license, his Scotiabank Debit card, HMP Northward Prison
12 identification card, Cayman First health insurance card, a photograph of his infant son and that
13 of his wife, was found in the glove compartment of the car.

14
15 **ANTECEDENT HISTORY**

16
17 22. The Probation Officer advises that the defendant has a history of some fifteen previous
18 convictions most of which are spent. They are for Failing to Surrender, Carrying an Offensive
19 Weapon, Common Assault and other minor offences for which he was fined. In 2015 he was
20 convicted for offences of Consumption of drugs, ganja and cocaine.

21
22 23. At the time of this offending, the defendant was on a Conditional Release License issued by
23 the Conditional Release Board on 10th August 2021 for similar offending. In 2018 he was
24 sentenced to custodial sentences of 7 years and 8 years for Possession of Unlicensed Firearm
25 and Possession of Cocaine with Intent to Supply, respectively, (Ind. 0122/2016). He was also
26 sentenced on Ind. 0064/2017 to one-year imprisonment for Possession of Unlicensed Firearm
27 (ammunition), to run concurrently with the sentence on Ind. 0122/2016.

28
29 24. The prosecution provided a summary of facts in relation to this offending. In the course of an
30 investigation into a shooting unrelated to the defendant, the police went in search of a vehicle
31 bearing a particular registration number. The vehicle which was owned by the defendant was
32 found in Lantern Point in George Town in the vicinity of the residence of the defendant's
33 girlfriend. It was searched and a sandwich bag with cocaine was found in the glove

1 compartment. A shoe box was found in the trunk of the vehicle from which two firearms and
2 live rounds were recovered. The defendant entered guilty pleas to this offending.

3
4 **SOCIAL INQUIRY REPORT**

5
6 25. The DCR has provided a Social Inquiry Report in respect of the defendant dated 14th April
7 2025, (“SIR”). The Court has read the SIR in its entirety and takes into account everything said
8 therein in favour of the defendant.

9
10 26. The defendant is thirty-three years old, married with a young child who is two years old. The
11 defendant suffered neglect, abuse and instability in the home as a child and was faced with
12 absence of parental support throughout his upbringing. He began misusing drugs at a young
13 age which affected his grades at school and his ability to continue his schooling at different
14 institutions. Since leaving school he has worked at various jobs, most recently doing electrical
15 work with a construction company. He enrolled in an electrical training course whilst
16 previously on remand and is reported to have been an honour student. He has a history of
17 suffering from depression and other issues and continues in the care of a psychiatrist.

18
19 27. Community contacts describe him as a good father, consistently kind, smart, respectful and
20 cordial.

21
22 28. His overall risk of re-offending is assessed as high.



23
24 **THE SUBMISSIONS**

25
26 29. Both Counsel referred the Court to the case of *R v Avis*¹.

27
28 30. Counsel for the prosecution submitted that the offending in this case is aggravated by the fact
29 that the defendant was on license for similar offending.

30

¹ 1998 1 CR. App. R. 420
250616 R v Javier Davis Howell: Ind. 44 of 2024. Coram Richards J, KC – Sentence Judgment

1 31. Counsel for the defendant asked the Court to note that before 2018 there is no similar offending
2 by the defendant. By reference to the United Kingdom Sentencing Council Guidelines,
3 Counsel submitted that mental disorder is a mitigating factor. Counsel referenced a mental
4 health report of 2017 and submitted that the defendant continues to be medically treated for
5 depression, post-traumatic stress disorder and substance misuse among other issues. Counsel
6 also referenced the particular details set out in the SIR at page 6, all of which the Court takes
7 into account.

8
9 32. Counsel said that it is accepted that this is in fact the defendant's second offence involving a
10 firearm. Counsel asked the Court to nevertheless look beyond the offence and at the defendant
11 and all the circumstances and to impose the lowest sentence possible. Counsel said that he has
12 no history of using a firearm. He is again found in a car transporting a firearm. The mental
13 health report provides a picture of someone who is vulnerable. He does suffer from post-
14 traumatic stress and anxiety and has made previous attempts to take his own life.

15
16 33. Counsel said that he is now married following his previous release from custody and has a two
17 year old son. Being a good father is important to him. This offending has also caused problems
18 with his wife because she is now left as a single parent. Nevertheless, she continues to be
19 supportive of him and visits him weekly at the Prison.



20
21 **THE SENTENCE**

22
23 34. The Court is mindful of the dicta in the case of *R v Avis* in which the English Court of Appeal
24 stated that the appropriate level of sentence for a firearm offence will depend on all the facts
25 and circumstances relevant to the offence and the offender. It will usually be appropriate for
26 the sentencing court to ask itself a series of questions:

27
28 a. What sort of weapon is involved?

29 "Genuine firearms are more dangerous than imitation firearms. Loaded firearms are
30 more dangerous than unloaded firearms. Unloaded firearms for which ammunition is
31 available are more dangerous than firearms for which no ammunition is available.

32 Possession of a firearm which has no lawful use such as a sawn off shot gun will be

1 viewed even more seriously than possession of a firearm which is capable of lawful
2 use.”

- 3 b. What if any use has been made of the firearm?
4 c. With what intention, if any, did the defendant possess or use the firearm?
5 d. What is the defendant’s record?

6 “The seriousness of any firearms offence is inevitably increased if the offender has an
7 established record of committing firearm offences or crimes of violence.”

8
9 35. In this case the weapon is a genuine firearm in working order. It is a Smith and Wesson pistol.
10 There were three live rounds of ammunition in it. There were another four rounds available.
11 There is no evidence that any use was made of the firearm. The prosecution has advised that a
12 ballistics inquiry has not identified any trace of previous use. There is no evidence as to what
13 was intended to be done with the firearm. The defendant has a previous record of possession
14 of unlicensed firearms.

15
16 36. No exceptional circumstances are raised in this case.

17
18 37. This Court notes that in the *2002 Statement on Tariffs and Guidelines for Sentencing for*
19 *Certain Offences*, the Chief Justice stated: -

20
21 “As regards to firearm offences contrary to the Firearms Law, the Legislation is quite
22 clear that the possession or use of any unlicensed lethal barreled firearm is an
23 extremely serious offence. Under the Firearms Law, the maximum penalty for
24 possession of an unlicensed firearm is 20 years and a fine of \$100,000. The tariff for
25 that offence unless there are very mitigating circumstances will be 10 years. If on the
26 other hand aggravating circumstances exist, for instance, the use of the firearm for
27 the commission of a serious offence, the tariff will be in keeping with decided cases
28 and will be significantly higher.”





1 38. The Court considers that in this case the fact of the previous conviction and being on license
2 serves to aggravate the offence.

3
4 39. Consequently, from a starting point of 10 years the minimum sentence is increased to one of
5 14 years.

6
7 40. Account is taken of all the mitigating factors outlined which include: -

- 8
9 i. His personal circumstances.
10 ii. His age.
11 iii. He has a young child.
12 iv. He is a father and husband and his wife is left as a single parent.
13 v. There is no evidence of use of the firearm.
14 vi. His mental health reports albeit of some age.
15 vii. There is evidence that he has issues with depression. He is a vulnerable individual
16 and suffers from post-traumatic stress and there have been previous attempts at
17 suicide.

18
19 41. All of the mitigating factors serve to reduce the sentence to one of 12 years imprisonment.

20
21 42. Having considered the aggravating and mitigating factors in respect of all the other offences,
22 sentences are imposed as follows.

23
24 43. For the two offences of Possession of Firearm (Ammunition) - the sentence is 2 years
25 imprisonment in each case.

26
27 44. For the offence of Dangerous Driving - the sentence is 12 months imprisonment and the
28 defendant is disqualified from driving for a period of 2 years following his release from prison.

29
30 45. In respect of the scheduled offences: -

- 31
32 i. Charge 1 - SC 00685 – (4): Possession of Ganja- the sentence is 6 months
33 imprisonment.

- 1 ii. Charge 2 - SC 00685 – (5): Failing to Provide Specimen - the sentence is 3 months
2 imprisonment.
- 3 iii. Charge 3 - SC 00686 – (2): Driving Without Insurance - the sentence is 1 month
4 imprisonment, mandatory disqualification period of 12 months.
- 5 iv. Charge 4 - SC 00686 – (3): Driving with an Expired Registration- the sentence is 2
6 months imprisonment.
- 7 v. Charge 5 - SC 00686 – (4): Driving without a Certificate of Roadworthiness: the
8 sentence is 2 months imprisonment.
- 9 vi. Charge 6 - SC 00686 – (5): Driving without a Licence - the sentence is 3 months
10 imprisonment.

11

12 46. All the sentences are to run concurrently to each other given that they all arose out of the same
13 circumstances. Time served is to be taken into account and deducted from the sentence.

14

15 47. The drugs are ordered forfeited to the Crown to be destroyed.

16

17 48. The firearm and ammunition are ordered forfeited to the Crown to be destroyed.

18

19 49. While in prison the defendant is to be afforded the opportunity to attend individual counselling
20 and educational and psychotherapy programmes as recommended by the Probation Officer.

21

22 **Dated this the 16th day of June 2025**

23 

24 **Honourable Justice Cheryll Richards K.C.**
25 **Judge of the Grand Court**