



Neutral Citation: [2025] CIGC (Crim) 10

IND0001 OF 2024

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

THE CROWN

V

ROLAN WELCOME

Coram: The Hon. Justice Marlene Carter
Appearances: Mr. Ben Brown for The Crown
Mr. Keith Myers for the Defendant
Sentence Hearing: 19 February 2025
Date of Sentence: 4 March 2025

***Criminal Law – Aggravated Burglary – Section 244 of the Penal Code
(2024 Revision) - Cayman Islands Sentencing Guidelines – Whether
increase to starting point within range is warranted***

SENTENCE JUDGMENT

1. The Defendant was tried by Judge Alone between the 5 - 8 August 2024. On 5 September 2024, this Court found the Defendant guilty of the offence Aggravated Burglary contrary to Section 244 of the Penal Code (2024 Revision), the single count on the indictment. At the time the verdict was delivered, the Defendant was also before the Grand Court on another indictment and was due to be tried shortly thereafter. It was determined that this sentence should await the outcome of the second trial. The second trial, having been heard, and a verdict returned in January 2025, this Court now moves to sentence.
2. The verdict judgment in this matter sets out in detail the facts and matters which informed the guilty verdict. I do not propose reciting those facts here suffice to say that this offence of aggravated burglary took place in the early hours of the 9th of November 2023 at East End, Grand Cayman. The complainant in the matter was, at that time, a bartender at the Eastern Star Bar in East End. When she finished



her shift that evening, she returned home and retired to bed. She was awakened by a voice and footsteps outside her bedroom. She heard the doorknob shaking and shortly thereafter, her bedroom door was kicked open. A male whom the Complainant recognized had been at the bar where she worked earlier in the evening was at the door. The Complainant later positively identified this male as the Defendant.

3. The Defendant was armed with what was described by the Complainant as a large rusty machete about 3 feet in length. The Defendant demanded from the Complainant, *"Where is the money? Give me the money! Where is the money from the bar?"* The Complainant denied having any money, whereupon the Defendant placed the machete to the right side of the Complainant's neck and said to her, *"That's a lie. I know you have the money. Give me all that you have."* The Complainant retrieved three hundred U.S. dollars, which she had in her possession, and gave this cash to the Defendant. The Defendant then said to her, *"Don't call the police because I'm going to come and look for you, and I'm going to find you. I know who you are and I know where you live."*

Submissions

4. The Crown submits that the circumstances of the offence of aggravated burglary should attract a categorization at category A1, reflecting high culpability and Category 1 harm. The factors that attract this categorization were stated to be as follows:
 - (i) The Defendant had with him a machete during the commission of the offence.
 - (ii) The vandalism to the victim's property, this being her bedroom door, which was kicked in when the Defendant entered the bedroom.
 - (iii) The presence of the victim on the premises during the burglary.
 - (iv) The Defendant used and threatened violence towards the victim.
5. Counsel for the Defendant does not dispute that this is a high culpability Category 1 harm offence. Counsel submitted, however, that there was no evidence before the Court of significant physical or psychological injury or other significant trauma to the Complainant to attract a considerable increase to the starting point of sentence for the offence.

Aggravating and mitigating circumstances.

6. There are **relevant aggravating factors** for the Court's consideration. These can be stated as follows:
 - (i) This was an offence committed at night against a lone female in her bedroom.



- (ii) There was a threat of serious violence gleaned from the presence and use of a machete to threaten the victim.
- (iii) It was submitted that the circumstances displayed a degree of planning, that the Complainant was specifically targeted due to the Defendant's knowledge that she was employed at the bar, a fact referred to by the Defendant when he entered the Complainant's bedroom. The Crown argues that this is evidence of the Defendant's knowledge and belief that she would have access to the takings from the bar. Counsel for the Defendant submits that there is not sufficient evidence to indicate any significant degree of planning and that this should not be considered an aggravating factor. From his own utterings at the time of commission of the offence, the Defendant connected his earlier appearance at the bar with his targeting of this Complainant. I find that it should be considered here as showing a degree of planning.
- (iv) The Crown submitted that the Defendant made threats to the victim in an attempt to dissuade her from reporting the offence to the police. The threats were the utterances: *"I don't want you to call the police because I'm going to come and look for you and I'm going to find you. I know who you are and I know where you live."* I find that this evidence is plain in its intent and meaning, to dissuade the Complainant from reporting the matter to the police.
- (v) The Defendant has relevant previous convictions for offences of violence and dishonesty. Between 2009 and 2019, the Defendant was convicted and sentenced for three offences of burglary, one of theft, four offences of handling stolen goods, one for assault causing actual bodily harm, one for unlawful wounding and one for carrying an offensive weapon.
- (vi) There are **no mitigating factors** for the Court's consideration.

Victim Impact Report

- 7. A victim impact report was sought in this case. However, the Complainant declined to participate in the compilation of this report. The indication from the Crown is that the Complainant stated when approached: *"I don't feel comfortable replaying all that. The trial was hard enough for me, and I'd prefer to move on."*

Social Inquiry Report

- 8. The Defendant attended a scheduled appointment with the Department of Community Rehabilitation (DCR) on 25 October 2024, where he agreed to participate in the SIR process. The SIR states as follows:



“[The Defendant] stated that he is in good physical health however, he indicated that he has a history of experiencing depressive episodes. [The Defendant] also shared that he underwent a psychiatric assessment several years ago which indicated that he has multiple disorders including anxiety and attention deficit disorder. He also reported lapses in his memory which he intimated might have been on account of his years of substance abuse.

Though he agreed to participate in the process, Mr. Welcome who presented as being very anxious, shared after 20 minutes that he did not wish to continue the interview. The client got up and asked to leave. The session was terminated and he was allowed to leave.”

Sentencing Guidelines

9. The maximum sentence for aggravated burglary is imprisonment for life. The Cayman Islands Sentencing Guidelines for burglary (hereinafter “the Guidelines”) notes the following pertaining to aggravated burglary: *“Where the offence is aggravated burglary, the maximum sentence increases from 14 years imprisonment to life imprisonment”*. As such, the Guidelines state that the starting points and ranges set out therein are for offences where the maximum is 14 years imprisonment, noting further that *“Where the higher maximum applies [for aggravated burglary] all starting points and ranges will increase;”* and *“this increase will be considerable where significant physical or psychological injury or other significant trauma is inflicted within a home.”*

Court’s considerations

10. The circumstances of this offence merit a finding of Category A culpability and Category 1 harm. Category A culpability on the basis that the defendant produced a bladed article, here a machete and Category 1 harm based on the fact that the victim was on the premises while the defendant was present. As per the Guidelines, the offence of burglary, a Category A1 offence, attracts a starting point of 7 years custody with the sentence range of 5 to 14 years.
11. I do not view the indication by the Complainant when she declined to engage with the process towards a Victim Impact report as evidence of significant trauma above that inherent in the offence of aggravated burglary. I bear in mind that the Guidelines provide for the inevitable effect on a victim of serious criminal behaviour and that the Court must have before it evidence of something significantly more before harm is taken into account as a distinct and separate



aggravating factor for any offence.¹ This must be true here when the Court considers whether there was psychological injury or other significant trauma present. There is no expert evidence presented. While the Court may, in its discretion and its observations of a victim, make a finding of psychological harm or even significant psychological harm, having observed and assessed the victim when she gave evidence at trial, the matters stated by the Complainant are not sufficient for such a finding. The Court does not make a finding of significant trauma suffered by the Complainant in this case.

12. While an increase to the starting point and range stated in the Guidelines for a category A1 burglary to account for the offence of aggravated burglary is merited, there is nothing to warrant a *considerable* increase to such starting point or range in this case.
13. Regarding local precedents on sentences for aggravated burglary, in 2018, the matter of *R v Presley Charles Whittaker*², the defendant was sentenced to 40 months' imprisonment on a guilty plea to aggravated burglary. In that case, the defendant had entered an unoccupied dwelling with a machete in his hand. A neighbour observed the defendant's entry through a window and reported this to the property manager. Whittaker had a previous conviction for burglary.
14. In the case of *Romario Brown*³, the defendant received a sentence of five years and three months imprisonment on a guilty plea for aggravated burglary.
15. I have reviewed the Guidelines and previous cases and considered the submissions of Counsel. As a Category A1 offence of aggravated burglary, I adopt a starting point of 8 years imprisonment. There are significant aggravating factors in this case. There are no mitigating factors. This warrants an uplift of the starting point to 10 years imprisonment. I find this the appropriate sentence considering the circumstances of the offence and the offender in this case.
16. The time that the Defendant has spent in custody since his arrest for this offence will be deduced from this sentence.

Hon. Justice Marlene Carter
Judge of the Grand Court

¹See *R v Chall* ([2019] EWCA Crim 865) for the approach a sentencing judge should adopt when determining whether a victim has suffered severe psychological harm under the relevant sentencing guidelines. Applied in *R v Marshall & Lynch*, Indictment no. 57/21 & 58/21, 30 September 2022

² As reported in Cayman Compass, 23 December 2018.

³ Indictment no. 12/22 & 13/22, 14 February 2023