



Neutral Citation: [2025] CIGC (Crim) 9

IND0045 OF 2024

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

THE CROWN

V

PATRICK MCKENZIE

Coram: Hon. Justice Marlene Carter
Appearances: Mr. Andre Wedderburn for the Crown
Mr Jonathon Hughes for Defendant
Defendant appears by ZOOM
Sentence: February 27, 2025

*Criminal Law- Sentence – Wounding with Intent- Section 203 of the Penal Code (2024
Revision)*

SENTENCE JUDGMENT

1. The Defendant is before the Court to be sentenced for four offences: one of Wounding with Intent, one of Criminal Trespass and two offences of Common Assault.

Background

2. The Defendant's trial commenced on 12 November 2024. On 13 November, during the trial, the Defendant, through his counsel, made an application for a Goodyear indication. On 14 November, upon the Goodyear indication being considered, the first four (4) counts of the indictment were put to the Defendant a second time, and further pleas were entered.



The Facts giving rise to the indictment.

3. From the Crown's sentencing submissions, the relevant facts are that on 6 May 2024, the Complainant was at home asleep when she was awakened by the Defendant. The Complainant and the Defendant got into a scuffle wherein the Defendant was applying pressure to her neck. The Complainant cried out begging the Defendant to stop. He eventually did let her up. The Complainant made a report to the West Bay Police Station. At the Complainant's request, the Police did not arrest the Defendant, but he was warned not to go to the Complainant's home and not to call her.
4. On May 13, 2024, at about 8: 00 a.m., the Complainant was at home when she was alerted by her housemate to the presence of the Defendant. She did not believe it at first, but her housemate insisted on checking, so she began to record it on her phone. The Defendant was found in the cupboard under the staircase. The Defendant then grabbed her in the hallway and her phone fell from her hand. The Defendant used a box cutter knife to cut her to the neck. She tried to grab the knife he was holding, and the blade broke from the handle. She yelled for her housemate to call the police.
5. Jeffrey Peterkin, the Complainant's neighbour, who was present during the incident sustained a cut between his thumb and index finger when he was pulling the Defendant away from the Complainant.
6. The injuries sustained by the complainant were as follows:
 - i) An incised wound (a clean, straight cut caused by a sharp edge) present to the right lower region of the neck, measuring approximately 4.5 cm, and involving a breach of the platysma muscle measuring approximately 1 cm. There were no signs of vascular injury (no active bleeding, no pulsatile mass), and the base of the wound was clearly visible;
 - ii) Two smaller incised wounds were present to the left side of the face lateral to the mouth-superficial, measuring approximately 1 cm in diameter each;
 - iii) Another incised wound was present to the inferior aspect of the chin near the midline-3mm long;
 - iv) A superficial incised wound was present on the left side of the patient's abdomen, measuring 5.5 cm;
 - v) An incised wound was present to the left forearm, with undermining of the skin, measuring 4 cm in length, approximately 2 cm in diameter;
 - vi) Another incised wound measuring 1 cm was present just proximal to the DIP joint of the left index finger-no involved tendon injury; and
 - vii) Another incised wound was present on the lateral aspect of the left palm involving the thenar region - measuring 1.5 cm in length.



7. The pleas entered and accepted by the Crown were as follows:
 - i) Count I-Not guilty to Burglary but Guilty to Criminal Trespass.
 - ii) Count II-Guilty to Common Assault.
 - iii) Count III-Formal Verdict of Not Guilty entered for Aggravated Burglary.
 - iv) Count IV-Guilty to Wounding with Intent.
8. The Defendant had already entered a plea of guilty to count 5. A jury having been selected and the Defendant put in its charge, the jury returned a formal verdict of not guilty to the offence of Aggravated Burglary, Count 3 on the indictment.
9. The basis upon which the pleas were entered is as follows:

“1. With respect to the 6 May 2024 incident, I plead guilty to criminal trespass and common assault on the basis that:

- a. I accept that Kenisha and I were going through a rough patch in our relationship on 5 May 2024 and that by implication, she did not want me to come over that night.*
- b. I accept that I attended at her house, and that a scuffle ensued in which she was hurt. I was also injured.*

2. With respect to the 13 May 2024 incident, I plead guilty to wounding with intent on the basis that:

- a. I accept that, in having and using a box cutter in the way I did, I caused injury.*
- b. I accept that although, in the heat of the moment I intended to caused minor injury to stop the complainant recording me, I did not intend the degree of injury I caused.”*

Victim Impact Report

10. A victim impact report was ordered and prepared based on contact and communication with the Complainant. The Complainant related that during the course of the incident [it appears that the Complainant was referring to the incident on May 13], she felt as if she was going to die. She stated that she had been in physical pain in the immediate aftermath of the incident. She related that she is still afraid and has difficulty sleeping and that she is sometimes awakened by dreams of what transpired. The Complainant expressed her disbelief as to the Defendant’s actions. She stated: *“I felt betrayed, hurt and I am still trying to come to grips with what happened and why. I have seven visible scars to remind me of the incident.”*



11. The Complainant stated that she had access to counselling to help her deal with the psychological impact of the incident. The probation officer states that, in her opinion, the Complainant was most impacted on the physical and psychological level regarding the incident.

The Social Inquiry Report

12. The Defendant is a 50-year-old Jamaican national who has been living and working in the Cayman Islands since 1998. He was raised predominantly by his mother and then with his father and stepmother. The Defendant stated that he was raised on strong Christian morals and would attend church regularly. He related that he began working in the construction industry with his father and this had raised a passion for construction in him, in an area in which he continued to work.
13. He noted that he never witnessed any abuse within the family household nor was he a victim of any abuse growing up. Within the course of the report, it is noted that the Defendant was never involved with any form of substance abuse or misuse.
14. The Defendant related that he and the Complainant became involved at a period during which he and his wife had been separated for some time. He stated that he is not a man who engaged in domestic violence relationships; he viewed them as unhealthy. The Defendant stated that there was no occurrence of abuse in any of his past relationships and that he was not a person who was argumentative or aggressive in such relationships.
15. Regarding the Defendant's attitude to the offences before the Court, he related to the probation officer that he had gone to the Complainant's premises to pick up some belongings which he had left there after the relationship had broken, that he did not intentionally bring a weapon or mean to cause harm to the victim. He shared that he would like to express apologies to the victim and seek forgiveness for his actions.
16. The Defendant was assessed regarding his overall risk of reoffending. This risk was assessed as low using the LS/CMI risk/need Assessment Tool. The probation officer, while acknowledging that the Defendant's immigration status could impact his ability to fulfil certain recommendations, went on to state that she considered the Defendant a suitable candidate for community-based sentencing.

Submissions on sentence

17. The Prosecution has submitted that in line with the Cayman Islands Sentencing Guidelines for violent offences, ("**the Guidelines**"), on the facts of this case, for the primary offence of Wounding with Intent, the court should view this matter as one which falls within the category of lesser harm. In relation to culpability, the



Crown submits that the categorization is of higher culpability. The Crown submits that the relevant factors are the use of a box cutter knife and the number of wounds inflicted by the Defendant on the victim's body which include injuries to the Complainant's face.

18. With regard to aggravating factors, the Crown submits that of relevance is the fact that the offense occurred in the presence of the Complainants' neighbours, one of whom was quite elderly, and that the Defendant had been warned previously to stay away from the Complainant's residence. The Crown accepted that the mitigating factors present are that the Defendant is of previous good character, that he is remorseful, and that the Defendant entered a plea of guilty. In all the circumstances the Crown states that a starting point of seven years is appropriate and that the Court should find that a final sentence after accounting for aggravating and mitigating circumstances should be four (4) years and six (6) months in custody.

Submissions by the Defense

19. Counsel for the Defendant also submits that this is a case of lesser harm and higher culpability. Counsel suggests that in line with the Guidelines, the starting point is six (6) years imprisonment with a range of five to nine years. Counsel submitted that the Defendant's actions on 13 May were out of character. He noted the basis of plea, accepted by the Crown, that the Defendant did not intend the degree of injury caused to the Complainant. He asked the Court to note the good character references which had been advanced, which noted that the Defendant was an honest, hardworking reliable person of high integrity in his business and personal affairs.
20. Counsel noted that the VIR does not reveal that the Complainant feels any ongoing threat from the Defendant. He submitted that the Court should consider the context in which this offence took place; a romantic relationship between the parties and that the Complainant was someone for whom the Defendant held very strong feelings. Counsel described "*a clouding of judgment*" that in the aftermath has amplified the Defendant's feelings of remorse and regret surrounding his actions.

The Court's considerations

21. The Court has considered the submissions of counsel for the Defendant and the Crown, the relevant Guidelines and the reports prepared by the Department of Community Rehabilitation.
22. The maximum sentence for the offence of Wounding with Intent to cause Grievous Bodily Harm is imprisonment for life.



23. Regarding harm, I find that the injuries sustained by the Complainant are of lesser harm, being injuries that are less serious in the context of the offence. While evidence of permanent effect or injury to the Complainant is not necessary to prove greater harm or that an injury is serious in the context of the offence, the injuries noted on the Complainant do not cross that threshold.
24. Regarding culpability, the offence is of higher culpability. The Defendant accepts that he had a box cutter knife in his possession and that he caused the injuries to the Complainant.
25. As per the Guidelines, the offence of lesser harm and higher culpability is a category 2 offence. The Starting point is six (6) years in custody with a sentencing range of 5-9 years. I adopt a starting point of six (6) years imprisonment, mindful that the Defendant is being sentenced for a series of offences of which the offence of Wounding with Intent is the primary offence and of the Court's disposal of the other offences as set out below.
26. The following are accepted as aggravating factors:
- i) Location of the offence. The offence occurred on the premises where the Complainant resided.
 - ii) Previous violence toward the victim. The Defendant had been warned by the police, approximately one week before the incident on 13 May 2024, when he had been involved in an altercation with the Complainant and assaulted her.
27. The mitigating factors are:
- i) The Defendant is of previous good character.
 - ii) The nature of the relationship between Defendant and Complainant. They had been involved with each other for approximately two years prior to May 2024 and these offences occurred at the point at which the relationship was ended by the Complainant.
 - iii) The Defendant has expressed remorse and regret for his actions.
28. Having considered the aggravating and mitigating factors, the starting point is reduced to five (5) years imprisonment. The Defendant will be in custody and away from his family in Jamaica, particularly his children with whom he maintains a relationship. I will further reduce the sentence by six (6) months for personal circumstances to take the sentence to four (4) years and six (6) months in custody or fifty-four (54) months.
29. The Defendant will receive a discount to his sentence for an early guilty plea. This plea was not made before trial, it was made on the second day of trial when the Prosecution's evidence had already commenced. I am mindful that the



Complainant was spared from giving evidence. I am also mindful of the Prosecution's submission that the evidence against this Defendant was overwhelming. The Defendant would not receive the full discount; however, he will receive a discount of 10% to take the sentence to forty-eight (48) months,

30. I have taken full account of the context in which this offence was committed, and this sentence, as far as it is permitted, makes allowance for same. Counsel for the Defendant has submitted that the Court does not need to weigh too heavily on the side of a deterrent sentence since this Defendant has acted seemingly out of character and regrets his actions which were as a result of "*a clouding of judgment*". However, this Court must forcefully emphasize that persons cannot seek to hurt and maim their partners, especially in the most literal sense, because they are unhappy with the direction of a relationship or a failed relationship. Women, in particular, should not have to be apprehensive of what actions a former partner may take when a relationship is ended. To that extent, it is hoped that this sentence does deter others from acting as this Defendant has at the end of his relationship with the Complainant.
31. The Guidelines make it clear that when the court is sentencing for more than a single offence it should pass a total which reflects all of the offending and pass a sentence which is just and proportionate in all the circumstances of the case. I find that the appropriate sentence is four (4) years imprisonment for the offence of Wounding with Intent.
32. Any time that the Defendant has spent in custody is to be deducted from this sentence.
33. With respect to the other offences for which the Defendant entered guilty pleas, Criminal Trespass and two offences of Common Assault, the submission by the Crown is that, bearing in mind any sentence for the primary offence of Wounding with Intent, the Defendant be admonished and discharged. I agree that such a course is appropriate in this case. For each of those offences, the Defendant is admonished and discharged.

Hon. Justice Marlene I. Carter
Judge of the Grand Court