



1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**  
2 **CRIMINAL DIVISION**  
3

4 **INDICTMENT NO: 23 of 2024**

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6  
7 **R**

8  
9 **V.**

10  
11 **RUDOLPH ANTHONY BROWN**  
12  
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14

15 **Appearances:** **Mrs. Angelique McLoughlin, Crown Counsel, Office of the Director of Public**  
16 **Prosecutions for the Prosecution**

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18 **Mr. Keith Myers for the Defence**  
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21  
22 **Before:** **The Hon. Justice Cheryll Richards KC**  
23

24 **Submissions Heard:** **31<sup>st</sup> October 2024**  
25

26 **Sentence Judgment:** **4<sup>th</sup> November 2024**  
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31 ***Criminal Law - Sentencing - Carrying a Restricted Weapon by Night contrary to s. 81 (B) of the***  
32 ***Penal Code (2022 Revision). Application of the Cayman Islands Sentencing Guidelines.***  
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## SENTENCE JUDGMENT

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3 1. The defendant is before the Court for sentencing following his conviction after trial on  
4 Count 1 of the Indictment. This charges him with the offence of Carrying a Restricted  
5 Weapon by Night contrary to s. 81 (B) of the *Penal Code* (2022 Revision). He was  
6 acquitted by the Jury on Count 2, Common Assault and a verdict of not guilty was entered  
7 against him on this Count.  
8
- 9 2. The maximum sentence for the offence of Carrying a Restricted Weapon by Night is 4  
10 years imprisonment.  
11
- 12 3. The facts in brief are that on the night of the 30<sup>th</sup> July 2023, the defendant went into Kellys  
13 Bar with a restricted weapon, namely a box cutter knife. At trial in cross-examination, he  
14 admitted that he knew that he should not have had the knife in the Bar. He said that he took  
15 it with him because it was a small one. He said that he took it “*not to cause any problem*”,  
16 but to open his drinks. He explained that he did not like when the bartender opened them  
17 and put tissues at the top of the bottles. The evidence as to the alleged Common Assault  
18 and the impact on the complainant Glenroy Daniels is not considered for the purpose of  
19 this sentencing exercise. However, the fact that the knife was produced in the course of a  
20 scuffle in the Bar is a relevant factor.  
21
- 22 4. The Department of Community Rehabilitation has provided a Social Inquiry Report dated  
23 9<sup>th</sup> September 2024, (“SIR”). The defendant is 62 years old. He is married with two adult  
24 children. He grew up in a safe and supportive home and completed secondary education  
25 without incident. He has been working in the Cayman Islands for a period of over 25 years  
26 with periodic breaks. He has been unable to work since December 2023 when he was due  
27 to return to his home country Jamaica for another break period.  
28

1 5. His former employer describes him as one of her best employees and says that there was  
2 never any problem with him on the work site. He has never shown any sort of aggression  
3 or violence.

4  
5 6. The defendant was assessed as being at low risk of re-offending. The Probation Officer's  
6 view is that he did not present as an individual with a pro-criminal attitude. According to  
7 the Officer, the defendant appears to be well respected in the community with no history  
8 of aggressive behaviour or violence. The Officer's recommendation which is set out at  
9 page 9 of the SIR is that: -

10  
11 " Given Mr. Brown's previous good character, his general attitude towards these  
12 offences, his overall low risk of committing a further offence, his employment  
13 status, his immigration status, and any other mitigating factors outlined, the court  
14 could consider imposing a suspended sentence or conditionally discharging the  
15 client with the condition that he will be of good behaviour for a period of two  
16 years."

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18 **THE SUBMISSIONS**



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20 7. Both Counsel referred the Court to the *Cayman Islands Sentencing Guidelines* for the  
21 offence. The prosecution submitted that this is an offence of Category 1 Harm because it  
22 was committed in a bar at night where there is a risk of serious disorder. Culpability is said  
23 to be at level A where the weapon was used to threaten or cause fear. An offence at the level  
24 of Category 1 A has a starting point of 30 months imprisonment.

25  
26 8. Defence Counsel Mr. Myers disagreed and submitted that there was no risk of serious  
27 disorder. Counsel submits that this is an offence of Category 2 Harm and Culpability B  
28 with a starting point of 15 months custody. Counsel submits that if he is wrong about this  
29 categorisation for the offending, it is no more than a Category 2 A offence with the same  
30 starting point of 15 months' custody.

1 9. In mitigation, Counsel submitted that the mitigating factors include that the defendant has  
2 never been in trouble before and asked the Court to consider the provisions of the  
3 *Alternative Sentencing Act* and not impose a custodial sentence.



4  
5 **THE SENTENCE**  
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7 10. The Court accepts that this offence was committed where there was a risk of some disorder  
8 not necessarily serious disorder. This was a bar to which patrons went to have drinks at  
9 night. While the weapon was not used to threaten or cause fear, it was produced in the  
10 course of a scuffle. The defendant had been drinking and one of the factors which indicates  
11 higher culpability is the commission of an offence whilst under the influence of alcohol or  
12 drugs.

13  
14 11. The conclusion of the Court is that the Harm is at level 2 and the Culpability is at the  
15 higher-level A because of the factor of alcohol. This is therefore a Category 2A offence  
16 with a starting point of 15 months custody and a sentence range of 9 to 24 months custody.

17  
18 12. In mitigation the Court takes into account everything said and written in the defendant's  
19 favour. He has no previous convictions and is of good character. He is at low risk of re-  
20 offending. He is 62 years old and has to date lived a hardworking life where he is well  
21 respected in the community. This offending is out of character for him. Consequently, the  
22 starting sentence of 15 months is reduced by 6 months to one 9 months imprisonment.

23  
24 13. In the Court's view the offending is serious such that the custody threshold is passed.  
25 Taking a weapon into a bar at night is a serious matter. The context of it is the drinking of  
26 alcohol which may lead to disinhibited behaviour. This may give rise to the very real  
27 possibility that disorder may occur in the course of which the knife may be used. The  
28 defendant gave evidence at trial. It is clear from what he said that he well knew that to do  
29 what he did was wrong. The law makes no distinction between a small knife and a big

1 knife. The fact that it was a small one and not intended to be carried to cause harm is not a  
2 defence as the jury found in this case.

3  
4 14. This Court has considered whether the sentence should be one of immediate custody. In so  
5 doing the personal circumstances of the defendant are noted. They may well be viewed as  
6 extraordinary. The defendant is a mature man who has been resident in the Cayman Islands  
7 almost continuously for many years and is well respected. His history and behaviour is  
8 known. He has not been in trouble for 62 years. This offending is out of character for him.

9  
10 15. There is nothing in his personal circumstances which make a sentence of immediate  
11 custody unavoidable. The Court concludes that it is appropriate given his personal  
12 circumstances that the sentence be suspended and accepts the recommendation of the  
13 Probation Officer. The sentence of 9 months imprisonment is therefore suspended for a  
14 period of 2 years.

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16 **Dated this the 4<sup>th</sup> November 2024**

A handwritten signature in blue ink, appearing to be 'Cheryll Richards', written in a cursive style.

17  
18 **The Hon. Justice Cheryll Richards KC**  
19 **Judge of the Grand Court**