

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

4 **INDICTMENT NO: 75 of 2023**
5



6
7
8 **R**
9

10 **V.**
11

12 **ROYLEY ANTHONY RUSSELL**
13
14

15 **Appearances:** **Mr. Nimesh Jani, Senior Crown Counsel, Office of the Director**
16 **of Public Prosecutions for the Prosecution**
17

18 **Mr. Clayton Phuran of CP Attorneys for the Defence**
19

20 **Before:** **The Hon. Justice Cheryll Richards KC**
21

22 **Submissions Heard:** **18th July 2024**
23

24 **Sentence Judgment:** **22nd August 2024**
25
26
27
28

29 ***Criminal Law - Sentencing, Obtaining Property by Deception contrary to section 247 of the Penal***
30 ***Code (2019 Revision), United Kingdom Sentencing Council Guidelines for the offence of Fraud.***
31
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37



SENTENCE JUDGMENT

- 1
2
3 1. The defendant is before the Court for sentencing following his convictions after trial for
4 three counts of Obtaining Property by Deception contrary to section 247 of the *Penal*
5 *Code* (2019 Revision).
6
- 7 2. **The particulars of Count 1** are that he between the 1st day of November, 2020 and
8 the 26th day of July, 2021, within the jurisdiction of the Cayman Islands by
9 deception, dishonestly obtained five hundred and seventy-six dollars of Cayman
10 Islands currency (KYD\$576.00), the property of Paul Rivers, with the intention of
11 permanently depriving Paul Rivers thereof by falsely representing that the said sum
12 was adequate consideration for the purchase of vehicle parts and for the provision of
13 labour by Royley Anthony Russell for the repair of motor vehicles belonging to Paul
14 Rivers and Chelsea Rivers.
15
- 16 3. **The particulars of Count 2** are that he between the 15th day of December, 2020 and the
17 26th day of July, 2021, within the jurisdiction of the Cayman Islands, by deception
18 dishonestly obtained five hundred and sixty dollars of United States currency
19 (USD\$560.00), the property of Chelsea Rivers, with the intention of permanently
20 depriving Chelsea Rivers thereof by falsely representing that the said sum was
21 adequate consideration for the purchase of vehicle parts and for the provision of labour
22 by Royley Anthony Russell for the repair of motor vehicles belonging to Paul Rivers
23 and Chelsea Rivers.
24
- 25 4. **The particulars of Count 3** are that he between the 14th day of January, 2021 and the
26 26th day of July, 2021, within the jurisdiction of the Cayman Islands by deception
27 dishonestly obtained six hundred and thirty-one dollars of United States currency
28 (USD\$631.00), the property of Chelsea Rivers, with the intention of permanently
29 depriving Chelsea Rivers thereof by falsely representing that the said sum was
30 adequate consideration for the purchase of vehicle parts and for the provision of labour

1 by Royley Anthony Russell for the repair of motor vehicles belonging to Paul Rivers and
2 Chelsea Rivers.

- 3
4 5. The maximum sentence for this offence is 10 years imprisonment.



6 **THE FACTS**

- 7
8 6. The prosecution has provided a summary of the facts which is set out below. The
9 defendant is a mobile mechanic. The victims are Paul and Chelsea Rivers. The case
10 relates to two vehicles which they owned which were in need of repairs. In November
11 2020, the defendant was recommended to Mr. Rivers by a friend. Mr. Rivers made
12 contact with the defendant who then attended his premises and looked at his truck. The
13 defendant said that the truck needed an oil pump which had to be ordered from overseas.
14 Mr. Rivers gave the defendant CI\$576.00 (five hundred and seventy-six dollars) in cash
15 for him to purchase the part for the truck.

- 16
17 7. The victim's evidence at trial was that since the defendant had diagnosed the problem
18 with the truck so quickly and there would be some waiting time for the part to arrive, he
19 asked the defendant to take a look at a van which he used to transport their disabled son.
20 The van had been parked for some time and was then in the custody of another mechanic
21 in Bodden Town who had been unable to fix it.

- 22
23 8. The defendant collected the van from the other mechanic. Over the period of time the
24 defendant advised the victims that he was working on it, that it needed various parts and
25 that he was able to start it.

- 26
27 9. Shortly after collecting the van, the defendant called the victim and informed him that
28 the van needed a new battery. The victim purchased this and gave it to the defendant for
29 use in the van. Thereafter the defendant in response to the victim's request for an update
30 said that he had checked and there was nothing wrong with the wiring for the van. The

1 defendant said that he believed that the van which was still not starting at that time needed
2 a new key fob.

3
4 10. On the 5th of December 2020, Mrs. Rivers transferred to the defendant the sum of
5 US\$560.00 (five hundred and sixty USD) for the purchase of the key fob for the vehicle.
6 A few days later, the defendant informed the victim that he received the key fob and the
7 van could now be started. This is the subject of Count 2 of the Indictment.

8
9 11. The defendant did not return the vehicle to the victim at that time. Shortly after this he
10 told the victim that there were other issues with the vehicle. It needed an oil pump and
11 other parts.

12
13 12. On the 14th January 2021, Mrs. Rivers transferred US\$631.00 (six hundred and thirty-
14 one USD) to the defendant for the labour and repair of the van as per the defendant's
15 instructions. This is the subject of Count 3 of the Indictment.

16
17 13. Mr. Rivers called the defendant several times to get an update on the progress of the
18 repairs on the van, but the calls went unanswered for several weeks. Over the following
19 months, when the victim was able to contact the defendant, the defendant made several
20 promises to the victim as to when the van would be ready, but he did not deliver the van.

21
22 14. The victim then decided to visit the defendant's residence in East End to look for the
23 defendant and the van. The defendant was not there, neither was the van. By phone the
24 defendant told the victim that he had tried to drive the van into George Town but there
25 were issues with the transmission, and he had to leave the van at a friend's place in the
26 Windsor Park area.





- 1 15. The victim insisted that he needed to see the van that day and asked for the address in
2 Windsor Park where it was parked. The victim's evidence at trial was that he drove all
3 round Windsor Park and there was no sign of the van.
4
- 5 16. On the 22nd July 2021, the defendant told the victim that the reason that he did not want
6 the victim to see the van was that someone had broken into it and stolen the radio and the
7 battery.
8
- 9 17. A few days later, on 26th July 2021, the victim and his wife went to the West Bay Police
10 Station and reported the matter to the police.
11
- 12 18. The police contacted the defendant and insisted that he return the vehicle, and the parts
13 purchased for the vehicle. On 27th July 2021, the defendant returned the van to the victim,
14 but it was in poor condition. It was missing the battery, the specialised radio with built-
15 in navigation system, and the windshield wipers. The front tyres had been changed for
16 second-hand tyres.
17
- 18 19. On 4th August 2021, the defendant went to the West Bay Police Station and handed over
19 a car battery and the two keys for both vehicles: the truck and the van that he had taken
20 to his house to repair.
21
- 22 20. Over the next few months, the defendant was contacted by the police to attend the Police
23 Station in an attempt to resolve the matter. The defendant agreed with the police that he
24 would attend the Police Station, but he did not. Officers made several calls to the
25 defendant, but they were not answered.
26
- 27 21. On the 14th October 2023, the defendant was arrested and interviewed. In the interview
28 he pledged to give the victims their money back and to present the receipts to the police
29 to prove that he had used the money to purchase the parts to repair the vehicles. The
30 defendant did not reimburse the victims. He did not provide the receipts to the police. At

1 trial he indicated that he was aware of the need to provide the receipts and had decided
2 not to do so.



3
4 **VICTIM IMPACT REPORTS**
5

6 22. The Department of Community Rehabilitation (“DCR”) has provided a Victim Impact
7 Report dated 25th June 2024 (“VIR”). This has two victim impact statements attached.
8 Both are dated 24th June 2024.
9

10 23. Mr. and Mrs. Rivers in a joint statement say that they are burdened by the weight of
11 betrayal and injustice inflicted upon their family by the defendant. They say that their
12 journey with the defendant began with hope that he would restore functionality to their
13 son’s vehicle. The vehicle which had been undrivable for years is a lifeline to their son’s
14 independence. The defendant had been recommended to them as a mechanic who could
15 fix challenging vehicles. Instead of doing so the defendant left them with a vehicle in a
16 worse state than it had been.
17

18 24. They speak of the hopelessness and despair which deepened in their son Branden, how
19 he would nag them for daily updates about the van, as he was eager to return to a
20 semblance of normalcy.
21

22 25. They say: -
23

24 *“Royley Russell’s continued placations and promises of returning the vehicle in a*
25 *restored state, accompanied by his detailed accounts of what he had fixed and ever-*
26 *moving timelines ended up being nothing more than a cruel joke played on a family*
27 *that has already endured countless cruelties and disappointments.”*
28

29 26. They speak of the devastation of their son when the vehicle was returned, and he realised
30 that all the months of updates had been filled with lies. They say that they are haunted by

1 the knowledge that their trust was placed in someone who deceived them and they blame
2 themselves for failing to see the facade of false promises and empty assurances. The hope
3 that the defendant had given to them over many months resulted in a further level
4 depression and despair for them all.

5
6 27. Additionally, they say that the future repair of the vehicle is made more difficult because
7 of the removal from the vehicle of the radio and navigation system which is now a
8 discontinued item.

9
10 28. In his victim impact statement, Branden Rivers details the importance of the van to him.
11 It is needed for his independence, medical appointments, therapy sessions and daily life.
12 The van had been undriveable for a few years due to issues which no one had been able
13 to figure out. He had hoped that the defendant was the person to fix the van and had been
14 thinking about having his van back again. He was happy about this. As time went on and
15 they kept getting excuses about the return of the van, he began to become worried and
16 anxious. When the van was returned in a worse condition, he felt betrayed, helpless and
17 very anxious.

18
19 29. The worst part for him was that his hopes had been kindled. He describes the atmosphere
20 in the home as being a miserable time. There was frustration from him toward his parents.
21 He did not realise that it was the fault of the mechanic and not of his parents to seek
22 updates about the repair of the van.

23
24 30. The Probation Officer concludes that the greatest impact of the offending was on Branden
25 Rivers.

26
27 **ANTECEDENT HISTORY**

28
29 31. The defendant has no previous convictions except for minor traffic offences and is a
30 person of good character.





1 **SOCIAL INQUIRY REPORT**

2
3 32. The DCR has provided a Social Inquiry Report dated 8th July 2024, (“SIR”). The Court
4 has read this Report in its entirety and takes into account everything said therein in favour
5 of the defendant. The defendant is forty five years old. He is married since 2011. His
6 wife is gainfully employed. He has five biological children and three stepchildren. Six of
7 the children reside with him in rented accommodation.

8
9 33. The defendant described a normal childhood with no significant or traumatic events.
10 There were economic challenges for the family which led to him leaving school at the
11 age of fifteen years and entering the work force as an apprentice mechanic. He worked
12 in this position for about seven years. In 2004 he relocated from his home country
13 Jamaica to the Cayman Islands. At first, he lived and worked in Cayman Brac for about
14 three years. Thereafter he relocated to Grand Cayman. In 2008 he established his own
15 business, First Choice Mobile Mechanics. He also opted to find additional formal
16 employment due to the uncertainty of his own business. For over twenty years he has
17 been employed to various companies as a heavy equipment operator and mechanic. He
18 is presently employed to a company in this capacity. His earnings and expenses are
19 detailed in the SIR¹.

20
21 34. He advised the Probation Officer that he was diagnosed with a severe condition in 2023
22 for which he has to travel overseas for medical treatment. He describes his condition as
23 improving and as requiring less medication.

24
25 35. One community contact describes the defendant as a very reliable, consistent and hard
26 worker who is very good at the mechanic work which he does. The defendant is said to
27 be a honest and outstanding member of society.

¹ Page 4 of the SIR
240822 R v Royley Anthony Russell: Ind. 75 of 2023. Coram Richards J, KC – Sentence Judgment

1 36. The defendant expressed to the Officer his willingness to pay compensation of \$1,600.00
2 and to pay for the stolen radio but said that he believes that it would be unfair for him to
3 pay for anything else.

4
5 37. The defendant's overall risk of re-offending was assessed as low with no criminogenic
6 factors in the Very High or High categories.

7
8 38. The Officer notes that the defendant appears to minimise his role in relation to the offence
9 and there is thus little victim empathy towards the victims despite his willingness to
10 return the monies paid to him.

11
12 **SENTENCING GUIDELINES**



13
14 39. In the absence of offence specific guidelines in the Cayman Islands, both Counsel for the
15 prosecution and for the defence referred the Court to the *United Kingdom Sentencing*
16 *Council Guidelines* for the offence of fraud. Under these *Guidelines*, culpability is
17 determined by factors in three categories as follows: -

18
19 **“A – High culpability**

20
21 A leading role where offending is part of a group activity.

22 Involvement of others through pressure, influence.

23 Abuse of position of power or trust or responsibility.

24 Sophisticated nature of offence/significant planning.

25 Fraudulent activity conducted over sustained period of time.

26 Large number of victims.

27 Deliberately targeting victim on basis of vulnerability.



1 **B – Medium culpability**

2
3 Other cases where characteristics for categories A or C are not present.

4 A significant role where offending is part of a group activity.

5
6 **C – Lesser culpability**

7
8 Involved through coercion, intimidation or exploitation.

9 Not motivated by personal gain.

10 Peripheral role in organised fraud.

11 Opportunistic ‘one-off’ offence; very little or no planning.

12 Limited awareness or understanding of the extent of fraudulent activity.”

13
14 40. The *Guidelines* provide that harm is initially determined by actual intended or risked
15 financial loss. In addition, the Court should then “take into account the level of harm
16 caused to the victim(s) or others to determine whether it warrants the sentence being
17 moved up to the corresponding point in the next category or further up the range of the
18 initial category.”

19
20 41. Victim impact is demonstrated by one or more of the following: -

21
22 “High impact – move up a category; if in category 1 move up the range if there is
23 serious detrimental effect on the victim whether financial or otherwise, for
24 example, substantial damage to credit rating.

25
26 Victim particularly vulnerable (due to factors including but not limited to their
27 age, financial circumstances, mental capacity).



1 Medium impact – move upwards within the category range.
2 Considerable detrimental effect on the victim whether financial or otherwise.

3
4 Lesser impact – no adjustment.

5 Some detrimental impact on victim, whether financial or otherwise.”

- 6
7 42. Category 5 Harm is the lowest financial category where the financial loss is less than
8 GBP 5,000.00. The starting point for this category is based on GBP 2,500.00.

9
10 **THE SUBMISSIONS**

- 11
12 43. The prosecution submits that the facts in the instant case demonstrate intentional acts by
13 the defendant to ‘string along’ the victims into believing that he was actually doing the
14 work when in fact he was not. The victims placed their faith and trust in him to carry out
15 work on their vehicles. The defendant did not respect that trust and did not carry out the
16 duties which he had agreed to do. It is submitted that this offending is at the level of
17 Medium Culpability B for the following reasons:

- 18
19 i. Sole activity with all responsibility for the crime;
20 ii. Abuse of trust in a contractual relationship; and
21 iii. Deception carried on for a lengthy period of time.

- 22
23 44. The prosecution submits that the harm is the total of the monies taken as charged in the
24 Indictment of CI\$1,504.80 and the cost to repair the damage caused to the vehicle to
25 include the wipers, tyres, radio and navigation system estimated to be \$2,266.00.

- 26
27 45. Counsel submits that given the serious emotional harm impact which the conduct had on
28 the family the harm should be moved up a category from Category 5 to Category 4.



- 1 46. An offence of Medium Culpability B and level 4 Harm has a starting point of 26 weeks
2 custody with a range of sentence of medium level community order to 1 year custody.
3
- 4 47. Defence Counsel does not agree with the prosecution and submits that this is a lesser
5 Culpability C offence. Counsel submits that there is no breach of trust based on contract.
6 There was no fiduciary relationship and no defined terms of contract. The length of time
7 over which the offending occurred has to be considered in light of the fact that the
8 defendant would have started repairs only in January 2021 after receiving the funds in
9 December 2020. The vehicle had been parked for some two years before that. The
10 defendant had been given an unenviable task and had not been provided with the full
11 details of the problems with the vehicle. No timeline had been set or agreed over which
12 the repairs were to be done. The defendant was otherwise employed, and the victims were
13 aware of this. He could only work on the vehicle after work hours.
14
- 15 48. Counsel said that at best this offending was a one-off opportunistic offence with little or
16 no planning and that it is very hard to see the personal gain that the defendant had from
17 this offending.
18
- 19 49. As to Harm, it is submitted by the defence that the evidence at trial was equivocal as to
20 whether there were missing items such as wiper blades and two tyres. It is said that Mrs.
21 Rivers had accepted that these items could have been damaged or worn out over the
22 period of time that the vehicle had been parked. The defence submission is that the actual
23 value is the amount paid over and to this should be added the smaller quoted replacement
24 price of \$500.00 for the radio navigation system. The higher quoted replacement price
25 for the system is \$1,700.00.
26
- 27 50. Counsel argues that the circumstances do not justify an increase in the category. It is
28 submitted that there is no emotional harm in circumstances where the van had been
29 uninsured since 2018 and previous attempts to have it fixed had been unsuccessful.

1 51. Counsel’s submission is that this offending should not attract a custodial sentence and is
2 a category 5 C offence with a starting point of a Band B fine and range of sentence from
3 a discharge to a low-level community order.



4
5 **AGGRAVATING FACTORS**
6

7 52. The prosecution submits that two aggravating factors are present in this case: -
8

9 i) Detrimental impact on victims from loss of funds and emotional harm from the effect
10 on the victim’s disabled son.

11 ii) Vulnerability as it pertains to the victim’s son’s need for use of the vehicle.
12

13 53. Counsel submits that taking into account the aggravating factors a short custodial
14 sentence of between 9 to 18 months imprisonment is merited in this case.
15

16 54. The defence submit that the impact on the victims should be limited to the loss of funds
17 and not to any emotional harm and that in any event the impact should be limited to the
18 parents and not extend to the son. Counsel said that the son could not have lost what was
19 not available to him and that this was a *“last ditch attempt to fix an otherwise dead*
20 *vehicle”*.
21

22 **SUBMISSIONS IN MITIGATION**
23

24 55. Defence Counsel asks the Court to take into account the fact that the defendant has no
25 relevant previous convictions and is of good character. He is sick and requires constant
26 medical care for which he has to leave the country for treatment. He is the primary care
27 giver for his elderly mother and for his children. Four of these children are still in school,
28 ages eighteen, fifteen, ten and eight years old.
29

1 56. Counsel said that the defendant has in fact been remorseful. He has sought to repay what
2 was given to him and only contested the repayment when he was asked to pay more than
3 this. He is still willing to compensate the victim the amount which had been paid to him
4 and the amount for the radio in the total sum of \$2,080.00.
5

6 57. Defence Counsel relies on and draws the Courts' attention to an article entitled *Victim*
7 *Personal Statements and Sentencing*² wherein it is stated that the opinion of the victim
8 should be irrelevant to sentencing.
9



10 **THE SENTENCE**
11

12 58. There are factors present in this offending which fall outside of the category of Lesser
13 Culpability. It is difficult to accept that this was an opportunistic one-off offence as the
14 defence suggest or that the defendant was not motivated by financial gain. The defendant
15 had the use of the funds of the victims for many months which funds as the jury found
16 were not in fact used for the repair of the vehicles.
17

18 59. Defence Counsel submits that the defendant only had the van for a limited time. The
19 Court's view is that this was sustained activity of deception. It continued over several
20 months. The fact that the van had been with other mechanics previously cannot negate
21 the fact that the defendant had it for more than six months. This is an extended period of
22 time. This was a period during which the defendant repeatedly gave the impression in
23 messages that the van was being repaired and was in a drivable condition when it was
24 not. From the messages and other evidence at trial, the defendant clearly had a full
25 understanding of the extent of the deceptive activity.
26
27

² Doughty Street Human Rights Comment and Analysis, Articles [2000] HRD (A) 3

1 60. This is a case in which the culpability falls between the factors as described in categories
2 A and C.

3
4 61. The *Cayman Islands Sentencing Guidelines 2015* provide that a Court may consider
5 any victim impact statement in assessing the actual harm in each case. In this case while
6 disregarding views and opinions expressed as to possible sentence as well as unproven
7 assertions unrelated to this offending, it is plain from the statements that the entire family
8 was significantly affected emotionally by the deception which had occurred.

9
10 62. The evidence at trial was that the defendant was told repeatedly that the van was for their
11 son who was disabled and was required for his use. The defendant knew this. The impact
12 of his deception affected not only the parents but their son. Even if their son is excluded
13 as a victim as defence Counsel suggests, the Court's conclusion would be the same. The
14 impact on the parents of the offending has to be assessed based on their particular
15 circumstances, which included the needs of their disabled child and the emotional strain
16 on them caused by these circumstances and the actions of the defendant. This was evident
17 from their oral evidence during the trial and the state of both of them as they recounted
18 what had occurred.

19
20 63. Defence Counsel repeatedly stressed the fact that the van had been in a state of disrepair
21 for years. It may be that Counsel seeks by this to suggest that the impact of the offence
22 has to be lessened.

23
24 64. Some of the messages tendered at trial evidence the cruel nature of the defendant's
25 conduct and the serious harm which was caused: -

26
27 7th April 2021 10:10:06AM Chelsea Rivers to defendant - Hey Russell were you
28 saying you would have the car ready today?

29
30 7th April 2021, 11:27:52AM yes, I will





1
2 13th April 2021- 6:13:04AM Chelsea Rivers - Good morning, Russell, I'm
3 becoming very concerned that we have not received the van and keep on getting
4 excuses for the delays. Please send me a video and let me know urgently when it
5 will be returned. We have been waiting months and are desperate for it as our
6 disabled son is struggling to get where he needs to go without it ...

7
8 13th April 2021 6:16:09AM I get it to u tomorrow.

9 13th April 2021 6:16:28AM Chelsea Rivers, But is it working

10
11 13th April 2021 6:16: 48AM And I send u a video today

12 17th July 2021 7:04:47AM u have the car this afternoon thanks

13
14 21 July 2021: 2:22PM I think I have a video here with it driving

15
16 65. As Mr. Rivers said with some emotion in the course of his evidence, why did the
17 defendant give the impression that the vehicle was fixed and drivable and “why did he
18 not just tell us that he could not fix it”.

19
20 66. The defendant built up their hopes instead of being open and honest with them.

21
22 67. The conclusion is that while the initial starting point for the harm caused is at the lowest
23 level Category 5, there is a level of emotional harm caused to the victims in this case
24 which in the Court’s view warrants the offending being moved up a category from
25 Category 5 Harm to Category 4 Harm.

26
27 68. The Court’s view is that this is an offence of Medium Culpability B and Category 4
28 Harm. The starting point is 26 weeks custody.



1 69. From this starting point, the Court has considered the aggravating factors put forward by
2 the prosecution. However, these factors may already be reflected in the categorisation of
3 the offending. The Harm caused is increased because of the emotional harm from the
4 effect on the victim's disabled son and because of his vulnerability and need for use of
5 the vehicle. There must be caution in order to avoid double counting.

6
7 70. From the starting point no aggravating factors are taken into account.

8
9 71. In mitigation, the Court takes into account everything which was said and written in the
10 defendant's favour. He has no previous convictions and is of good character. He suffers
11 from a serious medical condition for which he requires on going medical care. He is the
12 primary care giver for his elderly mother and his children. There is some element of
13 remorse evidenced by his willingness to make some compensation. He is at low risk of
14 re-offending.

15
16 72. All the factors taken together serve to reduce the sentence by 6 weeks to one of 20 weeks
17 imprisonment.

18
19 73. This was offending over a significant period which caused much harm to the victims. It
20 is of a serious nature such that the custody threshold is firmly passed. The proposed
21 sentence is proportionate to the offending.

22
23 74. The *Alternative Sentencing Act* (2008 Revision) provides in s.4 (f) that a convicted
24 person should not be deprived of liberty if less restrictive sanctions may be appropriate
25 in the circumstances.

26
27 75. The defendant's personal circumstances include that he is of previously good character.
28 He has the care of his children and elderly mother and suffers from a major illness.
29 Significantly he is assessed by the Officer to be at low risk of re-offending. The totality
30 of his circumstances are such that a sentence of immediate custody is avoidable. The

1 primary aim of sentencing in this case must be restitution to the victims, deterrence and
2 punishment.

3
4 76. The sentence is thus 20 weeks imprisonment suspended for 2 years on each of the three
5 counts.



6
7 **CONCURRENT/CONSECUTIVE SENTENCES**

8
9 77. The three offences charged on the Indictment arise out of a related incident or facts. They
10 are a series of offences of the same or similar kind committed against the same victims.
11 It is appropriate that the sentences on each count run concurrently.

12
13 **ANCILLARY APPLICATIONS - COMPENSATION AND COSTS**

14
15 78. The prosecution applies for compensation of the victim in the total sum of \$3,770.80.
16 There is also an application for the costs of the prosecution in the sum of \$7,360.00.
17 However, Counsel accepts that costs must be secondary to the payment of compensation.

18
19 79. Defence Counsel submits that the defendant is willing to compensate the victim in the
20 amount which had been paid to him and the amount for the radio in the total sum of
21 \$2,080.00.

22
23 80. Defence Counsel submits that it is not just or reasonable to order costs where the
24 defendant was exercising his constitutional right to have a jury trial. Counsel submits that
25 if an order for compensation is made, there should be no order for costs. The defendant
26 is a father with children to support who had to be legally aided for this trial.

27
28 81. The Court notes that the finding of the Jury related to a total loss to the victims of CI
29 \$1,504.80. There were no specific findings as to the tyres, or windshield wipers. At trial,
30 the defendant accepted responsibility for the loss of the radio/navigation system. The

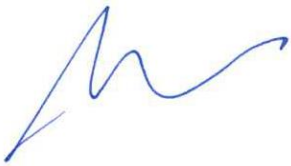
1 estimate which was produced of the replacement cost for this had a range of values. It is
2 not considered appropriate as defence Counsel suggests that the lower value be adopted.
3 This may well lead to the victims being out of pocket. The compensation is therefore
4 assessed using the higher replacement value of \$1,700.00 for a total of \$3,204.80.
5

6 82. The Court's order is that the defendant is to pay compensation through the Court Funds
7 Office of \$3,204.80 or 6 months imprisonment in default.
8

9 83. Upon the request of defence Counsel for time to pay, the defendant is given until 3pm
10 Friday the 23rd August 2024 to pay \$2,000.00 with the balance of \$1,204.80 to be paid
11 by 3pm on the 23rd September 2024.
12

13 84. Noting the level of the defendant's means as outlined in the SIR and the fact of the order
14 for compensation, costs are not awarded in this case.
15

16 **Dated this the 22nd August 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**