

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

4 **INDICTMENT NO: 33 of 2024**



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7
8 **R**

9
10 **V.**

11
12 **COREY ALEXEI DIAZ**
13
14

15 **Appearances:** **Mr. Scott Wainwright, Assistant Director, Office of the Director**
16 **of Public Prosecutions for the Prosecution**

17
18 **Mr. Jonathon Hughes of Samson Law for the Defence**
19

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

21
22 **Submissions Heard:** **2nd July 2024**

23
24 **Sentence Judgment:** **2nd July 2024**
25

26
27
28 ***Criminal Law - Sentencing – Possession of Unlicensed Firearms (Ammunition), Firearms Act***
29 ***(2008 Revision), Principles on Sentencing.***
30



SENTENCE JUDGMENT

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2
3 1. The defendant is before the Court for sentencing following his guilty plea to Count 1 of
4 the Indictment. This charges him with the offence of Possession of an Unlicensed Firearm
5 (Ammunition) contrary to s.15 (1) and (5) of the *Firearms Act* (2008 Revision). The
6 particulars are that he on or about the 8th day of March 2024, within the jurisdiction of
7 the Cayman Islands, had in his possession a firearm, namely fifteen (15) rounds of
8 ammunition which were not under and in accordance with the terms of a Firearm Users'
9 (Restricted) Licence.

10
11 2. The maximum penalty is 20 years imprisonment and a fine.

12
13 3. The defendant first appeared before the Grand Court on the 12th April 2024. He was
14 arraigned and entered the plea to Count 1 as aforesaid. Count 2 was not put. The plea is
15 acceptable to the prosecution. No evidence is offered on Count 2 of the Indictment which
16 charges him with Possession of Firearm (a magazine clip). A formal verdict of not guilty
17 is entered on this Count and the defendant is discharged thereon.

18 19 **THE FACTS**

20
21 4. The prosecution has provided a summary of facts which is set out below: -

- 22
23 i. At about 1:00pm on the 8th March 2024, police officers stopped a Kia motor
24 vehicle, registration 223 776, which was being driven by the defendant on
25 Shamrock Road. He was the only person in the vehicle.
26
27 ii. A black bag was recovered from the centre console within which was a plastic bag
28 containing fifteen (15) rounds of 9mm ammunition. There were also three (3)
29 rounds of .38 caliber ammunition.

- 1 iii. When asked about the ammunition, the defendant said, “*I found the black bag on*
2 *the beach.*” He was asked whether there were any other illegal items in the vehicle
3 and he stated “*One black extension was in the bag too*”.
- 4
- 5 iv. From under the front passenger seat a magazine clip was recovered and when asked
6 about this item he stated that he had found it, “*I told you, [you] found it*”.
- 7
- 8 v. A jar containing ganja was recovered from the centre console. An amount of cash,
9 \$2,950.00, was also recovered from the vehicle.
- 10
- 11 vi. When the defendant was arrested and taken to the Cayman Islands Detention
12 Centre, he was searched and a clear ziplock bag was recovered from his pants
13 pocket. The bag contained a further four Ziplock bags containing white powder
14 which has tested positive for cocaine.
- 15
- 16 vii. Two of the 9mm rounds were test-fired by police firearms examiner Anthony
17 Stewart. They discharged without issue. Mr. Stewart is of the opinion that the
18 rounds were viable and constitute ammunition for the purposes of the *Firearms Act*
19 in the Cayman Islands.
- 20
- 21 viii. The .38 caliber rounds were test-fired. All three failed to discharge. In the opinion
22 of Mr. Stewart those three rounds were not viable. Mr. Stewart examined the
23 magazine clip. He found it to be inoperable.
- 24
- 25 ix. The defendant was interviewed under caution in the presence of an Attorney on the
26 following day the 9th March 2024. He submitted a prepared statement which reads
27 as follows: -

28
29 *I, Corey Diaz, wish to say the following: -*



1 *I am a user of both ganja and cocaine, however I do not sell or supply either.*
2 *The cash found in the car was from a recent sale of my dirt bike to a guy called*
3 *Demari who works at NRA. This is all I know about him.*

4
5 *The ammunition and magazine that was found in my car was not mine. I found it*
6 *on the beach a little North of the Kimpton about 3 hours previously and I picked it*
7 *up because I was curious.*

8
9 *In hindsight this was a stupid thing to do, and I should have just left it or called the*
10 *police.*

11
12 *This is all I have to say at this time. ...”.*



13
14 5. Costs in respect of this case are assessed at \$500.00 by the prosecution.

15
16 **ANTECEDENT HISTORY**

17
18 6. The defendant has no previous convictions recorded against him.

19
20 **SOCIAL INQUIRY REPORT**

21
22 7. The Department of Community Rehabilitation has provided a Social Inquiry Report
23 (“SIR”) dated 13th June 2024 in respect of the defendant. The Court has read this report
24 in its entirety and takes into account everything said therein in favour of the defendant.

25
26 8. The defendant is twenty-six years old and gainfully employed in his father’s construction
27 business for the past six years. He reports no childhood issues but says that he witnessed

1 instances of violence in the home. He completed high school and Level 1 studies at a
2 tertiary institution without incident.

3
4 9. There is some substance misuse from teenage years but the defendant reports that he
5 stopped this practice following his arrest for this offence in March 2024.

6
7 10. Two of his family members have faced serious illnesses and he has had to deal with this.
8 The best friend of the defendant was recently killed in a shooting incident. This is said to
9 have affected the defendant emotionally. He became withdrawn and fearful for his own
10 life as threats have also been made to him.

11
12 11. The defendant was assessed as being at medium risk of re-offending with only one of the
13 eight criminogenic factors in the High category. This is leisure/recreation based on his
14 problems with ganja and cocaine. The Officer notes that he appears to be involved in a
15 criminal drug sub-culture.

16
17 12. The defendant has been on bail for this offence and is reported to have been highly
18 compliant with the electronic monitoring programme.



19
20 **CHARACTER REFERENCES**

21
22 13. Two character references have been provided.¹ Both persons have known the defendant
23 for a significant period of time, in one case for more than twenty years. The defendant is
24 described as a helpful, well-mannered and respectful young man who is mature and has
25 good judgment. He is not one to get into trouble or break laws. He is said to be remorseful
26 and to recognise that he made a poor choice. He is also described as “saveable” and
27 desirous of rebuilding his life.

28

¹ Troy O. Claxton dated 11th May 2024 and Griscela Ebanks dated 28th May 2024.



1 **THE SUBMISSIONS**

2

3 14. Defence Counsel submits that many cases involving visitors to this Country have resulted
4 in non-custodial sentences and that given the basis for his plea which is not accepted but
5 not challenged by the prosecution, the defendant should not be treated any differently.
6 Counsel relies on the case of *R v David Meadors*² in which the defendant had two
7 hundred and forty rounds of ammunition and despite absconding back to the United
8 States and refusing to return to the Cayman Islands he received a financial penalty.

9

10 15. Counsel submits that the defendant now before the Court is a young man with potential.
11 He has gone through a difficult period of his life and would benefit from intervention.
12 This offending is a wakeup call for him. He is said to be genuinely remorseful. Counsel
13 submits that the defendant has successfully given up a drugs habit and shown himself
14 and the Court that he is someone capable of making positive change.

15

16 16. Counsel asked the Court to take the following pieces of personal mitigation into
17 consideration, the defendant's hitherto unblemished criminal record, his young age, his
18 strong family and employment background, the positive character references, recent
19 bereavement and two serious health diagnoses within his family in the recent past.

20

21 17. Counsel also asks the Court to consider that a sentence of immediate imprisonment could
22 do more harm than good in this particular case where the defendant has already spent a
23 week on remand before being granted bail. He has been on a restrictive 12-hour curfew
24 from 7:00am to 7:00pm. He has complied fully and there have been no issues. Counsel
25 urges that a suspended sentence, with or without a Supervision Order in tandem with any
26 other components the Court deems fit would be most appropriate in this case. Counsel
27 said that the defendant is willing and will comply with any financial penalties which the
28 Court may seek to impose.

² Grand Court Unreported Judgment in Ind. 60 of 2017 dated 12th March 2021



1 **THE SENTENCE**

2
3 18. The Court is mindful of the principles set out in the case of *R. v. Avis*³. Although defined
4 as a firearm, the Court is here dealing with ammunition. There is no evidence as to any
5 use or intended use of the ammunition. There is no evidence that they were possessed
6 with any particular intention. The defendant has no record of committing firearm offences
7 or crimes of violence. He is a person with no previous convictions and is said to be of
8 good character.

9
10 19. Nevertheless, these were viable rounds in a significant quantity. The defendant on his
11 own account knowingly took possession of them and was driving around with them for
12 some three hours before he was stopped by the Police. He had ample time to report the
13 find to the Police or to dispose of them as he said he wanted to do. He did neither of the
14 two.

15
16 20. In the view of this Court this offending is serious and passes the custody threshold.
17 Although the mandatory minimum does not apply, the legislature by the level of penalties
18 imposed for these offences plainly stresses the seriousness with which the possession of
19 firearms, in this case, ammunition is to be regarded.

20
21 21. Defence Counsel relies on the case of *Meadors* where the circumstances were somewhat
22 different. That defendant had a firearm license albeit in the United States of America.
23 This defendant has no license. He is on Island and is subject to incarceration and or the
24 appropriate oversight. The aims of sentencing in this case must be deterrence, punishment
25 and rehabilitation. The defendant and other like-minded individuals must be deterred
26 from possessing firearms and ammunition.

27

³ 1998 1 Cr. App. R 420

1 22. Noting the nature of the offending the Court adopts a starting point at the lower level of
2 30 months imprisonment.

3
4 23. In mitigation, account is taken of everything which has been written and said in the
5 defendant's favour including all that was urged by his Counsel. These include: -

- 6
7 i. The defendant has no previous criminal history and is of good character.
8 ii. His remorse.
9 iii. His level of maturity for his age.
10 iv. His strong family and employment background.
11 v. The positive character references.
12 vi. Recent bereavement.
13 vii. Two serious health diagnoses within his family in the recent past.



14
15 24. All taken together these serve to reduce the sentence by 9 months to 21 months
16 imprisonment.

17
18 25. The defendant is afforded the full one third credit for his guilty plea. This reduces his
19 sentence by 7 months to 14 months imprisonment.

20
21 26. The Court notes his personal circumstances including that he is of medium risk of re-
22 offending and considers that a sentence of immediate custody is avoidable. The sentence
23 of 14 months is therefore suspended for two years.

24
25 27. Pursuant to s.21 of the *Alternative Sentencing Act* (2008 Revision), a Supervision Order
26 is made. The defendant is therefore placed under the supervision of a Probation Officer
27 for the period of two years while the sentence is suspended.

28

1 28. The Officer has indicated in the SIR that the conditions which will be imposed on him
2 will include:-

- 3
- 4 • Random drug testing.
- 5 • Assessment and engagement with treatment at the Counselling Centre.
- 6 • Completion of other recommended programmes.
- 7

8 29. In addition, pursuant to s.42 of the *Penal Code* (2024 Revision), the defendant is to
9 undertake 240 hours of community service under the direction of the Probation Officer,
10 and he is to complete this within one year.

11

12 30. In each case the consequences of any breach are explained to the defendant.

13

14 **COSTS**

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16 31. The defendant is to pay costs of \$500.00 or 4-months imprisonment. Time to pay is given
17 until Tuesday 9th July 2024 at 3:00pm.

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19 **ANCILLARY ORDERS**

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21 32. The magazine and ammunition are ordered forfeited to the Crown to be destroyed.

22

23 **Dated this the 2nd July 2024**

24 

25 **The Hon. Justice Cheryll Richards KC**
26 **Judge of the Grand Court**