



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

4 **INDICTMENT NO: 34 + 93 of 2022 and 43 of 2022**
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8 **R**
9

10 **V.**
11

12 **JUSTIN KYLE JACKSON**

13 **AND**

14 **ERIC WILLIAMS-SOTO**
15
16

17 **Appearances:** **Ms. Candia James-Malcolm, Deputy Director, and Ms. Hema**
18 **Soondarsingh, Crown Counsel, Office of the Director of Public**
19 **Prosecutions for the Prosecution**
20

21 **Mrs. Sallie Bennett-Jenkins KC and Ms. Amelia Fosuhene for**
22 **the Defendant Jackson**
23

24 **Mr. Charles Miskin KC and Mr. Keith Myers for the**
25 **Defendant Williams-Soto**
26

27 **Before:** **The Hon. Justice Cheryll Richards KC**
28

29 **Submissions Heard:** **20th March 2024 and 18th April 2024**
30

31 **Sentence Judgment:** **19th April 2024**
32
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34 ***Criminal Law - Sentencing - Manslaughter contrary to Section 180 of the Penal Code (2021***
35 ***Revision), Cayman Islands Sentencing Guidelines, Possession of Unlicensed Firearm contrary to***
36 ***s.15 of the Firearms Act (2008 Revision).***



SENTENCE JUDGMENT

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4 1. The defendants Justin Kyle Jackson and Eric Williams-Soto are before the Court for
5 sentencing on the joint Indictment 34 and 93/2022. They were convicted after trial by
6 jury of the offences of Manslaughter and Possession of an Unlicensed Firearm.
7
- 8 2. **Count One** of the Indictment charged the offence of Murder contrary to s.181 of the
9 **Penal Code** (2021 Revision). The Jury convicted of the alternative offence of
10 Manslaughter contrary to s.180 of the **Penal Code**. The defendants therefore fall to be
11 sentenced for the unlawful killing of Harry Elliott Jr. on the 25th April 2022 at 190 School
12 Road in George Town.
- 13
14 3. The maximum penalty for the offence of Manslaughter is life imprisonment.
- 15
16 4. **Count Two** charges the defendants with the offence of Possession of an Unlicensed
17 Firearm at the said date and place contrary to s.15 (1) and (5) of the **Firearms Act** (2008
18 Revision). The maximum penalty for this offence is twenty years imprisonment and a
19 fine.
- 20
21 5. By s. 39 of the **Firearms Act** in respect of a machine gun, sub-machine gun, rifle, shot
22 gun, pistol, or any lethal barreled weapon from which any shot, bullet or other missile
23 can be discharged there is a minimum sentence on conviction after trial of 10 years
24 imprisonment and 7 years on a guilty plea. The minimum sentence may not be imposed
25 where the court is of the opinion that there are exceptional circumstances relating to the
26 offence or to the offender which justify it's not doing so.
- 27
28 6. The defendant Justin Jackson also appears for sentencing on Indictment 43/22 for two
29 offences of Possession of an Unlicensed Firearm contrary to s.15 (1) and (5) of the
30 **Firearms Act** (2008 Revision).
- 31
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1 7. **The particulars of Count One** are that he on or before the 29th day of April 2022 in the
2 Cayman Islands had in his possession a firearm, namely a Taurus 9mm semi-automatic
3 pistol which was not under and in accordance with the terms of a Firearm Users
4 (Restricted) Licence.

5
6 8. **Count Two of that Indictment** charges him with Possession of an Unlicensed Firearm
7 (Ammunition) contrary to s.15 (1) and (5) of the *Firearms Act* (2008 Revision).

8
9 9. The particulars are that he on or before the 29th day of April 2022 in the Cayman Islands
10 had in his possession a firearm (ammunition), namely nine rounds of 9mm ammunition
11 which was not under and in accordance with the terms of a Firearm Users (Restricted)
12 Licence.

13
14 10. The defendant entered pleas of guilty to these two offences on the 27th May 2022. This
15 was the first mention date, and it is accepted that he pleaded at the first reasonable
16 opportunity.

17
18 **INDICTMENT 34 AND 93/2022 – MANSLAUGHTER AND POSSESSION OF UNLICENSED FIREARM**

19 **THE FACTS**

20
21 11. The brief facts on the joint Indictment are these. At about 8pm on the evening of the 25th
22 April 2022, the two defendants went to rob a betting or numbers shop situated at 190
23 School Road in George Town. This gambling activity is illegal in the Cayman Islands.
24 The deceased was a customer who was present at the shop at the material time. He was
25 about to leave. The door which was operated by a buzzer was opened for him by the
26 operator of the shop, Mr. Keron Cupid. The defendants were entering the shop at the
27 time. The defendant Jackson was in front. He was unmasked. The defendant Williams-
28 Soto was behind him and was masked. The defendant Jackson was seen by a witness to
29 reach for his waist. He pulled out a firearm and according to the witness, he was heard to
30 select a shot in the firearm and the firearm discharged. Mr. Elliot, who was in close
31 proximity to the door was shot to the head. He received an injury from which he died.



1 12. Closed Circuit Television (“CCTV”) footage showed that the vehicle in which the men
2 went to the scene had driven past the location that evening on three occasions prior to the
3 incident. After the incident, the men left the scene on foot. They re-entered the vehicle
4 which was tracked by means of CCTV camera footage to Kesington Close in the George
5 Town Area. There they alighted and both men were seen wiping down the vehicle. They
6 were together with a third man identified as Caine Thomas.

7
8 **VICTIM IMPACT REPORT**
9

10 13. The Department of Community Rehabilitation (“DCR”) has provided a Victim Impact
11 Report dated 12th January 2024, (“VIR”). Statements are attached to the VIR from
12 members of the family of Mr. Elliott Jr. In summary these speak to the lifelong impact
13 that his death has caused.

14
15 14. The victim’s father died one week after the victim. After being told of his son’s death, he
16 suffered a heart attack from which he did not recover.

17
18 15. The victims’ wife details the feelings of sadness, heartbreak and devastation felt on
19 hearing the news. The deceased is described as a hardworking law-abiding citizen who
20 served in the public service as a prison officer for thirty-six years. He had retired and was
21 just beginning to enjoy his retirement.

22
23 16. His sisters and brothers speak of their brokenness and the impact on their family of the
24 loss. His mother speaks of losing her beloved son and the loss of her husband which
25 followed thereafter. She states that she is haunted by what has happened to her son and
26 is grief stricken. His daughter speaks of his mentorship of young people, his daily care
27 for his mother and father and his care for those he loved. She states: -

28
29 *“My family and his grandkids will never understand why you did what you did, but*
30 *we want you to know that it HURTS ... so much. No one should have to lose a loved*
31 *one in such a way. So instant! And without the chance to say goodbye. My family*



1 *and his friends miss Junior dearly every day. What you did was wrong, and the*
2 *court will recommend the best penalty to match your crime. I cannot control that.*
3 *What I can control is my feelings. I am upset that I can no longer hug, speak to,*
4 *share memories, seek his advice, enjoy his company and laughter, and physically*
5 *see his grandchildren grow up. But spiritually, he lives on, always present,*
6 *watching, guiding and in our hearts forever.*

7
8 *I do not HATE you. I hope you take this opportunity of life to reflect on your life,*
9 *the crime that you committed, and the hurt you caused so many people. I sincerely*
10 *hope that you make changes to your life, atone for your crime, and someday become*
11 *a contributing member of society. My father did not meet his last grandchild;*
12 *however, you may have kids and grandkids eventually. I hope that you think of my*
13 *late father “Harry Wentworth Elliott Jr.” and cherish the opportunities he did not*
14 *have.”¹*

15
16 **ANTECEDENT HISTORY - JUSTIN KYLE JACKSON**

- 17
18 17. The defendant Jackson has two previous convictions. One is for an offence of Wounding
19 with Intent for which he was sentenced to 6 and ½ years imprisonment on the 22nd
20 February 2017.

21
22 **SOCIAL INQUIRY REPORT - JUSTIN KYLE JACKSON**

- 23
24 18. The DCR has provided a Social Inquiry Report (“SIR”) in respect of the defendant
25 Jackson dated 11th January 2024. The Court has read this in its entirety and takes into
26 account everything said therein in favour of the defendant although all of the SIR is not
27 set out herein.

28

¹ Victim Impact Statement dated 9th January 2024

- 1 19. The defendant is twenty-five years old with one child, a daughter who is resident
2 overseas. She is ten years old.
3
- 4 20. The SIR describes a troubled childhood in which there was a broken home. The defendant
5 witnessed domestic violence and got into fights at school. Attempts to resettle overseas
6 with one parent led to association with pro-criminal peers, arrests and placement in youth
7 rehabilitation institutions. There was gang involvement and some handling of guns.
8
- 9 21. Upon his return to the Cayman Islands the defendant's behaviour continued to deteriorate
10 and at age eighteen he was convicted and sentenced as referenced above. The Probation
11 Officer notes that the sentence is still active due to conditional release breaches.
12
- 13 22. In December 2021, the defendant was the victim of a wounding where he received
14 injuries to his eye. He has made a full recovery from this. However, according to the SIR
15 this marked a further decline in his behaviour. His employment history is not extensive
16 due to incarceration and limited work opportunities because of his immigration status.
17 While in custody he has held some employment in the Prison.
18
- 19 23. The defendant reported that outside of Prison he had no legitimate source of income and
20 would earn a living from fishing and by "extorting money from persons who sold
21 numbers". This was on the basis that he would not be reported because the actions of
22 those persons were also illegal. He would make \$1,000.00 per week doing this.
23
- 24 24. There is a history of substance abuse on a daily basis. There is a report of emotional
25 issues which began while the defendant was overseas. Page 6 of the SIR details this as
26 well as the assistance of the Counselling service at the Prison and the start of a plan to
27 assist him in this regard. A psychological report recorded the need for increasing his skills
28 to cope with stress, anger and other negative emotional states as well as triggers for
29 aggression/violence and substance misuse.
30



1 25. The Officer states that given his past history, the current matters before the Court
2 evidence a further escalation in pro-criminal thinking and behaviours. He has a history
3 of non-compliance while in custody and with rehabilitative orders. This is in respect of
4 his previous sentence and since being on remand. There have been reports of assaults in
5 the Prison.

6
7 26. The defendant expressed remorse for what he did and said that he wants to apologise to
8 the family of Mr. Elliott for putting them through this. The Officer states that the
9 defendant has accepted responsibility for his actions and that: -

10
11 *“Whilst Mr. Jackson maintained the offence was a “mistake” and he did not intend*
12 *for this outcome, his lifestyle is such that violent acts are commonplace, including*
13 *the loss of his friends through gun violence. His pro-criminal thinking, willingness*
14 *to use firearms, disregard for his licence conditions and general disregard for law*
15 *and order would suggest he is willing to utilize any means for his own gain, with no*
16 *regard for the impact on the direct victims and local community.”²*

17
18 27. The defendant was assessed as being at very high risk of re-offending with all eight of
19 the criminogenic factors in the Very High or High category. The Officer states that there
20 is evidence of antisocial behaviour dating back to his childhood and that he has continued
21 to demonstrate violent behaviours and disregard for any sanctions imposed including
22 license conditions and Prison regimen.

23
24 28. The Officer also states: -



25
26 *“Mr. Jackson is assessed as posing a very high risk of reoffending. His criminal*
27 *history demonstrates a pattern of violent behavior, escalating in seriousness, and*
28 *includes the use of weapons. It is therefore assessed that his actions have caused*
29 *long term physical and psychological harm to both direct and indirect victims. Mr.*

² Page 12 of the SIR

1 *Jackson has not been deterred by previous sanctions and failed to comply with*
2 *previous sentences. At this time, he has very few protective/stabilising factors. The*
3 *psychological report prepared in 2020 provides insight into Mr. Jackson’s*
4 *personality traits and the subsequent impact on his behaviour. The*
5 *recommendations made in that report remain valid and it is assessed that*
6 *rehabilitative treatment, intervention and therapy are critical to reducing risk and*
7 *reoffending and harm. Mr. Jackson’s continued incarceration will serve to protect*
8 *the public and punish his behaviour whilst providing access to rehabilitative*
9 *interventions.”*³



10
11 **ANTECEDENT HISTORY – ERIC WILLIAMS-SOTO**

12
13 29. The defendant Eric Williams-Soto has no previous convictions as an adult. The Probation
14 Office records are that on the 16th November 2018 the defendant received a one-year
15 Probation Order for offences of carrying an offensive weapon, possession of ganja,
16 consumption of ganja and cultivation of ganja. He successfully completed the Probation
17 Order, and no conviction was recorded against him.

18
19 **SOCIAL INQUIRY REPORT – ERIC WILLIAMS-SOTO**

20
21 30. The DCR has provided a SIR dated 26th February 2024 in respect of the defendant
22 Williams-Soto. The Court has read this in its entirety and takes into account everything
23 said therein in favour of the defendant although all of the SIR is not set out herein.

24
25 31. The defendant is twenty-two years old. There were no childhood issues. He graduated
26 from high school and attended the Further Education Center where he completed an
27 electrical course and the core subjects of Mathematics and English. He was employed
28 from age sixteen years with his father doing boat maintenance. He held two other jobs
29 before being arrested for these offences. He is described by the Probation Officer as

^{3 3} Page 15 of the SIR



1 having addiction issues given his use of ganja from an early age of sixteen years through
2 to a recent adjudication as a result of substance use while on remand.

3
4 32. Community contacts describe him as a quiet, reserved and introverted individual. It is
5 said that he is a person who lacks maturity and got caught up in the offence. It is also said
6 that he became involved in bad company some two years ago.

7
8 33. The defendant expressed remorse for his actions and stated to the Officer that he is sorry
9 and deeply regrets being involved. The Officer states her view that it appears that the
10 defendant minimised his part in the offence and placed a greater part of the blame on
11 others involved. The defendant's view is that he was being used. Nevertheless, he
12 accepted responsibility for making the decision to commit the offence of robbery.

13
14 34. His overall risk of re-offending was assessed as high due to a number of criminogenic
15 factors. It is said that he demonstrates an attitude supportive of crime but there appears
16 to be no pattern of generalised trouble. The Officer's recommendation is that while in
17 custody he would benefit from engaging with rehabilitative interventions available to
18 him as well as counselling services.

19
20 **CHARACTER REFERENCES**

21
22 35. The Court has been provided with two letters on behalf of the defendant Williams-Soto.
23 Both of these have been read in full and taken into account in favour of the defendant.

24
25 36. In a letter dated 20th March 2024, his parents, Jose and Boriquis Williams express the
26 sorrow and regret which they feel because of the "tragic mistake which has changed the
27 course of many lives".

28
29 37. They ask for mercy and consideration in the sentencing of the defendant. They say that
30 this incident is not reflective of the child they raised. They say that they have seen his
31 profound and genuine remorse and weight of guilt which he carries every day for his



1 actions and that he fully acknowledges the gravity of his mistake and the irreversible pain
2 it has caused. They urge the Court to accept that despite his actions he is at his core a
3 good person who has lost his way. They pledge to support him through his journey
4 towards rehabilitation and believe that with the right support he can become a positive
5 force in the community. They ask for a decision which offers hope and healing and a
6 second chance at life for him.

7
8 38. The defendant's sister in a letter dated 20th March 2024 states that the defendant's actions
9 do not define his entire character or his potential for rehabilitation and says that he is
10 genuinely remorseful for his actions, fully understanding the pain and suffering that they
11 have caused.

12
13 **SUBMISSIONS ON MANSLAUGHTER**

14
15 39. All Counsel referred the Court to the *Cayman Islands Sentencing Guidelines* for the
16 offence of Manslaughter by reason of an unlawful act. Under those *Guidelines*, High
17 Culpability is indicated by one of four factors. Three of these are: -

- 18
19 i. Death was caused in the course of an unlawful act which involved an intention
20 by the offender to cause harm falling just short of GBH.
21 ii. Death was caused in the course of an unlawful act which carried a high risk of
22 death or GBH which was or ought to have been obvious to the offender.
23 iii. Death was caused in the course of committing or escaping from a serious
24 offence in which the offender played more than a minor role.

25
26 40. The prosecution submits that this offending falls into the category of High Culpability. It
27 is submitted that death was caused in the course of an unlawful act which carried a high
28 risk of death or grievous bodily harm which was or ought to have been obvious to the
29 offender. It is also submitted that death was caused in the course of committing or
30 escaping from a serious offence in which the offender played more than a minor role.



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- 41. Counsel submits that the defendants were part of a joint enterprise to commit a robbery while one was armed with a loaded firearm. Although the defendant Williams-Soto was not armed he was there to play a crucial role to assist with the intended robbery through intimidation.
- 42. The submission is therefore that this is a Category 2 offence with a high level of harm and high culpability with a starting point of 12 years and range of sentence of 8 to 16 years custody.
- 43. Defence Counsel do not disagree with this submission. Mr. Miskin KC on behalf of the defendant Williams-Soto submitted that it is accepted that Manslaughter is always an offence with a high level of harm. Counsel submitted that by their verdict the jury found that the defendant Williams-Soto knowing that Jackson was armed with a loaded firearm, participated in the offence of Manslaughter by being a party to the use of the gun to scare or frighten people in the numbers shop in the course of the robbery.
- 44. Counsel submitted that the two high culpability factors set out by the prosecution are essentially the same and should not be added to each other. Counsel also said that when assessing the culpability of Mr. Williams-Soto, regard should be had to the fact that he did not have physical control of the gun and his actions did not contribute to the pulling of the trigger. The prosecution accepts in the case of Mr. Williams-Soto that he played a lesser role in the offending but it is not accepted that this is a minor role. The prosecution's submission is that he was a willing participant in the planned robbery.
- 45. The Court accepts the submission of all Counsel that this offending is one of a high-level degree of harm and high culpability. The starting point is thus 12 years imprisonment.



1 **AGGRAVATING FACTORS**

2
3 46. In respect of the defendant Jackson the prosecution submits that there are six aggravating
4 factors. Firstly, his previous conviction for the offence of Wounding with Intent and the
5 fact that he was on a conditional release license at the time of the instant offending.
6 Counsel also references the fact that he had been convicted on his own plea on Indictment
7 43/22 for Possession of an Unlicensed Firearm.

8
9 47. Counsel for the defendant Jackson, Mrs. Bennett-Jenkins KC does not disagree with the
10 submission as to his previous conviction for Wounding with Intent. Counsel said that it
11 is accepted that there was some planning and that this offence was committed whilst the
12 defendant was on license.

13
14 48. The prosecution also submits that there are five additional aggravating factors which
15 relate to both defendants: -

- 16
17 i. The use of weapons but avoiding double counting.
18 ii. The offence was committed in a public place.
19 iii. The offence was committed at night following unlawful entry into the premises.
20 iv. There was an attempt to conceal or dispose of evidence.
21 v. Death occurred in the context of an offence which was planned or premeditated.

22
23 49. Defence Counsel take issue with a number of these. Counsel for the defendant Jackson
24 submits that aside from the previous convictions for violence there are no significant
25 aggravating factors. It is submitted that the use of a weapon is accounted for by the
26 charge of Manslaughter. This was not a home invasion or an incident late at night.

27
28 50. Counsel for the defendant Williams-Soto submitted in summary that the aggravating
29 factors raised by the prosecution are either relatively minor or were already taken into
30 account in the culpability classification of the offence. It is submitted that the use of a
31 weapon, planning involving the use of a loaded weapon, and death occurring in the

1 context of an offence that was planned or premeditated are all reflected in the
2 classification of the offence.

- 3
4 51. Counsel submits that the attempt to conceal and dispose of evidence was fairly minor in
5 nature. It is argued that the fact that this took place in a public place does not particularly
6 aggravate the offence as it would for example, if the offence had taken place in a park
7 where children were present. This was not a nighttime robbery but one in the early hours
8 of the evening. While there was some planning, this was of the robbery and not of the
9 Manslaughter.



10
11 **SUBMISSIONS IN MITIGATION – DEFENDANT JUSTIN JACKSON**

- 12
13 52. In mitigation, Counsel for the defendant Jackson submitted that the Court should exercise
14 a degree of caution in forming a view as to the culpability of an offender who is
15 emotionally immature. Counsel points to the relative immaturity of Mr. Jackson despite
16 his chronological age of twenty-five years and the impact of others as “controller of him”
17 in relation to the offence. Reliance is placed on the information contained in the SIR as
18 setting out his developmental immaturity. Counsel asks the Court to note that his
19 education was disrupted, he was incarcerated from a young age, lacked emotional support
20 and has been experiencing depression for which he receives prescribed medication.

- 21
22 53. Counsel referred the Court to the case of *R v ZA*⁴ in relation to young offenders. The
23 English Court of Appeal therein stated: -

24
25 *“It has been recognised for some time that the brains of young people are still*
26 *developing up to the age of 25, particularly in the areas of the frontal cortex and*
27 *hippocampus. These areas are the seat of emotional control, restraint, awareness*
28 *of risk and the ability to appreciate the consequences of one's own and others'*
29 *actions; in short, the processes of thought engaged in by, and the hallmark of,*
30 *mature and responsible adults. It is also known that adverse childhood experiences,*

⁴ [2023] EWCA Crim 596



1 *educational difficulties and mental health issues negatively affect the development*
2 *of those adult thought processes. Accordingly very particular considerations apply*
3 *to sentencing children and young people who commit offences. It is categorically*
4 *wrong to set about the sentencing of children and young people as if they are "mini-*
5 *adults". An entirely different approach is required."*
6

7 54. As to specific mitigation, Counsel submitted that the issue of a possible plea to the
8 offence of Manslaughter had been raised but this was not accepted by the prosecution.
9 No plea was in fact entered by the defendant to this offence, but it is submitted that the
10 Court should take account of this initial offer.

11
12 55. Counsel submitted that issue is taken with the prosecutions' submission that the
13 defendant did not show remorse during his trial. Counsel states that they can attest to the
14 profound effect that this has had on him. He has ongoing and deep remorse. The
15 defendant knew the victim and regarded him with respect.

16
17 56. Counsel said that while duress is not suggested, the defendant maintains that there was
18 fear of and pressure from Caine Thomas. Mr. Thomas is said to have provided the weapon
19 which the defendant carried to the scene and to have accepted the return of it after the
20 incident. Counsel submitted that great pressure could be brought to bear because of the
21 defendant's age and vulnerability.

22
23 57. Counsel referred to the SIR noting that the defendant had very few stabilising features in
24 his life. Counsel submitted that a perfect storm was created in his life. He had his
25 education disrupted. His home situation was such that his mother fled the home leaving
26 him without her care for a number of years. He was forced to seek refuge in the home of
27 a family friend. The destabilisation continued when, having rejoined his mother overseas
28 he was exposed to gang culture and additional disruption. Counsel submitted that at no
29 stage has he had the necessary interventions to address some of the issues in his life such
30 as psychological or psychiatric services. While chronologically older than his co-
31 defendant he may in fact be less mature.



1
2 58. Counsel invited the Court to take the view that death was a wholly unintended
3 consequence and not to crush all hope for the defendant. Counsel submitted that there is
4 a realistic prospect of the defendant changing and developing once he is given the
5 necessary treatment, interventions and cognitive behaviour therapy.
6

7 **SUBMISSIONS IN MITIGATION – DEFENDANT ERIC WILLIAMS-SOTO**
8

9 59. In mitigation on behalf of the defendant Williams-Soto it is submitted that the defendant
10 should be treated as a person of effective good character given that having successfully
11 completed his Probation Order, no conviction was recorded against him. The prosecution
12 takes no issue with this.
13

14 60. Counsel submitted that the general impression from the SIR is of a young man keeping
15 bad company and lacking the skills needed to remain out of trouble. The defendant is
16 said to be remorseful and to be capable of rehabilitation. His youth and immaturity is
17 raised as a significant factor in mitigation. Counsel referred the Court to the England and
18 Wales ***Sentencing Council Guidelines for Sentencing Children and Young People***.
19 Paragraph 1 of those Guidelines sets out sentencing principles which a court must have
20 regard to when sentencing children or young people (i.e. those under age 18 at the date
21 of the finding of guilt). Paragraph 1.5 of those ***Guidelines*** states that the emotional and
22 developmental age of a young person is of equal importance to their chronological age if
23 not greater. Paragraph 4.5 in part reads: -
24

25 *“There is an expectation that in general a child or young person will be dealt with*
26 *less severely than an adult offender. In part this is because children and young*
27 *people are unlikely to have the same experience and capacity as an adult to*
28 *understand the effect of their actions on other people or to appreciate the pain and*
29 *distress caused and because a child or young person may be less able to resist*
30 *temptation especially when peer pressure is exerted. ...”*



1 **THE SENTENCE**

2
3 61. By their verdict the Jury found that there was no intent on the part of the defendants to
4 kill or cause grievous bodily harm. The Jury convicted the defendants of the lesser
5 offence of Manslaughter. In so finding, the Jury found that both were joint participants
6 in an unlawful act using a loaded firearm which carried with it a high risk of death.

7
8 62. The offending in this case was of the most serious kind, clearly and firmly passing the
9 custody threshold. This was the result of a robbery which had been planned with
10 deliberate steps taken to execute it. There was assessment of the location prior to the
11 material time. There was the wearing of a mask by one defendant with the other
12 remaining without a mask clearly part and parcel of the plan to ensure that entry was
13 gained to the premises. The getaway vehicle waited nearby for quick access to return to
14 Kesington Close where the vehicle was cleaned. There is no evidence that the gun used
15 in the killing has been recovered.

16
17 63. The high-risk attendant upon the carrying of a loaded firearm would have been obvious
18 to all reasonable persons. Pointing it in the direction of a small, crowded room even more
19 so. The harm which has been caused is irreparable. Families have lost a son, a father and
20 grandfather. The defendants' own families have been harmed by this wrong which has
21 occurred. It can be described as no less than a tragedy, but one which could have been
22 prevented had the defendants observed the rule of law.

23
24 64. In sentencing the Court has to seek to balance the aims of sentencing. Punishment and
25 deterrence must have primacy but there must also be a rehabilitative element to ensure
26 that these defendants do not continue to pose a risk to society.

27
28 65. The Court is mindful of their young age and developmental immaturity as urged by
29 Counsel and bears this in mind throughout the sentencing process.
30



- 1 66. In respect of the defendant Jackson, for the offence of Manslaughter the starting point is
2 12 years. His previous offending for a violent offence for which it is said that he was still
3 on license is a significant aggravating factor. Even allowing for his youth and
4 developmental issues it is deeply unfortunate that he did not thereafter, having been
5 convicted for this offence, seek to avoid bad company and remain out of trouble. The
6 SIR seems to suggest the very opposite, that extortion of money from numbers shops was
7 his weekly routine.
- 8
- 9 67. The previous offending serves to increase his sentence to 15 years imprisonment.
- 10
- 11 68. The Court considers that some aggravating factors are present. It is accepted that the use
12 of a weapon as an aggravating factor would likely amount to double counting. This is not
13 treated as an aggravating factor.
- 14
- 15 69. The offence was committed in a public place. This was a small, crowded room in which
16 there were other customers and the operator who all must have been understandably
17 terrified to witness what had taken place. The sentence is increased by reason of this
18 factor by 6 months.
- 19
- 20 70. The offence was committed in the evening following unlawful entry into the premises.
21 The fact that it was under cover of dark may well have added to the fear in the witnesses,
22 but the Court accepts the submission of the defence that this should not be treated as a
23 major aggravating factor and does not do so.
- 24
- 25 71. There was a clear attempt to conceal and dispose of evidence by wiping down the
26 getaway vehicle. An additional 3 months is added to the sentence for this factor.
- 27
- 28 72. Death did occur in the context of an offence which was planned or premeditated. Defence
29 Counsel's submissions are considered on this, and it is accepted that in this circumstance
30 there may well also be the possibility of double counting. The gravamen of the offending



1 is the carrying of the loaded weapon to commit the offence of robbery. This has already
2 placed the offending into the category of High Culpability.

3
4 73. Given the aggravating factors which have been taken into account, the total sentence at
5 this stage for the defendant Jackson is 15 years and 9 months.

6
7 74. In mitigation account is taken of everything said and written in the defendant's favour
8 including in the very detailed SIR. His age and developmental immaturity, his personal
9 circumstances to include depression and possible mental health issues, lack of emotional
10 support and his remorse, including any offer of assistance given to the authorities. While
11 it is accepted that the prosecution cannot be faulted for refusing his offer of a plea of
12 Manslaughter given the basis which he put forward, the Court does take his offer to plea
13 into account in so far as it indicates some willingness to accept responsibility for his
14 actions. All the mitigating circumstances serve to reduce his sentence by 4 years to one
15 of 11 years and 9 months.

16
17 75. In respect of the firearm offence, Count Two of the Indictment, the Court is mindful of
18 the general principles on sentencing of firearm matters. In the case of *R v Avis*⁵, the
19 English Court of Appeal stated that the appropriate level of sentence for a firearm offence
20 will depend on all the facts and circumstances relevant to the offence and the offender.
21 It will usually be appropriate for the sentencing court to ask itself a series of questions:

22
23 i) *“What sort of weapon is involved?”*
24

25 *Genuine firearms are more dangerous than imitation firearms. Loaded*
26 *firearms are more dangerous than unloaded firearms. Unloaded*
27 *firearms for which ammunition is available are more dangerous than*
28 *firearms for which no ammunition is available. Possession of a firearm*
29 *which has no lawful use such as a sawn off shot gun will be viewed even*

⁵ [1998] 1 Cr. App. R. 420

1 *more seriously than possession of a firearm which is capable of lawful*
2 *use.*

3
4 ii) *What if any use has been made of the firearm?*

5
6 iii) *With what intention, if any, did the defendant possess or use the firearm?*

7
8 iv) *What is the defendant's record?*

9
10 *The seriousness of any firearm offence is increased if the offender has an established*
11 *record of committing firearm offences or crimes of violence.”*

12
13 76. In applying the discussed principles to the instant case, this was a genuine firearm, a
14 lethal barreled weapon which was loaded. The firearm was used to cause the death of the
15 deceased. The intention was to commit a robbery. The defendant Jackson has a previous
16 conviction for violence. The defendant Williams-Soto is a person of effective good
17 character.

18
19 77. With respect to the firearm offence on the first Indictment, the Court has considered the
20 test set out in *R v Zakir Rehman and Wood*⁶ and is of the view that there are no
21 circumstances relating to the offence or the offender which would justify a departure
22 from the mandatory minimum penalty. Thus, in respect of the defendant Jackson the
23 sentence imposed is the mandatory minimum of 10 years imprisonment.

24
25 78. The two offences arise out of the same set of circumstances and therefore it is appropriate
26 that the sentences for the two offences run concurrently.

27
28 79. In respect of the defendant Williams-Soto for the offence of Manslaughter, from the
29 starting point of 12 years, 9 months is added by reason of the aggravating factors
30 (commission of the offence in a public place and disposal of evidence) for the reasons set
31 out above.

⁶ 2006 1 Cr. App. R. (S) 77



1 80. In mitigation account is taken of everything said and written in his favour. The fact of his
2 effective good character, his young age and immaturity, his remorse, personal
3 circumstances, the lesser role played by him, all serve to reduce his sentence to one of 10
4 years.

5
6 81. There are no exceptional circumstances in his case applying the principles discussed
7 above which would serve to reduce the mandatory minimum sentence for the offence of
8 Possession of Firearm. The sentence of 10 years imprisonment is therefore imposed. The
9 sentence is to run concurrently to the sentence for the offence of Manslaughter. Time
10 served is to be taken into account.

11
12 **INDICTMENT 43/22 - JUSTIN KYLE JACKSON**

13 **THE FACTS**



14
15 82. The prosecution has provided a summary of the facts in respect of Indictment 43/22 R v
16 Justin Jackson which is set out below.

17
18 83. At about 5:45 pm on Friday the 29th April, 2022, the police received information that the
19 defendant, who was wanted by the police, was in a white Toyota Yaris in the district of
20 West Bay.

21
22 84. Several officers responded to the report and identified the vehicle in the vicinity of the
23 Yacht Club roundabout. They signaled the vehicle to stop using lights and sirens. The
24 driver complied but when instructed to exit the vehicle, he sped off continuing towards
25 George Town. The driver eventually lost control of the vehicle and collided into a median.

26
27 85. Immediately prior to the collision, PC Bin Malcolm observed what appeared to be a pistol
28 being waved around in the vicinity of the steering wheel.

1 86. The officers drove toward the vehicle and observed two males inside. One of the men
2 was Justin Jackson. Both men fled the vehicle. They were instructed to stop but did not
3 comply. The vehicle was secured, and the officers gave a short chase and were able to
4 detain the other male. Justin Jackson escaped.

5
6 87. The vehicle was searched, and a firearm was found in the footwell. The firearm was
7 subsequently examined and tested by APS Anthony Stewart. He determined that the
8 firearm was a fully functional loaded Taurus 9 mm semiautomatic pistol. There was one
9 round of ammunition in the chamber and eight in the magazine. All of the ammunition
10 was found to be viable.

11
12 88. Justin Jackson eventually surrendered himself to the police on the 4th May 2022. He was
13 arrested and cautioned. The investigating officers sought to interview him under caution
14 on the 6th May 2022. He declined to be interviewed and instead provided a prepared
15 statement through his attorney.

16
17 89. In that statement, he admitted that he was driving the white car at the material time. He
18 stated that he had the gun because he was afraid that he would be killed. He left the gun
19 in the car when he ran from the police. He claimed sole responsibility for it. In paragraph
20 3 he said: -

21
22 *“I drove off. I know I had a gun on me. I had that gun because I was terrified that*
23 *the person who had killed Caine Thomas was going to kill me. I have provided my*
24 *attorney with instructions of what happened and in due course I will provide that*
25 *information to the police.”*

26
27 **ADDENDUM SIR - DEFENDANT JUSTIN JACKSON**



28
29 90. There is an addendum SIR dated 5th April 2024 in respect of the defendant Justin Jackson
30 which has been provided by the DCR. Under the heading Attitude to the Offence, the
31 defendant is recorded as reporting to the Probation Officer that he feared for his life

1 following the murder of Caine Thomas the previous day and that he obtained the gun. He
2 said that on reflection he could have or should have reported the threats to the police and
3 handed himself in, in respect of the Manslaughter and the breach of Conditional Release
4 License. The Officer states that the circumstances of the offence further demonstrates the
5 defendants' pro-criminal thinking and general disregard for the law as per the assessment
6 in the initial SIR.



7
8 **THE SUBMISSIONS**
9

10 91. Counsel for the prosecution submits in respect of this offending that the defendant was
11 in possession of another loaded firearm four days after being involved in an attempted
12 robbery in which the deceased had been killed. Counsel submitted that it is apparent from
13 the sequence of events that the defendant was in possession of two separate firearms in
14 the space of four days and that these factors aggravate the defendant's offending.

15
16 92. Counsel refers the Court to the *United Kingdom Sentencing Council Guidelines* and
17 the *Cayman Islands Sentencing Guidelines* with respect to concurrent and consecutive
18 sentences.

19
20 93. Counsel submits that the latter offending did not arise out of a single transaction and thus
21 that a consecutive sentence would be appropriate in this case. The *United Kingdom*
22 *Guidelines* provides examples where consecutive sentences would ordinarily be
23 appropriate. These include the following: -

24 (a) "Offences arise out of unrelated facts or incidents.

25
26 (b) Offences committed in the same incident are distinct, involving an aggravating
27 element that requires separate recognition.

28
29 (c) Offences are of the same or similar kind but the overall criminality will not
30 sufficiently be reflected by concurrent sentences.
31



1
2 (d) One or more offence(s) qualifies for a statutory minimum sentence and
3 concurrent sentences would improperly undermine that minimum.”
4

5 94. Defence Counsel submits that the unique facts of this case should compel the Court to
6 the view that sentences on the two Indictments should be concurrent. Counsel disagrees
7 with the submission of the prosecution that there is potential for the undermining of the
8 statutory minimum should a concurrent sentence be imposed.
9

10 95. Counsel points to the reference to Caine Thomas as a feature in both cases and states that
11 the defendant’s possession of a firearm four days later was because of his fear of being
12 killed by the same person who killed Caine Thomas. The defendant says that there was
13 some pressure from Mr. Thomas to commit the robbery. Counsel submits that the very
14 short gap between the Manslaughter and the Possession of Firearm underlines that the
15 offences are related. Counsel reminds the Court of the principle of totality and submits
16 that a global sentence which is disproportionate should move the Court to find that there
17 are exceptional circumstances such that the mandatory minimum of seven years should
18 not apply.
19

20 96. In mitigation Counsel submits that there are six mitigating factors: -
21

- 22 i) The firearm in question was not brandished at any time by Justin Jackson.
23 ii) Justin Jackson made no attempt to take the firearm with him when he exited the
24 vehicle and made off.
25 iii) Justin Jackson voluntarily surrendered himself to custody.
26 iv) Justin Jackson made admissions to the offences in a prepared statement
27 provided to the police.
28 v) The Court will be aware from other proceedings of the involvement of Caine
29 Thomas in the days preceding this offence.
30 vi) Pleas of guilty were entered at the first reasonable opportunity.
31

1 97. Counsel also refers to the defendant’s immaturity by reason of the factors mentioned
2 above.



3
4 **THE SENTENCE**

5
6 98. Regard is had to the principles set out in the case of *R v Avis* as outlined above and the
7 questions which are to be asked in similar vein.

8
9 99. The statutory minimum of 7 years applies unless there are circumstances of the offence
10 or the offender which are exceptional in nature. All the circumstances raised in mitigation
11 on behalf of the defendant Jackson have been considered including his offer of assistance.
12 The age, immaturity and personal issues of the defendant are also considered. The first
13 part of the test as set out in the cases of *Rehman and Wood* and *R. v. Michael Hugh*
14 *Powell*⁷, cited by prosecuting Counsel is applied.

15
16 100. While the defendant mentions in his prepared statement providing information, there is
17 nothing concrete before this Court or which has subsequently been brought to the
18 attention of the Court to refer to that assistance such as to give rise to a finding of an
19 exceptional nature.

20
21 101. The personal circumstances of the defendant as they are, do not appear to consist of
22 exceptional circumstances. There is nothing about the offence itself which would
23 constitute exceptional circumstances.

24
25 102. The Court turns to consider the second issue which is how the sentences should run and
26 the second aspect of the test set out in *Rehman and Wood*. It is this which gives the Court
27 pause.

28
29 103. Defence Counsel argues that these offences arise out of the same or similar facts. The
30 prosecution has indicated that the gun used in the Manslaughter was a 40 caliber Smith

⁷ CICA Criminal Appeal No, 009/2013, Ind. 107/2012, Unreported Judgment dated 2nd September 2013



1 and Wesson. The evidence at trial was that the firearm was handed over by Mr. Thomas
2 and returned to him after the incident.

3
4 104. The firearm recovered from the car is a 9mm semi-automatic pistol and 9 rounds of
5 ammunition. This was an entirely separate firearm which the defendant on his own
6 account chose to possess. It was loaded.

7
8 105. In the Court's view, the incidents are in the main unrelated, and do not amount to a single
9 incident. Even if there was some connection, in the Court's view the overall criminality
10 would not be sufficiently reflected by entirely concurrent sentences.

11
12 106. What is clear is that this defendant was so connected to guns that he had ready access to
13 a second firearm within four days of the first.

14
15 107. It is when considering the principle of totality that there is concern. It is considered that
16 for the full sentence of 7 years to run consecutively to the sentence on the Manslaughter,
17 this would result in a disproportionate and arbitrary sentence.

18
19 108. Consequently, one third of the sentence of 7 years which would be 28 months will run
20 consecutively to the sentences on Indictment 34 and 93/22 for the offences of
21 Manslaughter and Possession of an Unlicensed Firearm.

22
23 109. For the offence of Possession of Ammunition, Count Two, which clearly arises out of the
24 same set of circumstances the sentence is 2 years imprisonment concurrent to Count One.

25
26 110. In summary on Indictment 34 and 93/22, for Count One, the offence of Manslaughter,
27 the sentence is 11 years and 9 months. On Count Two, Possession of Firearm, the
28 sentence is 10 years imprisonment concurrent. On Indictment 43/22, Count One,
29 Possession of Firearm, the sentence is 7 years imprisonment, 28 months of this is to run
30 consecutive to the sentence on Count One of Indictment 34 and 93 /22. On Count Two,
31 the sentence is 2 years imprisonment concurrent to the sentence on Count One.
32

1 111. Time served is to be taken into account.

2

3 **Dated this the 19th April 2024**

A handwritten signature in blue ink, consisting of several fluid, connected strokes. The signature is positioned to the left of the text identifying the signatory.

4

5 **The Hon. Justice Cheryll Richards KC**

6 **Judge of the Grand Court**