



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

3 **IND0043, 51 & 52 OF 2023**

4 **IN THE MATTER OF:**

5 **THE KING**

6 **V**

7 **SHAUN JACKSON**

8 **JONATHAN ALEXANDER WOODHOUSE**

9
10 **Appearances:** **Mr. Mark Heywood K.C. with Mr. Neil Kumar for the Crown**
11 **Mr. Phillip Rule K.C. with Mr. Jonathon Hughes of Samson Law for the**
12 **Defendant (Woodhouse)**

13 **Before:** **The Hon. Mrs. Justice Marlene I. Carter**

14 **Sentence Hearing:** **12 April 2024**

15 **Judgment:** **16 April 2024**

16

17 **HEADNOTE**

18 *Criminal Law – Sentence- Wounding with Intent – Greater harm – injury serious in the context of the*
19 *offence*

20

21 **JUDGMENT**

22 1. The Defendant is before the Court for Sentencing for the offence of Wounding with Intent to do
23 Grievous Bodily Harm. This is a Sentence following trial.

24 **Facts**

25 2. Barshawn Lewis and his wife, Patricia Walters, went to Carib Café on the night of 5 May 2023 because
26 Patricia knew someone who was having a party there. They drove to the venue, parked their car nearby

1 and walked over to the café. As Lewis and his wife made their way towards Carib Café, Lewis said
2 something about celebrating his birthday; it was his birthday month, and he raised his arms and, in a
3 loud voice, shouted out, “Boop! Boop! Boop!”

4 3. The Defendant and two other men were walking in the direction of Lewis and his wife. It appears, from
5 the evidence presented at trial, that this Defendant or one of the others with him felt that Lewis had
6 disrespected him. The Defendant went back to the car in which he and his friends had arrived and armed
7 himself with a large-bladed weapon or knife.

8 4. Lewis and his wife continued to Carib Café. At the entrance to the bar, they had a conversation with
9 Randy Robinson, who said something to the effect that he knew those guys, meaning this Defendant
10 and his friends, and they were cool. The impression given to Lewis and his wife was that there was
11 nothing to worry about; Lewis and his wife entered Carib Café. During the time that Lewis and his wife
12 remained at Carib Cafe, defendant Jackson appeared at different points to be watching and following
13 Lewis and his wife.

14 5. The defendant, Jackson, eventually rushed towards Lewis in the bar area within Carib Café. Lewis ran
15 and attempted to pull a chair between himself and Jackson. Lewis exited the bar into an area next to the
16 DJ on a small stage immediately outside the bar. This Defendant, Woodhouse, still armed with the large-
17 bladed weapon or knife, moved toward the stage area after Lewis.

18 6. It is at this point that Lewis was attacked on the stage and was injured. Lewis had to be helped by his
19 wife, Patricia Lewis, when he fell off the stage after the attack. He was taken to the George Town
20 Hospital, where an X-ray examination revealed no fractures or dislocations. Barshawn Lewis suffered
21 the following injuries:

22 (i) 10 cm wound to the right forearm on the outer aspect of the right elbow, exposing the elbow
23 joint.

24 (ii) 14 cm wound to left bicep muscle, cutting through the muscle on the left upper arm.

25 (iii) 2 cm superficial skin-deep laceration to the left knee.

26 (iv) 4 cm superficial scratches to the left side of the back.

27 7. The Defendant was arrested six (6) days later, on 6 May 2023.

28 **Victim Impact (Barshawn Lewis & Patricia Walters)**

29 8. The Victim Impact Statements of Barshawn Lewis and Patricia Walters are before the Court. These
30 were both recorded in January 2024, eight (8) months after the incident.

1 9. Patricia Walters related that “...prior to that date I was a carefree woman in a long-term stable
2 relationship. The unprovoked attack on Barshawn has had a traumatic effect on myself and Shawn.
3 It has affected me more mentally than physically.” She detailed being unable to sleep, having
4 nightmares about the incident, and elevated blood pressure levels due to stress and worry. She related
5 that the longer-term effects are that she no longer trusts people and is always looking over her shoulder.
6 She noted that it has also affected the relationship between herself and Lewis.

7 10. Barshawn Lewis described the physical effects of the incident and being injured. He described that the
8 most serious of the wounds has resulted in lifelong scarring to both arms and internal injury to his left
9 bicep. This he says has affected the strength in his left arm and he still feels pain when he lifts things
10 with that arm. He stated that whenever he feels that pain in his arm it causes him to recall the incident.
11 He noted that as a result of the injuries he was in the hospital for a week and on medication for up to a
12 month. He related: “*Though I feel strong mentally I find I worry a lot. I don't like crowds. I don't*
13 *socialize as much as I did and if I go out, I don't stop out late. I worry constantly about my wife*
14 *Patricia, and I am constantly aware of my surroundings.*”

15 **Antecedent History**

16 11. The Defendant has 10 previous convictions recorded against him, of which the most significant or
17 relevant are:
18 (i) May 2020: Wounding with Intent, for which he was sentenced to 26 months' imprisonment.
19 (ii) February 2021: Two (2) offences of Causing Fear or Provocation of Violence for which he was
20 sentenced to 6 months imprisonment for each offence, suspended for 2 years concurrently.

21 **The Social Inquiry Report**

22 12. The Social Inquiry Report prepared by the Department of Community Rehabilitation is before the Court
23 and it has been taken into account in determining the appropriate sentence.

24 13. The Defendant is now twenty-nine (29) years old. He was twenty-eight (28) at the date of the offences.
25 The Defendant is the father of two children, now nine (9) and six (6) years old. The Defendant was
26 born of a Caymanian father and a Bahamian mother. As a result, he moved between the Cayman Islands
27 and the Bahamas in his early years. He attended educational institutions in both islands and returned to
28 live permanently in the Cayman Islands at age sixteen (16). The Defendant considers that he had an
29 ordinary childhood. He did not graduate from high school but has, during one of his periods in custody,
30 achieved City and Guilds qualifications in English and Maths.

1 14. The Defendant first came in contact with the police at the age of seventeen (17) when he was arrested
2 for traffic offences. He has also been before the Court for various drug offences. He reported to the
3 Probation Officer that he began smoking Ganja at age thirteen (13). The probation report notes the
4 following regarding the Defendant's previous offending behaviours and previous response to
5 supervision:

6 *"Whilst the majority of Mr. Woodhouse's previous offending relates to traffic violations and*
7 *drug possessions, it is significant to note that there is an emerging pattern of violence.*

8 *In 2019, Mr. Woodhouse committed an offence of Wounding and was sentenced to twenty-six*
9 *(26) months imprisonment. The circumstances of this offence were similar in nature to the*
10 *current matters whereby Mr. Woodhouse stabbed the victim during a fight in a bar. Whilst on*
11 *bail for the above-mentioned Wounding offence, Mr. Woodhouse committed offences of Causing*
12 *Fear or Provocation of Violence and was later sentenced to a Suspended Sentence (concurrent*
13 *to the custodial sentence). This relates to incidents of domestic abuse with his former*
14 *partner/mother of his children.*

15 *It is of concern that Mr. Woodhouse's current offence bears similarities to his previous*
16 *Wounding matter, suggesting he was not deterred by the sanction imposed nor has he applied*
17 *the learning from the interventions he was exposed to during that sentence, which included*
18 *Anger Management and one-to-one supervision.*

19 15. Regarding his attitude toward the present offence, the Defendant expressed the following to the
20 Probation Officer:

21 *"Mr. Woodhouse described observing 'tensions' between Mr. [Shawn] Jackson and the*
22 *wounding victim, Barshawn Lewis. He noted that he did not know the victims and had never*
23 *seen them before. This tension escalated to what Mr. Woodhouse described as a 'commotion'*
24 *and he recalled he became involved in an attempt to diffuse the situation. During the course of*
25 *the commotion/altercation, Mr. Woodhouse reported he was pushed by Mr. Robinson (the*
26 *murder victim) into Mr. Lewis, who then hit him in the face. In response, Mr. Woodhouse*
27 *withdrew his knife and Mr. Lewis was cut, receiving wounds to his arms. Mr. Woodhouse*
28 *suggested his actions were triggered by an effort to defend himself and his friend.*

29

30 *Reflecting on the offence, Mr. Woodhouse stated he did not go out with any intention to cause*
31 *harm. He suggested he should have 'tried harder' to get his party to leave. He added that he*
32 *felt 'frightened', which contributed to his actions. He further expressed that he 'feels sorry' for*
33 *the victim and has 'regrets'."*



1 16. The Defendant’s overall risk of reoffending was determined to be “*Very High*”. The probation officer
2 expressed that his actions in carrying a knife to the bar “*evidences pro-criminal thinking and attitudes.*”

3 **Submissions on Sentence**

4 17. The offence of Wounding with Intent to do Grievous Bodily Harm, contrary to section 203 of the Penal
5 Code (2022 Revision), carries a maximum sentence of life imprisonment.

6 18. As per the Cayman Islands Sentencing Guidelines for Violent Offences of June 2021¹, the Court must
7 determine first, the offence category in terms of culpability and harm.

8 19. In this case, factors indicating higher culpability are present. I find these to be the use of a weapon,
9 here, a large knife to inflict injury, the fact that this Defendant played a joint leading role in the
10 commission of this offence and that there was a significant degree of planning in the context of the
11 offence. On the evidence, the co-defendant, Jackson, was armed before he arrived at Carib Café, while
12 this defendant armed himself directly after the outburst by Lewis, going back to the car to secure a
13 weapon. Lewis and his wife were effectively prevented from leaving the café by the co-defendant. I
14 accept the Prosecution’s submission that “*When the opportunity to attack Lewis arose this defendant*
15 *responded immediately, and escalated it, as the jury found, by reason of the degree of violence he*
16 *personally inflicted, and his greater intent.*”²

17 20. While there is no evidence that the Defendant had met Lewis before, it cannot be accepted, as Counsel
18 for the Defendant stated in written submissions, that: “*the carrying of the weapon was not related to*
19 *what later happened, save that it was available and was used in the offence.*” The Defendant’s actions
20 in returning to his vehicle immediately after the outburst by Mr. Lewis and the further uncontroverted
21 evidence of this Defendant indicating, as he returned from the vehicle with the knife, when questioned
22 by the witness, Oneil Gray, who noted that he looked upset and asked him what was the problem, that
23 someone had disrespected his friend or one of his friends goes to there being a connection between, the
24 outburst, this Defendant arming himself and what later transpired, the joint attack on Lewis.

25 21. I do note that Counsel for the Defendant has asked the Court to take account of unused material, which
26 he submits, include reports made by this Defendant of threats to him of serious violence prior to the
27 evening of 5 May 2023.

¹ See pages 18 and 19 of the Guidelines

² Crown’s written submissions on Sentence

1 22. At issue is whether the offence is one of Greater or Lesser Harm. The guidelines create two categories
2 of harm. Greater Harm, where the injury sustained is serious in the context of the offence, and Lesser
3 Harm is found where the injury caused is less serious in the context of the offence.

4 23. As per the guidance on page four (4) of the Guidelines:

5 *“When determining whether the harm caused was serious in the context of these offences, the*
6 *court will assess whether the harm caused was what would be normal for this type of offence*
7 *or has gone beyond the level that would be regarded as normal. Since the sentence levels will*
8 *be higher (for some offences, very much higher) as a result, the type of harm or violence that*
9 *will justify placing an offence in the higher category will be harm that is significantly above*
10 *the level of harm which is the norm for these offences.”*

11 24. The Prosecution submits that this is an offence of Greater Harm. Counsel for Mr. Woodhouse has
12 submitted that this is not an offence of Greater Harm. In support of his submissions Counsel referred
13 the Court to *R v Smith*³ in which the Court examined the phrase, *“injury which is serious in the context*
14 *of the offence”* in the context of an offence against section 18 of the Offences Against the Person Act
15 1861, the equivalent of section 203 of the Penal Code. There, the Court stated:

16 *“First, with regard to the injury, the question is whether the injury was serious ‘in the context*
17 *of the offence’. It is axiomatic that all violence within the context of a section 18 offence is*
18 *serious, but some violence is more serious than others. The purpose behind the words ‘which*
19 *is serious in the context of the offence’ in the guidelines is to distinguish between that level of*
20 *violence which is inherent or par in a standard section 18 offence and that which will, by*
21 *definition, go beyond what may be viewed as par for the course. In our view, given that there*
22 *is such a marked disparity in the starting point between categories 1 and 2, the sorts of harm*
23 *and violence which will justify placing a case within category 1 must be significantly above the*
24 *serious level of harm which is normal for the purpose of section 18.”*⁴

25 25. In *Smith*, the appellant had broken into the home of his estranged wife’s new partner in the early hours
26 of the morning and attacked him with a baseball bat, causing two fractures to his left arm and lacerations
27 to his head requiring stitches. The appellant then further attacked the man by punching him in the face
28 and then striking him on the back of the head with the bat when he was prone and defenceless, with
29 such force that the bat broke in two. This injury required further stitches.

³ [2015] EWCA Crim 1482; [2016] 1 Cr App R (S) 8

⁴ At paragraph 14 of the Judgment



1 26. The sentencing judge found that the injuries/violence inflicted fell within Category 1 on the basis that
2 the offence caused the injured party to require “hospital treatment, stitching and [had a] considerable
3 lasting effect” on him. On appeal, the Court of Appeal found that the offence was not Category 1 for
4 the purposes of the Guidelines and reduced the sentence by three (3) years.

5 27. Counsel for the Defendant also referred the Court to the case of **R v Thompson**⁵. In that case, the
6 appellant, attending a fundraising day at a local rugby club, without any provocation, knocked a man
7 to the ground and bit a portion of flesh from his eyebrow. The resulting injury required plastic surgery
8 and caused scarring. The jury convicted Thompson of the section 18 offence. On appeal, the Court held
9 that; “within the scale of grievous bodily harm, the instant case fell somewhat short of being injury
10 ‘which is serious in the context of the offence’. Accordingly, the judge had miscategorized the offence
11 as involving greater harm for the purpose of the guideline.”

12 28. Counsel for the Defendant submitted that “the injury sustained in the present case, although serious,
13 is not serious enough in the context of section 203 cases as to warrant an uplift to the very top category
14 and sentencing range. There were notably no fractures or dislocations, no internal organs were
15 damaged, and there was no injury to the brain, respiratory or cardiovascular systems which were
16 assessed as clear and normal...” He submitted further that the injuries caused to Lewis were injuries
17 caused by a cutting motion, there was no stabbing action to the torso, and a full physical recovery was
18 expected.

19 **Court’s considerations**

20 29. I have considered the submissions regarding Greater Harm. I note that in **Smith**, the section 18 charge,
21 which was accepted to be the most serious charge on the indictment, was focused upon the final blow
22 to the back of the head of the complainant with the bat. It is this injury that the sentencing judge noted
23 required hospital treatment, stitching and considerable lasting effect. At paragraph fifteen (15), the
24 Court noted: “there was one blow which amounted to the section 18 offence, inflicted while the victim
25 was on the bed.... this was a serious attack, but in our view could not be said to be serious in the context
26 of the offence standing alone. It necessitated three stitches to the back of the head and one measure of
27 it was that Mr Snudeen [the victim] was able following the blow to rise from the bed and pursue the
28 appellant out of the house. Given the great disparity in sentence of six years between categories 2 and
29 1, we conclude that standing alone, and nasty though it was it was not a category 1 offence.”

⁵ [2015] EWCA Crim 1575; [2016] 1 Cr. App. R. (S.) 264



1 30. The Court went on to characterize the entire incident, taking into account the fractures to the victim's
2 arm, as being not a clear Category 1, but borderline between Categories 1 and 2.

3 31. Lewis has stated that as a result of his injuries, he is left with "*life-long scarring*". I accept that the fact
4 that an injury may leave a scar is not an indication per se of the highest harm level in the context of a
5 Wounding with Intent offence.⁶ The assessment of whether an offence constitutes Greater or Lesser
6 Harm is very fact-specific in nature⁷. For this reason, the Court is mindful that determinations made in
7 other cases based on particular factual dynamics are of limited value to the Court.

8 32. With the Sentencing Guidelines and the direction provided by these cases in mind, I find that these
9 injuries are serious in the context of the offence. As such, this is an offence of Greater Harm. The
10 injuries inflicted on Lewis were serious and the result of chops with the large knife that this Defendant
11 carried. The evidence was of repeated chopping motions. The extent of the injuries also goes towards
12 Greater Harm. Of the two major injuries, the first cut through the muscle of Lewis' bicep and measured
13 fourteen (14) cm and required eleven (11) to sixteen (16) stitches. The other was a ten (10) cm wound,
14 which was so deep as to expose the elbow joint of the victim and required eight (8) stitches. Lewis
15 described in January 2024, some eight (8) months after the incident, that the strength in his left arm is
16 still affected as a result of the injury and that he is in pain when he tries to lift things with that left arm.

17 33. As per the Guidelines, the starting point when there is Greater Harm and higher culpability is twelve
18 (12) years' custody, with a sentencing range of nine (9) to sixteen (16) years.

19 34. There are aggravating factors present in this case. These are:

- 20 (i) The location of the offence. This offence was committed in a public place crowded with patrons
21 at the relevant time.
- 22 (ii) The presence of others, especially the wife of the victim, Lewis.
- 23 (iii) The attempt to dispose of evidence by the Defendants after the incident; here, the knife and
24 clothing worn by the Defendants were not recovered.
- 25 (iv) Previous convictions: the Defendant has previous convictions for violence.

26 35. The Crown has submitted, regarding mitigation, that there are no listed factors engaged. Counsel for
27 the Defendant has submitted that there are a number of factors which should be given effect in arriving
28 at the sentence of the Court. Among these are:

⁶ See Duff where the complainant lost part of his ear which was bitten off by the appellant. The effect on the complainant was found to be permanent, visible and a significant cosmetic disability. However, the court found that this was not an offence constituting greater harm. See also Xue v R [2020] EWCA Crim at 587 in this regard.

⁷ Fa Xue v R [2020] EWCA Crim 587 at paragraph 28

- 1 (i) The admissions made through the plea at arraignment to Count Four (4), such that the inquiry
2 for the jury was limited to what inference it would make of intent. I agree that there was, to that
3 extent, a narrowing of the issues for the jury's contemplation with respect to this Defendant.
- 4 (ii) The evidence at trial demonstrated that the Defendant's role was subordinate in the events. I
5 am not in agreement with this submission. While it is true that this Defendant did not lead or
6 instigate problems that evening, at the point at which he did involve himself fully when
7 Barshawn Lewis was being pursued to the stage and as he, Lewis, was throwing punches to
8 defend himself against attack, the Defendant on the evidence approached the stage with the
9 knife already in his hands. The injuries to Lewis were inflicted with that weapon. This was not
10 a subordinate's role.
- 11 (iii) The Defendant has expressed remorse as set out in the Social Inquiry Report
- 12 (iv) The Defendant suffers from some anxiety and is prescribed medication.
- 13 (v) The evidence of the Defendant's character from persons interviewed for the Social Inquiry
14 Report.

15 **Sentence**

- 16 36. The Defendant's actions on 6 May constitute very serious offending. This Defendant armed himself
17 before entering a crowded public bar at which a birthday party was in progress. When the Complainant
18 rushed from the bar area to the stage, pursued by the co-defendant, this defendant advanced to the stage
19 with his weapon in hand. This was not a case, as suggested to the probation officer by the Defendant,
20 of him taking out the weapon when he was punched by Lewis as Lewis tried to defend himself from
21 attack. Lewis was never the aggressor. This Defendant delivered the chops that led to the Complainant's
22 injuries. The Complainant and his wife, who witnessed the incident and had to come to her partner's
23 immediate assistance to take him away from the area bloodied and afraid, have both suffered
24 psychological harm because of the Defendant's actions, and they may continue to do so for some time.
- 25 37. The starting point is twelve (12) years in custody. As outlined above, there are a number of aggravating
26 factors. These aggravating factors result in an increase to the starting point by eighteen (18) months,
27 taking the sentence to thirteen and a half (13 ½) years in custody. I have considered the factors offered
28 as mitigation on behalf of this Defendant. Taking these into account, the sentence will be reduced by
29 six (6) months.
- 30 38. I consider that the appropriate sentence in this case is one of thirteen (13) years imprisonment.

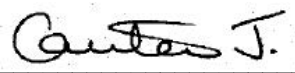


1 39. The Defendant has been in custody for this offence since 11 May 2023. The time that the Defendant
2 has spent in custody from that time is to be deduced from the above sentence. It is agreed that as of
3 today, he will have served three hundred and forty (340) days in custody since his arrest.

4 40. The probation officer has noted the Defendant will be able to access rehabilitative interventions while
5 in custody. I can only invite the Defendant to avail himself of these facilities.

6

7

8 

9 **The Hon. Mrs. Justice Marlene Carter**
10 **Judge of the Grand Court**

11