

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

4 **INDICTMENT No: 99 of 2022**



6  
7  
8 **R**

9  
10 **V**

11  
12 **DELAN AKIME CAMPBELL**

13  
14 **Appearances:** **Mrs. Nicole Petit, Senior Crown Counsel, Office of the Director of**  
15 **Public Prosecutions for the Prosecution**

16  
17 **Mr. Clyde Allen for the Defendant**

18  
19 **Before:** **The Hon. Justice Cheryll Richards KC**

20 **Submissions Heard:** **22<sup>nd</sup> September 2023**

21 **Further Submissions Heard:** **27<sup>th</sup> October 2023**

22 **Sentence Judgment:** **27<sup>th</sup> October 2023**  
23  
24  
25

26 **HEADNOTE**

27  
28 ***Criminal Law-Rape, Sentencing, Application of the Cayman Islands Sentencing Guidelines***  
29  
30



1 SENTENCE JUDGMENT

2

3

4 **PREAMBLE**

5

6 1. Section 31 of the *Criminal Procedure Code* (2021 Revision) states as follows: -

7

8 “Anonymity of complainants in rape etc. cases:

9 “31. (1) After a person is accused of a rape offence, no matter likely to

10 lead members of the public to identify a woman as the woman against whom the

11 offence is alleged to have been committed shall be published in a written

12 publication available to the public or be broadcast, except authorised by a

13 direction of the court.

14 (2) ...

15 (3) ....

16 (4) ...

17 (5) If any matter is published or broadcast in contravention of

18 subsection (1), the following persons —

19 (a) in the case of a publication in a newspaper or periodical,

20 the proprietor, editor and publisher of the newspaper or

21 periodical;

22 (b) in the case of any other publication, the person who

23 publishes it;

24 (c) in the case of a broadcast, any person having functions,

25 in relation to the programme in which it is made, corresponding

26 to those of an editor of a newspaper, commit an offence and are

27 each liable on summary conviction to a fine of one thousand

28 dollars.”

29

30 2. For the avoidance of doubt, it is the Court’s view that the charges against this defendant fall

31 within this section of the law and therefore it is ordered that there be no identification of the

32 victim in this case. In pursuance of the section, this Judgment has been anonymised to protect the

33 identity of the victim.



1   **INTRODUCTION**  
2

3       3.       The defendant is before the Court for sentencing following his guilty pleas to Counts 1, 2 and 3  
4             of the Indictment, Aggravated Burglary, Wrongful Confinement and Rape. The pleas are  
5             acceptable to the prosecution and no evidence will be offered on the remaining counts, Counts 4,  
6             5 and 6.  
7

8       4.       **Count 1** charges the defendant with the offence of Aggravated Burglary contrary to s.244 (1) of  
9             the *Penal Code* (2022) Revision. The particulars are that he between the 24<sup>th</sup> day of November  
10            2022 and the 25<sup>th</sup> day of November 2022, entered as a trespasser the dwelling house of [X]  
11            situated at [an address], George Town, Grand Cayman, Cayman Islands with intent to rape, and  
12            at the time of doing so had with him an offensive weapon, namely a machete. The maximum  
13            penalty for this offence is life imprisonment.  
14

15       5.       **Count 2** charges him with the offence of Wrongful Confinement contrary to s.222 of the *Penal*  
16             *Code* (2022) Revision. The particulars are that he between the 24<sup>th</sup> day of November 2022 and  
17             the 25<sup>th</sup> day of November 2022, at [an address], George Town, Grand Cayman, Cayman Islands  
18             wrongfully confined [X]. The maximum penalty is five years imprisonment.  
19

20       6.       **Count 3** charges him with the offence of Rape contrary to s.127 (2) (a) of the *Penal Code* (2022)  
21             Revision. The particulars are that he between the 24<sup>th</sup> day of November 2022 and the 25<sup>th</sup> day of  
22             November 2022 at [an address], George Town, Grand Cayman, Cayman Islands had unlawful  
23             sexual intercourse per vaginam with [X], who at the time of the intercourse did not consent to it.  
24             The maximum penalty is life imprisonment.  
25

26       7.       The defendant first appeared in the Grand Court on the 9<sup>th</sup> December 2022. He was arraigned on  
27             the 15<sup>th</sup> December 2022 and entered not guilty pleas to all counts. A trial date was set for the 17<sup>th</sup>  
28             April 2023. On that date selection of the Jury proceeded. The Jurors were not put in charge and  
29             were directed to return on the 19<sup>th</sup> April 2023 for the start of the case. On the 19<sup>th</sup> April 2023  
30             defence Counsel raised the issue of a mental health report and sought time to take further  
31             instructions from the defendant.  
32

1 8. On the 20<sup>th</sup> April 2023, Counsel for the defendant indicated that the issue affecting the  
2 defendant's mental health and the seeking of a mental health report was not being pursued but  
3 asked for a delayed start to the trial. The defendant thereafter entered pleas to three offences as  
4 stated above and an agreed basis of plea was tendered.

5  
6 **BASIS OF PLEA**



7  
8 9. The agreed Basis of Plea is as follows: -

9  
10 "1. *Between the 24<sup>th</sup> - 25<sup>th</sup> day of November 2022, I attended the complainant's home that*  
11 *evening at or about 11pm and went into the property without the permission of the*  
12 *complainant, I gained access through her brother's bedroom window.*

13  
14 2. *Once inside the house, I went into the complainant's bedroom where she was lying down.*  
15 *I know this must have startled her, because she screamed out, as she would not have known*  
16 *it was me who had entered the house. To get her to quiet down, I did place my hand over*  
17 *her mouth. I had a machete with me at the time which she saw and informed her that I did*  
18 *not wish to harm her but to commit suicide. She asked me to leave the machete outside of*  
19 *her room which I did. I walked into the room and sat on the bed beside her. She was very*  
20 *upset that I came to her house and entered it without her permission and initially was*  
21 *shouting at me.*

22  
23 3. *I explained to her that I felt distraught and that I am not going to do any harm to her but*  
24 *to myself and that was the reason for carrying the machete. I bound her hands with the*  
25 *straps that I carried with me and I also bound her feet. I took the straps off her feet shortly*  
26 *afterwards. Given her attempts in these particular circumstances to console me, I now*  
27 *know that I misunderstood her intentions. I felt suicidal that night. She told me that she*  
28 *loved me and she was kissing me and because of the way she did it I took this to mean that*  
29 *she wanted to have sex, which I proceeded to have with her. However, at the time of*  
30 *intercourse I was reckless as to whether or not she consented. I am not a lawyer, but I now*  
31 *understand all of the circumstances under which I entered the property and what I did to*  
32 *her was wrong.*

1 *I understand the basis of this plea and for that reason I plead guilty to the following*  
2 *offences:*

- 3  
4 (i) *Aggravated burglary;*  
5 (ii) *Wrongful confinement; and*  
6 (iii) *Rape.*”  
7



8 **THE FACTS**  
9

10 10. The prosecution has provided a summary of facts. The defendant and the victim had been engaged  
11 in a relationship from November 2021. On Thursday the 24<sup>th</sup> November 2022, the victim sent  
12 him a WhatsApp message in which she stated that the relationship between them was over. She  
13 was at home in her bedroom at about 11pm that night when she heard strange noises in the living  
14 room area. The internet connection stopped working. Shortly thereafter the defendant entered her  
15 room armed with a machete, knuckle dusters and zip ties. The victim started screaming. The  
16 defendant went on top of her, used one of his hands to cover her mouth while he grabbed her  
17 throat with the other and started to choke her. He told her that he had plastic wrapping which he  
18 was going to use on her hands. He tied her hands and feet with the zip ties. He threatened to  
19 punch her if she did not stop screaming. He undressed her and forcefully had sexual intercourse  
20 with her.  
21

22 11. He asked her for her phone, plugged in the internet connection and searched through the contents  
23 of her phone. The victim was unable to escape as each time she resisted him he would reach for  
24 the machete. The victim in fear submitted to other acts of intercourse. The defendant expressed  
25 having suicidal thoughts to her. The victim began comforting him as she said that she did not  
26 want to be blamed for the cause of his death. He told her that he had broken a window to gain  
27 access to the house.  
28

29 12. The victim asked to be taken to her mother's house. At first the defendant refused and said that  
30 if she went, he was going to kill himself. Eventually he took her to the house.  
31



1 13. At 2:50am on the same day the victim and her mother attended the George Town Police Station  
2 where they made a formal report to the police. The victim received injuries to both her wrists  
3 from the zip ties and her throat was tender.  
4

5 14. The defendant was arrested and interviewed under caution. He acknowledged that he had entered  
6 the house of the victim without her permission and tied her hands and feet. He said that his reason  
7 for doing this was to kill himself with the items that he was equipped with, but thought that she  
8 would have prevented him from doing so.  
9

#### 10 **VICTIM IMPACT STATEMENT**

11

12 15. The victim provided a statement dated 26<sup>th</sup> July 2023 in which she states that she has been through  
13 several counselling sessions which helped her to get over the incident in a significant way and  
14 that she is now trying to move on with her life. She states that at this time she is feeling happy  
15 and back to herself and is getting support from her family and friends.  
16

#### 17 **ANTECEDENT HISTORY**

18

19 16. The defendant has no previous convictions in the Cayman Islands and self-reports that he has no  
20 previous convictions in any other jurisdiction.  
21

#### 22 **SOCIAL INQUIRY REPORT**

23

24 17. The Department of Community Rehabilitation (“DCR”) has provided a Social Inquiry Report  
25 (“SIR”) dated 7<sup>th</sup> July 2023. The Court has read this report in its entirety and takes into account  
26 everything said therein in favour of the defendant.  
27

28 18. The defendant is twenty-four years old. He is a Jamaican national. He has one child who is three  
29 years old. There were no issues in the defendant’s childhood. He attended school to high school  
30 level. However, before graduating from high school, he enrolled in a vocational training  
31 programme where he obtained certification in mechanical engineering. He worked in Jamaica for  
32 a short time before securing employment in the Cayman Islands. While here over a four-year  
33 period he has lived with his father who is a resident.



1 19. Under the heading Assessment /Evaluation the Probation Officer states that the defendant has  
2 benefited from a positive and healthy upbringing. Based on reports from his family, his actions  
3 on the commission of these offences seemed to have been out of character for him. The Officer  
4 also states that: -

5  
6 *“His limited insight, continued minimization, denial and justification of his actions*  
7 *continue to be of concern. For Mr. Campbell to be truly remorseful and remain free of*  
8 *offending, he might need to develop more insight into his behaviours leading to the index*  
9 *offence.”*

10  
11 20. The defendant’s overall risk of general re-offending was assessed as at medium level with none  
12 of the eight criminogenic factors in the Very High category and one in the High category. He was  
13 assessed as being in the High category for the factor of pro-criminal attitude or orientation in part  
14 because it is said that he sought to cast some of the blame for his actions on the victim and in  
15 doing so did not demonstrate any victim empathy.

16  
17 21. The defendant’s probability as it relates to sexual re-offending was also assessed. He was  
18 assessed as being at medium risk of reconviction for a sexual crime and at very high risk of  
19 reconviction for a non-sexual violent crime.

20  
21 22. The Officer makes several recommendations for his rehabilitative needs and for intervention  
22 services.

23  
24 **PSYCHIATRY REPORT**

25  
26 23. A psychiatry report was provided by Dr. Arline McGill of the Health Services Authority dated  
27 20<sup>th</sup> July 2023. Dr. McGill states that the defendant does not meet the criteria for a major  
28 depressive disorder or anxiety disorder. However, he was found to endorse items suggestive of  
29 mild obsessive traits but not florid obsessive-compulsive disorder. He also admitted to some  
30 mood dysregulation as relates to irritability, impulsiveness and racing thoughts but does not meet  
31 the criteria for attention deficit hyperactivity disorder or bipolar disorder.



1 24. It was found that there were some inconsistencies in his answers on the screening forms and in  
2 the interview. These suggested that he may have challenges with information processing and be  
3 mildly suspicious and as such be withholding information which is personal when the  
4 implications are negative.

5  
6 25. Dr. McGill stated that having reviewed the case papers it is noted that: -

- 7  
8 1. The defendant was experiencing significant suicidal ideation on the night of the  
9 incident.  
10 2. He was distraught and tearful.  
11 3. He was ambivalent and emotionally unstable; and that  
12 4. His behaviour suggested that he had suicidal intent but was disorganised in his thinking  
13 and so may have presented a danger to the victim.  
14

15 26. The summary impression of the Doctor is that the defendant is: -

16  
17 *“...a young man who may be of low to average intelligence who exhibits signs of a*  
18 *vulnerable psychological make up with difficulty processing and understanding emotional*  
19 *challenges. He does not meet the criteria for any major psychiatric disorder but may fit*  
20 *on the autistic spectrum of developmental disorders.*

21 *He is chronically suicidal, and his difficulty processing information could lead to bizarre*  
22 *and confused behaviour.*

23  
24 *His mental state at the time of the incident suggests a disorganized psychological state with*  
25 *significant ambivalence potentially making him a danger to himself and others.”*  
26

## 27 THE SUBMISSIONS

28  
29 27. Counsel for the prosecution referred the Court to the *Cayman Islands Sentencing Guidelines* for  
30 the offence of Rape. Counsel submitted that under those *Guidelines*, this offence is at the level  
31 of Category 2 Harm because of the element of forced uninvited entry into the victim’s home.  
32 Culpability is said to be at the level of Category B because factors in Category A are not present.  
33



1 28. Under the **Guidelines** a Category 2 B offence would attract a starting point of 15 years custody  
2 with a range of sentence of 10 to 19 years.

3  
4 29. In relation to the offence of Aggravated Burglary, Counsel submitted that the offence is a  
5 Category A, Higher Culpability because of the weapon carried and that the Harm is at the level  
6 of Category 1 because the victim was on the premises while the offender was present. The starting  
7 point is 7 years custody with a sentence range of 5 to 14 years' custody.

8  
9 30. Counsel for the defence referred to the parity of sentencing principle and cited the case of **R. v.**  
10 **Solomon**<sup>1</sup>. In that case the defendant pleaded guilty on his fifth appearance before the Grand  
11 Court after he had been confronted with DNA Evidence. The Court applied a 25% discount for  
12 his guilty plea. From a starting point of 18 years, the sentence was reduced to one of 13 years  
13 and 6 months. This was a home invasion at night and repeated rape with the use of a weapon.

14  
15 31. Defence Counsel also referred the Court to the case of **Dilbert and Samuels v R.**<sup>2</sup>. In that case  
16 the Cayman Islands Court of Appeal (“CICA”) said that the appropriate starting point when  
17 sentencing for a rape offence with no aggravating or mitigating factors would be between 10 and  
18 12 years. It was held that: -

19  
20 *“(1) The appropriate starting point when sentencing for an offence of rape with no*  
21 *aggravating or mitigating factors would be between 10 and 12 years. This had been*  
22 *deliberately set higher than in England by the Statement on Tariffs and Guidelines (issued*  
23 *by the Chief Justice in 2002) because of the alarming prevalence of rape in the Cayman*  
24 *Islands. The presence of any one of the following aggravating factors could warrant an*  
25 *uplift of the appropriate starting point to a sentence of 15 years or more: (i) rape committed*  
26 *by two or more offenders acting together; (ii) if the offender is in a position of responsibility*  
27 *towards the victim; (iii) the abduction of the victim; (iv) rape of a child or vulnerable*  
28 *victim; (v) racially aggravated rape or if the victim was targeted because he or she was*  
29 *part of a vulnerable minority; (vi) repeated rape in the course of one attack; and (vii) the*  
30 *offender was knowingly suffering from a sexually transmissible disease, regardless of the*  
31 *victim’s knowledge of it and whether it was transmitted. Further aggravating features*

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<sup>1</sup> [2019] 1 CILR 518

<sup>2</sup> [2010] 1 CILR 10



1           *which would warrant an increase in the sentence to be passed included: (a) the use of*  
2           *violence over and above the force necessary to commit the rape; (b) the use of a weapon*  
3           *to frighten or wound the victim; (c) planning of the offence; (d) an especially serious*  
4           *physical or mental effect on the victim; (e) if the rape involved further degradation of the*  
5           *victim (e.g. forced oral sex); (f) if the offender broke into the victim's house; (g) the*  
6           *presence of children when the offence was committed; (h) the use of drugs to overcome the*  
7           *victim or affect his or her memory of the offence; and (i) a history of sexual assaults or*  
8           *violence by the offender. This list was not exhaustive and, further, the court wished to*  
9           *emphasize that if the offender had broken into the victim's home, particularly at night, then*  
10           *this would be an aggravating factor warranting a sentence substantially in excess of the*  
11           *10 to 12-year tariff. Mitigating factors would also have to be taken into account which*  
12           *could reduce the sentence below the 10-year tariff and these included a guilty plea. The*  
13           *level of discount, however, would depend upon when and the circumstances in which it was*  
14           *given, including the strength of the evidence against the accused."*

15  
16       32.     Defence Counsel submitted that when one looks at similar cases in the Cayman Islands, where  
17           offences of rape were found to be quite prevalent, the Court imposed heavy sentences in order  
18           to send a clear deterrent message to defendants that such sentences will be severe. The  
19           circumstances in those cases were quite violent and left those complainants with physical and  
20           psychological trauma. Counsel said that while the **Guidelines** are clear and extremely  
21           important, precedents are equally significant, especially given the fact-specific nature of  
22           all offences.

23  
24       33.     Counsel invited the Court to find that the contents of the psychiatric evaluation go to mitigation  
25           rather than culpability, given the defendant's plea and that the defendant's state of mind puts  
26           him at level three or at least the lowest level. Counsel further submitted that based on the  
27           various cases, a starting point for a sentence of rape in this sort of case is in Category 2 or 3  
28           and Culpability B and thus between 8 to 14 years. Counsel said that given these particular facts  
29           a starting point of 10 years would be appropriate and after a discount for his guilty plea and  
30           taking into account the psychiatric evaluation and his antecedents, this Court may award a  
31           sentence of, or about 6 years.



1 **SUBMISSIONS IN MITIGATION**

2  
3 34. Defence Counsel submitted that this is a sad case both from the viewpoint of the victim and that  
4 of the defendant. Counsel said that the ending of the relationship earlier on in the day of the  
5 incident deeply disappointed and upset the defendant. It triggered in him an underlying  
6 psychological and emotional feeling which led to his behaviour that night.

7  
8 35. Counsel said that the defendant fell into error by attending at the victim's residence uninvited,  
9 breaking in and entering it without her permission. He was carrying with him at the material  
10 time a machete and some plastic ties. Counsel said that these items are clearly aggravating  
11 features, but asked the Court to note that when the victim instructed him to leave the machete  
12 outside of her bedroom, he immediately did so. However, he held onto some of the ties which  
13 he later used to restrain her and some of which he intended to tie around his neck to commit  
14 suicide.

15  
16 36. Counsel said that having tied her hands and her feet with two of the ties, he indicated to her that  
17 he intended to commit suicide, and that was his sole purpose for attending her apartment. Counsel  
18 said that the defendant has stated and maintains that on hearing this she informed him not to do  
19 so and he thought that she was trying to console him. The defendant stated that he misunderstood  
20 her actions and intentions when she tried to console him. He accepts, in accordance with the Basis  
21 of Plea, that he was reckless as to whether or not the victim consented to sexual intercourse. The  
22 defendant also accepts that his response to the victim's actions was clearly wrong.

23  
24 37. Counsel submitted that the defendant is remorseful and regrets that any of the events took place  
25 that evening and that this is the reason why he pleaded guilty and has maintained his plea of  
26 guilty. Counsel said that the defendant constantly thinks about how he could have got himself  
27 into such a sad situation and the people that he has disappointed, including the victim and her  
28 mother.

29  
30 38. Counsel submitted that there is clear evidence as set out in the evaluation report which indicates  
31 that the defendant suffers from chronic suicidal ideation. One cannot say with any certainty that  
32 he was not suffering from such suicidal ideation when he attended the victim's apartment that  
33 evening. Counsel said that this is put forward as mitigation rather than an attempt to reduce the



1 level of culpability. It is put forward to invite the Court to find that on the night in question the  
2 defendant was not thinking clearly and that he fell into error.

3  
4 39. Counsel said that the defendant is a young man and of good character. He was here on Island on  
5 a work permit. Once his work term limit expires then he would have to return to Jamaica. Counsel  
6 asked that the Court impose concurrent sentences given that the charges arise from related  
7 incidents, and it is the same victim.

#### 8 9 **REDUCTION IN SENTENCE FOR GUILTY PLEA**

10  
11 40. Defence Counsel submitted that the defendant pleaded guilty at the earliest opportunity. Counsel  
12 referred to paragraph 26 of the judgment in the previously cited case of *R v Solomon* and  
13 submitted that based on the particular facts in the instant case, the defendant should receive the  
14 usual discount of one-third. Counsel noted that whilst at Court a Basis of Plea to the charges  
15 was drafted and agreed, thus avoiding a trial and the attendance of the victim to give evidence.  
16 The defendant was suffering mentally and was in a suicidal state and behaved in a way he  
17 would not ordinarily behave.

#### 18 19 **THE SENTENCE**

20  
21 41. In this Court's view, the defendant committed what can only be described as a horrific assault  
22 upon the victim. He entered her home during the night armed with a machete, knuckle duster and  
23 zip ties. He disconnected her cellular phone radio signal. He subdued her by choking her. He  
24 bound her hands and feet and threatened to punch her with the knuckle duster if she did not refrain  
25 from screaming. Every time she resisted him he would reach or attempt to reach for the machete.  
26 This was a period of prolonged restraint of the victim. The impact on the victim is evident from  
27 her having to undergo several counselling sessions. The offending is serious and clearly passes  
28 the custody threshold.

29  
30 42. Consideration has been given to the cited cases and to the *Cayman Islands Sentencing*  
31 *Guidelines* 2020 for the offence of Rape. It is noted that the cases pre-date the *Guidelines*. The  
32 *Guidelines* state in paragraph 9 that they reflect broadly the approach taken in local case law and  
33 specifically refer to the case of *Dilbert and Samuels*.



1  
2 43. The Court therefore proposes to follow the *Guidelines* which incorporate the case law which has  
3 been cited by Counsel.

4  
5 44. Taking the most serious offence of Rape first, it is accepted that under the *Guidelines* the Harm  
6 is at the level of Category 2 because there is violence or threats of violence beyond that which is  
7 inherent in the offence and there is also the forced uninvited entry into the victim's home. As to  
8 the level of Culpability it is accepted that none of the factors in Culpability A are present so that  
9 the offending is at the level of Culpability B. This is a Category 2 B case with a starting point of  
10 15 years imprisonment.

11  
12 45. From that starting point, in mitigation this Court considers everything which has been said or  
13 written in favour of the defendant in all the documentation before the Court and by his Counsel.  
14 The Court considers firstly the general mitigation which includes, his relatively young age, his  
15 remorse, the fact that he has no previous convictions, and that the offending is said to be out of  
16 character for him, as well as his personal circumstances. These circumstances include the fact of  
17 the death of his grandfather last year which may have adversely affected him. It is said that he  
18 was very close to his grandfather. The Court also notes that he was gainfully employed and by  
19 all accounts appeared to have been a productive citizen. All these factors serve to reduce the  
20 sentence from 15 years custody to one of 13 years.

21  
22 46. In respect of his mental state as described by Dr. McGill, this is taken into account as additional  
23 mitigation. The sentence is further reduced by 2 years to 11 years.

24  
25 47. A plea was effectively entered at the door of the Court. The trial was about to begin. Under the  
26 *Guidelines* the defendant is not entitled to a full reduction. No doubt the victim would have had  
27 to be called to give evidence if the guilty plea had not been entered. As the Court notes in the  
28 case of *Solomon* which referenced the case of *R. v. Millberry*<sup>3</sup>.

29  
30 *“27 In R. v. Millberry (3), the court addressed this matter of guilty pleas and*  
31 *stated ([2003] 1 W.L.R. 546, at para. 28):*

---

<sup>3</sup> [2003] 1 W.L.R. 546



1                    *“Having to give evidence and especially being cross-examined can make a victim*  
2                    *relieve the offence. We have seen many victim impact statements that make this*  
3                    *clear. Obviously the distress which is avoided is greater the earlier the victim is*  
4                    *informed so the discount should be reduced if there is not an early plea. There is*  
5                    *also the fact that the plea demonstrates that the offender appreciates how wrong*  
6                    *his conduct was and regrets it. While it is desirable to avoid taking up the time of*  
7                    *the court and incurring expense unnecessarily, this is less important in mitigation*  
8                    *than the other two factors we have just mentioned. With the panel, we stress that*  
9                    *the maximum credit should only be given for a timely guilty plea.”*

10  
11        48.        The Court in that case gave a 25% reduction for the late guilty plea.

12  
13        49.        In the instant case the Court notes, the mental health report of Dr. McGill and the issues identified  
14                    by his Counsel including in resolving the Basis of Plea. Consequently, a reduction of 25% is  
15                    afforded to the defendant. This reduces the sentence from 11 years to one of 8 years.

16  
17        **AGGRAVATED BURGLARY**

18  
19        50.        Under the *Guidelines* this is a case of Higher Culpability A because of the weapon carried and  
20                    Category 1 Harm because the victim was on the premises. The starting point is 7 years custody.  
21                    From that starting point, no aggravating factors are taken into account as increasing seriousness  
22                    because these were considered as part of the sentencing for the offence of Rape. Care must be  
23                    taken to avoid double counting. The general mitigating circumstances as identified above serve  
24                    to reduce the sentence by 1 year and the mental health issues by an additional 1 year for a sentence  
25                    of 5 years or 60 months. Allowing for a 25% reduction for his guilty plea, the final sentence is  
26                    one of 45 months imprisonment.

27  
28        **WRONGFUL CONFINEMENT**

29  
30        51.        The Court applies a starting point of 3 years for the offence of Wrongful Confinement. After  
31                    taking into account mitigation (6 months and 6 months) and 25% reduction for his guilty plea, a  
32                    sentence of 18 months imprisonment is imposed.



1 **CONCLUSION**

2  
3 52. The Court considers the totality principle. Given that all the offences occurred at the same time  
4 in respect of the same victim, all the sentences are to run concurrently. Time served is to be taken  
5 into account. While on remand the defendant is to be subject to the rehabilitative programmes  
6 recommended by the Probation Officer. These include: -

- 7  
8 (i) Completing the Sex Offender Treatment Programme, if assessed as suitable. The  
9 Officer noted that a sex offender treatment option is not available in the community  
10 and that such an intervention would serve to challenge and change the defendant's  
11 thinking and behaviour with a view to reducing risk.  
12  
13 (ii) Participating and completing the Men's Non-Violence Prevention Programme  
14 which addresses the use of violence and abuse in intimate relationships. The  
15 Officer noted that participants will be assisted to change their abusive behaviour  
16 and to prevent further incidences of domestic violence.  
17  
18 (iii) Participation in the Sycamore Tree and Prisoner's Journey Programme offered in  
19 the prison. The Officer explains that these are restorative justice programmes the  
20 first of which uses the victim's perspective to discuss crime and its impact.  
21  
22 (iv) Thinking Reports/Dialectal Behaviour Therapy/Calm and Compassion  
23 programmes. These will assist with controlling behaviours and allow and reduce  
24 impulsive behaviour thus improving problem solving in emotionally charged  
25 situations.  
26  
27

28 **SEXUAL HARM PREVENTION ORDER**

29  
30 53. The prosecution applied for a Sexual Harm Prevention Order. Defence Counsel initially  
31 submitted that he did not consider that such an Order would be appropriate in this case, given  
32 that once the defendant is released from prison it is very unlikely that he will secure another work  
33 permit in Grand Cayman.

1 54. The Court is satisfied given the circumstances of the offending that a Sexual Harm Prevention  
2 Order is necessary for the protection of the victim. An Order is therefore made pursuant to s.45C  
3 of the *Penal Code*. It is made for a period of five years after the defendant's release from Prison.  
4 The terms of the Order to the defendant are as follows: -  
5

- 6 1. You shall have no direct or indirect contact with the victim, [X] or any member  
7 of her family. This includes via any means which utilises social media such as  
8 Text Messaging, WhatsApp, Facebook, Instagram or other electronic means of  
9 communication.  
10
- 11 2. You shall not be within 100 metres of the victim, [X] other than:  
12 a. That which is inadvertent and not reasonably avoidable in the course of lawful  
13 daily life; or  
14 b. By order of a Judge of the Grand Court.  
15
- 16 3. You shall notify the Royal Cayman Islands Police Service Offender Management  
17 Unit of any change to your residence or telephone number in writing within 24  
18 hours of the change.  
19  
20

21 **Dated this the 27<sup>th</sup> October 2023**  
22



23  
24 **The Hon. Justice Cheryll Richards KC**  
25 **Judge of the Grand Court**