

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

3
4 **INDICTMENTS No: 54 & 55/2022**

5
6
7 **REX**

8
9 **v**

10
11 **MIKAEL ANTONIO¹ WILLIAMS**



12
13 **Appearances:**

Mr Scott Wainwright for the Crown

14
15 **Mr. Keith Myers for the Defendant**

16 **Before:**

Justice Frank Williams (Actg.)

17 **Heard:**

25th November 2022

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21 **HEADNOTE**

22 *Criminal Law – Possession of an unlicensed firearm and ammunition –*
23 *Sections 15 (1) and 15(5) of the Firearms Act – Sentence following guilty*
24 *pleas.*
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27
28 **SENTENCE JUDGMENT**

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¹ This name on the indictment is spelt “Anthonio.”



1 **BACKGROUND**

2 1. Before me for sentencing is the defendant, Mikael Antonio Williams. He falls to be
3 sentenced, having pleaded guilty on the 5th August 2022 to an indictment containing
4 two counts. The first count charged the defendant with the offence of possession of
5 an unlicensed firearm contrary to s.15(1) and (5) of the *Firearms Act* (2008
6 Revision). The second count charged him with possession of an unlicensed firearm
7 (ammunition), also contrary to s.15(1) and (5) of the *Firearms Act*.

8 **THE FACTS**

9 2. The firearm and ammunition in question are a 9mm pistol and nineteen (19), 9mm
10 rounds.

11
12 3. The firearm and ammunition were seized on the 15th day of July 2022 when the
13 police executed a search warrant at premises occupied by the defendant, his partner
14 and her daughter. The defendant told them that he had a firearm in the drawer of a
15 bedside table. When the police checked it, they found the pistol loaded with 14
16 rounds of ammunition. They also found another five rounds of ammunition in a clear
17 plastic bag in the said drawer. The defendant told the police that he had been
18 summoned from his home by telephone by a gang member that very morning, who
19 ordered him, whilst being threatened at gunpoint by another gang member, to keep
20 the firearm and ammunition and they would collect them from him later that day.

21
22 4. For the Crown, Mr Wainwright informed the Court that nothing adverse is known
23 about the defendant in this jurisdiction. The only potential aggravating factor in the
24 case might arise from the sheer number of rounds of ammunition found in the
25 defendant's possession, Mr. Wainwright noted.

26

1 5. For the defendant, Mr Myers encouraged the Court to impose the minimum sentence
2 mandated by law in relation to the firearm, and to impose a nominal sentence for the
3 ammunition. Viewing the number of rounds of ammunition as an aggravating factor
4 might result in “double counting” of the same factor when he is sentenced for the
5 ammunition, Mr. Myers warned.



6 **THE LAW**

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8 6. Section 15(1) of the **Firearms Act** makes it an offence for someone to be in
9 possession of a firearm except under and in accordance with a firearms user’s
10 (restricted) licence. It is common ground that the defendant is not the holder of a
11 firearms licence: hence the plea of guilty. Section 15(5) of the **Act** states that being
12 in possession of an unlicensed firearm is an offence and states the penalty for doing
13 so.

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15 7. Section 39 of the **Firearms Act** is also relevant. It reads as follows:

16 *"Minimum sentences for certain offences*

17 39. (1) *This section applies where-*

- 18 (a) *an individual is convicted following a trial or a plea of*
19 *guilty, by a court of summary jurisdiction or the Grand*
20 *Court, of an offence under section 3(3), 15(5) or 18(6);*
21 (b) *the offence was committed on or after 15th November,*
22 *2005; and*
23 (c) *the offence is in respect of a machine gun, sub-machine*
24 *gun, rifle, shot gun, pistol, or any lethal barrelled*
25 *weapon from which any shot, bullet or other missile can*
26 *be discharged.*

27
28 (2) *Notwithstanding sections 6(2) and 8 of the Criminal Procedure*
29 *Code (2006 Revision), the court of summary jurisdiction or the*
30 *Grand Court before which the individual pleads guilty or is*
31 *convicted, shall-*

- 32 (a) *in a case where the individual pleads guilty, impose a*
33 *sentence of imprisonment for a term of at least seven*
34 *years (with or without a fine); or*

1 (b) in any other case, impose a sentence of imprisonment
2 for a term of at least ten years (with or without a fine),

3 unless the relevant court is of the opinion that there are
4 exceptional circumstances relating to the offence or to the
5 offender which justify its not doing so; and such exceptional
6 circumstances shall be stated by the relevant court.

7 (3) ...”

8
9 8. In this case, the application of s.39 of the Act (which imposes mandatory minimum
10 sentences) is triggered by the following:

11 i. The defendant having pleaded guilty in this court in respect of an offence
12 concerning s.15(5) of the *Act*.

13 ii. The defendant having committed the offence after the 15th November
14 2005.

15 iii. The firearm involved in the offence being a pistol.

16 **MINIMUM AND MAXIMUM SENTENCES**

17 9. By virtue of s.39 (2)(a) of the *Act*, the mandatory minimum sentence possible in this
18 case is a period of seven years’ imprisonment. The maximum sentence is reflected
19 in s.15(5) of the *Act*, which states:

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21 “(5) Whoever contravenes this section is guilty of an offence and, subject to
22 section 39, is liable on conviction to a fine of one hundred thousand
23 dollars and to imprisonment for twenty years.”

24 25 **THE AIMS OF SENTENCING**

26 10. The aims or objects of sentencing are well known. In the *Cayman Islands*
27 *Sentencing Guidelines, 2015*, the aims are stated thus at page 8:



1 15. In the case of *Terry v R*², the Cayman Islands Court of Appeal (CICA) (per Chadwick
2 P) considered that a range of between 13 and 14 years would have been an
3 appropriate starting point for possession of an unlicensed firearm after a conviction
4 by way of trial and given the facts of that case. In the instant case, there was no
5 conviction after trial. Rather, there was a guilty plea, thus saving the court
6 considerable time and expense which a trial would have necessitated.

7
8 16. A plea of guilt is also taken as an indication of remorse – an important consideration
9 in sentencing a defendant.

10
11 17. In terms of a suitable range for beginning a consideration of the appropriate sentence
12 in this case, a range of, say, 9 to 12 years would seem appropriate, with a starting
13 point of 11 years.

14
15 18. Two-and-a-half years will be deducted from this figure of 11 years, on account of
16 the defendant’s guilty plea. In addition, one year will be deducted on account of his
17 co-operating with the search and informing the police where the weapon was to have
18 been found. That results in seven years and six months. The sentence of this Court
19 for the firearm offence will therefore be seven years and six months.

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21 19. In relation to the ammunition, although the number of rounds does raise some
22 concern (each of the 19 rounds potentially representing the taking of a life or the
23 infliction of a serious injury), I am not minded to impose a relatively heavy sentence
24 on this count as, in my view, the sentence on count one, having regard to the totality
25 principle, should suffice to deter the defendant from re-offending as well as to deter
26 like-minded persons from committing the same, or a similar, offence.

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² [2012] (2) CILR 119

