

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

3 **IND. NO: 85 of 2021**



6 **R**

7
8 **V.**

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11 **DERRIN KENNEDY EBANKS**

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

17 **Mrs. Prathna Boddan of Samson Law for the Defence**

18 **Before:** **Justice Cheryll Richards QC**

19 **Submissions Heard:** **5th April 2022**

20 **Sentence Judgment:** **5th April 2022**

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24 **HEADNOTE**

25 *Criminal Law - Sentencing, Wounding contrary to Section 204 of the Penal Code (2017 Revision)*



1 **SUMMARY OF FACTS**

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3 6. In March 2017 at the time of the offending the victim and the defendant were in a relationship
4 and residing together at a home at Genevieve Bodden Drive. On the morning of the 5th of
5 March 2017, while they were standing in the kitchen/dining room area of the home, there
6 was an argument between them about the defendant's alleged infidelity. Miss Mannarino
7 asked him to leave. He picked up a mug with hot coffee and with a back-handed motion
8 smashed the mug into her face. The mug made contact with the area of her nose and mouth,
9 causing those areas to bleed extensively. She fell to the ground and lay there bleeding and
10 crying.

11
12 7. The defendant left the premises in his vehicle and returned a short time later. He kept
13 repeating "*f. Lucia...why do you get me so upset?*" He later took her to the George Town
14 Hospital. The medical notes and statement indicate that she had sustained a 1.5cm laceration
15 to her upper lip and bruising to the inside of her lip. The wound was repaired by the insertion
16 of eleven sutures. Miss Mannarino has been left with a permanent scar to the area.

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18 8. Six photographs showing the injury to the victim have been provided as an Exhibit for the
19 purpose of this sentence hearing and are received as Exhibit 1.

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21 9. The defendant was not interviewed in relation to this matter because it was not reported to
22 the police at the time.

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24 **VICTIM IMPACT STATEMENT**

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26 10. The victim has provided an undated Victim Impact Statement. She describes the aftermath
27 of the incident as she lay on the floor and her fear of being further hurt by the defendant
28 which led her not to respond to the calls and knocks of neighbours who were offering
29 assistance to her.

30
31 11. She details the impact of the offence as including a large scar which has disfigured her face
32 as well as the emotional and psychological effect upon her. She states:-

33 *"After the injury to my face, I suffered nightmares and had sleeping problems. Every single*
34 *day when I would see my face in the mirror and see the large scar on my lip I would cry*



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2 *and often have panic attacks. I didn't realise then how I was being manipulated and*
3 *brainwashed into believing I somehow was the reason for this abuse, that this Island is*
4 *Derrin's home, that I could be forced to leave, that something bad would happen to me or*
5 *I would disappear if I stood up for myself. I shut people out, I lied to people who love me*
6 *and were worried about me. I started to not trust anyone. I was worried that I would be*
7 *judged and no one would understand. I felt alone and like I couldn't tell anyone or even*
8 *ask for help. Even if I did go to the police or tell anyone, it would be my word against his*
9 *and it would just make Derrin angrier and revengeful. I had to repeat the same lie over*
10 *and over about "the accident" and what happened to my face to my family, friends and*
11 *colleagues. To this day, I still lie to my family, friends and colleagues because I feel that*
12 *they could not bear to know the truth after everything that has happened and I am*
13 *embarrassed that I lied to cover for Derrin. I started to go to therapy to help me cope with*
14 *what happened and learn to manage my panic attacks and PTSD. I had to take the week*
15 *following this assault off of work as I was unable to properly speak, smile or eat food. I*
16 *have left the Island numerous times due to these assaults and threats by Derrin and*
17 *genuinely being terrified to be here and not feeling safe.*

18 ...

19 *It took the most emotional and mental strength for me to finally speak up and defend myself,*
20 *especially after the 6 September 2020 incident. Both, myself and the community at large*
21 *need to know there are repercussions for physically hurting people and that the judicial*
22 *system takes domestic abuse seriously."*

23
24 **ANTECEDENT HISTORY**

- 25
26 12. The defendant now has the previous convictions recorded above although it is noted that this
27 offending pre-dated those matters.
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29 **SOCIAL INQUIRY REPORT**

- 30
31 13. The Court has had regard to and reminds itself of the Social Inquiry Report ("SIR")
32 previously provided by the Department of Community Rehabilitation dated 21st October



1 2021. Aspects of this SIR were detailed in the judgment of the Court dated 2nd December
2 2021. This included reference to childhood issues, that there was early exposure to aggression
3 and violence which may have had serious implications for the defendant's adult life. His
4 overall risk of re-offending was assessed as high. Of the eight criminogenic factors used in
5 the assessment, he scored in the very high category for pro-criminal attitude and orientation
6 and in the high category for anti-social patterns. His specific risk-need factors include self-
7 management skills and anger management deficits. Under sentencing options, the Officer
8 stated that extensive intervention is needed to address the concerns raised in the SIR. Such
9 an intervention is currently not provided by the Department.

10
11 **SENTENCING GUIDELINES**

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13 14. The Prosecution and the Defence are agreed that under the *Cayman Islands Sentencing*
14 *Guidelines*, this offending falls into category 2 being one of lesser harm and higher
15 culpability. It is agreed to be lesser harm as the resulting injury is not said to be serious in the
16 context of the offence. Culpability is high as a weapon equivalent, the coffee mug, was used
17 to effect the injury. The starting point is three years custody with a range of sentence of two
18 to four years custody.

19
20 **SUBMISSIONS**

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22 15. In submissions in mitigation, Counsel on behalf of the Defendant submitted that the
23 defendant is very remorseful and is deeply embarrassed by his actions. It is further said that
24 having been through the earlier trial, he now appreciates the impact of what he has done. He
25 accepts that he has anger management issues and is seeking to address these while he is in
26 Prison. Counsel asks that the Court takes into account the delay in the proceedings, not only
27 in respect of the date of the incident but also that this offence did not form part of Indictment
28 78 of 2020. Counsel invites the Court to consider the totality principle in imposing sentence
29 in respect of this offence.

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31 **SENTENCE**

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33 16. The Court is mindful of the guidance provided in respect of offences committed in a domestic
34 context as set out in paragraph 13 of the *Cayman Islands Sentencing Guidelines*.



1
2 17. The offending in the instant case was of a serious nature, involving as it did injury which
3 required medical intervention, and which caused significant trauma to the victim over an
4 extended period of time. The custody threshold is firmly passed. No aggravating factors are
5 raised. From a starting point of thirty-six months as set out in the *Guidelines*, the Court takes
6 into account in mitigation all that has been said about the defendant in the SIR and by Counsel
7 on his behalf. These include the defendant's remorse, the childhood issues, and his
8 willingness now to positively engage in anger management programmes. The Court also
9 takes into account the delay with respect to this matter. The initial delay in reporting was, on
10 the account of the victim in her Victim Impact Statement, due in part to her fear of reprisal
11 from the defendant. This is not unusual in a domestic violence case such as this. There is
12 however a second aspect to the delay. This is that other matters which came to light at the
13 same time in 2020 proceeded to completion and sentence. Defence Counsel submits that it is
14 unclear the reason that this matter did not form a part of the earlier Indictment. Prosecuting
15 Counsel submits that this was considered but joinder was not deemed appropriate because of
16 the circumstances of this offence.

17
18 18. From a starting point of thirty-six months, the mitigating factors taken together serve to
19 reduce the sentence to one of thirty months. The defendant is given full credit in respect of
20 his guilty plea for a sentence of twenty months.

21
22 **TOTALITY OF SENTENCE**

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24 19. The Court has given consideration to how this sentence of twenty months should run given
25 the sentence of forty-three months which is now being served.

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27 20. Paragraph 6 of the *Cayman Islands Sentencing Guidelines* with respect to concurrent and
28 consecutive sentences provides as follows:-

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30 **“6.1 Concurrent Sentences**

31 *It is wrong in principle to impose sentences to run consecutively where those*
32 *offences, though distinct in law, arose out of a single act so that the overall*
33 *criminality for the offender can be represented by concurrent sentences.*

34 *Concurrent sentences will ordinarily be appropriate where:*

35 *Offences arise out of a related incident or facts.*

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2 *There is a series of offences of the same or similar kind especially when*
3 *committed against the same victim.*
4

5 *Where concurrent sentence are passed, the sentence should reflect the*
6 *overall criminality involved. The sentence should be appropriately*
7 *aggravated by the presence of the associated offences and thus the court*
8 *may increase sentence for the principal offence to reflect the gravity of*
9 *conduct:*

10
11 **6.2 Consecutive Sentences**

12 *Consecutive sentences will ordinarily be appropriate where:*

13 *Offences arise out of unrelated facts or incidents.*

14 *Offences are of the same of similar kind but where the overall criminality*
15 *will not sufficiently be reflected by concurrent sentences for example:*

16 *Where offences are committed against different victims.*

17 *Where sexual offences or domestic violence are committed against*
18 *the same individual.*

19 *Where the offender commits the same or similar offence after*
20 *being arrested for the original offence.”*
21

- 22 21. This is an offence of domestic violence which was committed against the same individual
23 and on a different occasion to those on Indictment 78 of 2020. Following the **Guidelines**, it
24 would have been appropriate for the overall criminality to be reflected by way of a modest
25 increase to the sentence previously imposed. The reasoning would be that the fact of the 2017
26 offending provides evidence not only of a separate assault but also that this was not a one-
27 off but a series of domestic violence incidents against the same victim. However, given the
28 level of the sentence imposed and considering the principle of totality as well as in particular
29 the second aspect of the delay, the sentence of twenty months is to commence from today
30 and sixteen months is to run concurrently with the sentence now being served. Four (4)
31 months is to run consecutively to the sentence now being served.

32 **Dated this the 5th April 2022**

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34 **The Honourable Justice Cheryll Richards QC**
35 **Judge of the Grand Court**