

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

3
4 **INDICTMENT NO: 0015 of 2019**
5

6
7 **THE QUEEN**



8
9 v.
10

11 **WAYNE DAVID WRIGHT JR**
12

13 **Appearances:**

Ms. Kerri-Ann Gillies for the Crown

14 **Ms. Lee Halliday-Davis of Brady Attorneys**
15 **at Law for the Defendant**

16 **Before:**

Justice Cheryll Richards Q.C.

17 **Sentence Hearing:**

2nd June 2020

18
19 **Sentence Judgment:**

3rd June 2020
20

21 **HEADNOTE**

22 *Criminal Law – Arson - s.267(2)(a) of the Penal Code (2018 Revision)*
23 *Sentencing – Psychiatric and social history*
24

25
26 **SENTENCE JUDGMENT**

1 1. The defendant, Wayne David Wright JR, is before the Court for sentencing in respect of
2 one count of Arson contrary to s.267 of the *Penal Code (2018 Revision)*. The particulars
3 of the Indictment are that he:

4 *“On the 13th day of October 2018, at #25 Watler Road, George Town, Grand*
5 *Cayman, in the Cayman Islands without lawful excuse, damaged or destroyed by*
6 *fire a blue Honda Torneo motor vehicle, registration number 134-268, belonging to*
7 *him, intending to destroy or damage such property or being reckless as to whether*
8 *such property would be damaged and intending by the destruction or damage to*
9 *endanger the life of another, or being reckless as to whether the life of another would*
10 *be thereby endangered.”*
11
12

13 2. The defendant’s first appearance in the Grand Court was on the 8th March 2019. The
14 Defence sought two adjournments to take instructions. On the 5th April 2019, the
15 defendant’s third appearance before the Court, he was arraigned and pleaded *not* guilty
16 to the offence. A trial date was set for the 15th July 2019. Between April 2019 and
17 December 2019, there were nine adjournments. The defence sought a report relating to
18 the mental health of the defendant. Following receipt of that report, on the 20th December
19 2019, the Defendant was re-arraigned and pleaded guilty to the offence, limited to being
20 reckless as to whether any property would be destroyed or damaged. The plea was
21 acceptable to the Prosecution.

22
23 3. The facts may be shortly stated. Sometime in July 2018, the Honda car in question was
24 given to the defendant by Ms. R. Ebanks. The two have known each other since Middle
25 School. On Ms. Ebanks’ part this was no more than a friendship. On the part of the
26 defendant it was not. Following the gifting of the motor vehicle which according to Ms.
27 Ebanks had developed mechanical problems, the defendant began showing increased
28 and unwelcome interest in her.



1 4. Various incidents were reported to the Police. One of these was a disturbance between
2 them at about 2 a.m. on Saturday the 13th October 2018 at a local Bar and Lounge on
3 Smith road. The Police were called to the scene. They traveled from there in search of
4 the defendant who had left before their arrival. They saw and endeavored to stop him as
5 he drove the Honda motorcar along Eastern Avenue in George Town. Checks indicated
6 that the coupon for the vehicle had expired 10 days previously. They stopped the Police
7 car in the pathway of the Honda, engaged blue lights and sirens. The vehicle did not
8 stop. It went around the police car and proceeded at a high rate of speed. The defendant
9 drove it to his home on Watler's Road, parked it outside and went inside. He then
10 proceeded to throw bricks at the police who took cover and retreated from the area. Later
11 that morning at about 5:59 am, the vehicle was seen to be engulfed in flames and was
12 completely destroyed despite the intervention of the Fire Service. A nearby house with
13 a sleeping occupant had internal smoke damage.



14
15 5. Fire investigator Tina Choy attended the location and after investigation concluded that
16 the cause of the fire was a deliberate act of arson. CCTV footage from a nearby gas
17 station and from Government cameras show that at 5:50 that morning, the defendant had
18 purchased gasoline in a large yellow container. He was seen to walk back to the scene
19 with the container and to move around the Honda vehicle. Within a matter of seconds
20 thereafter, the vehicle was seen to be on fire.

21
22 6. The defendant was arrested on the 7th February 2019. He was interviewed under caution
23 on the 9th February 2019. He denied any involvement in the arson and said that he had
24 been elsewhere at the material time. He was shown still photographs from the CCTV

1 footage and then stated that he had in fact been on Watler's Road and had purchased
2 gasoline at the request of a friend.

3
4 7. In view of the defendant's young age, his antecedent history, and, having reviewed a
5 previous Social Inquiry Report (SIR) which had been prepared in respect of the
6 defendant in 2018, on the 21st February 2020, the day initially set for the Sentence
7 hearing, it was determined that an up-to-date report from the defendant's probation
8 officer was required and, therefore a SIR was ordered in February 2020. This SIR was
9 received on the 22nd May 2020.

10
11 8. The main aim of this sentence judgment will be to focus on the defendant's psychiatric
12 and mental health as well as his historical and current social circumstances. The Court
13 has been provided with the following:

- 14
15 i. The (17-page) Psychiatric Report of Dr. Marc Lockhart dated the 7th
16 October 2019;
- 17
18 ii. The (21-page) Psychiatric Report of Dr. Ali Ajaz dated the 12th February
19 2018;
- 20
21 iii. The SIR dated 22nd May 2020;
- 22
23 iv. The SIR dated 26th April 2018.



22 **THE DEFENDANT'S BACKGROUND**

23
24 9. The SIR sets out that the defendant is a 23-year-old Cayman Islands National who was
25 born in Honduras along with several of his siblings. He was 21 years old at the time of
26 the offending. Due to ongoing conflicts between his parents, his mother left their home
27 in 2002 when the defendant was 5 years of age and he and his siblings were left in his

1 father's care. The defendant described the years after his mother left as "rough" –
2 indicating that his father began using drugs heavily shortly after his mother's departure
3 and was neglectful towards the children. Within one year the children were removed
4 from the home and placed in foster care where they remained for four years.
5 Departmental records show that during this time, the defendant displayed behavioural
6 problems, which were attributed to having been separated from his father as well as
7 negative peer influences. The defendant was next transferred to the Bonaventure Boys
8 Home as well as to Cornerstone for a brief period. The defendant's father sought custody
9 of the children because the mother was "consuming alcohol ..." – after which, his mother
10 emigrated, taking his youngest maternal sibling with her.

11
12 10. The defendant was removed from High School for fighting and bullying behaviour and
13 placed in the Alternative Education Program (AEP) – which he attended for three years,
14 but left during grade 10.

15
16 11. The defendant disclosed to the Probation Officer that he was introduced to ganja at age
17 10 while in foster care. Regarding his current drug use, the defendant reported that he
18 has significantly reduced his ganja use due to the impact it has on his anxiety.

19
20 12. He began consuming alcohol at sixteen (16) years old. He stated that he was a daily
21 drinker until it negatively impacted his work performance. He disclosed that he has also
22 reduced his alcohol consumption as well because of the impact it has on his anxiety.



1 13. He also disclosed that he committed several offences as a juvenile, with the most serious
2 being that of armed robbery. He was sentenced to two (2) years' imprisonment for that
3 offence – serving 20 months in custody. He was sentenced to two (2) years'
4 imprisonment concurrent for the offence of Possession of an Imitation Firearm with
5 intent to commit an offence. The Defendant was also placed on a Probation Order as a
6 juvenile, but did not recall having any conditions attached. In April 2018, the defendant
7 was sentenced to eight (8) months' custody which was suspended for eighteen months
8 for an Assault Causing Actual Bodily Harm. He committed the above offences during
9 the period he was on the Suspended Sentence Supervision Order. He subsequently
10 served ten months on remand for this set of offences. In May 2018 the defendant was
11 sentenced to 120 hours' of Community Service shortly after the imposition of the
12 Suspended Sentence. This was for the offence of Common Assault and two offences of
13 Damage to Property. He did not complete the Community Service hours and was
14 subsequently breached. He was also fined a total of \$400.00 for multiple offences of
15 Failing to Surrender to Custody.

16
17 14. The defendant currently has several open cases before the Summary Court awaiting
18 disposition. Those cases are set for disposition following the outcome of this case in the
19 Grand Court.

20
21 15. Whilst on remand most recently, he incurred three infractions - two for threatening staff
22 and one for jumping the fence. Under attitude towards this offence, he shared with the
23 Probation Officer that he was under the influence of alcohol that night and had been
24 having a difficult time.



1 16. He was assessed by the Officer as being at very high risk of re-offending, with seven of
2 the eight criminogenic factors in the very high or high category. His pro-criminal
3 thinking is described as pervasive and perhaps linked to the significant trauma which he
4 experienced as a child. Despite all these matters, the Officer commented that while
5 offending is a part of his family culture, he appears eager for change and willing to take
6 steps toward change. The Probation Officer recommends that consideration be given to
7 a suspended sentence supervision order with specific conditions to assist in his
8 rehabilitation.

9
10 17. Dr. Lockhart indicates in his report dated 7th October 2019, that the defendant suffers
11 from post-traumatic stress disorder (PTSD) which is chronic, a childhood history of
12 neglect, an unspecified personality disorder, a family history of substance abuse as well
13 as cannabis dependence with unspecified cannabis induced disorder.

14
15 18. The Doctor details that the defendant's troubled history began at an early age. His first
16 psychological assessment (by another practitioner) was in January 2007 a year after he
17 had been placed in foster care. Dr. Lockhart first saw him in December 2009 when he
18 was then aged 12 years and nine months. At that time he presented with professionally-
19 identified frequent expressions of rage, depressed moods with hopelessness and passive
20 suicidal ideations.



21
22 19. The Doctor states on page 16 of his report:

23
24 *“It is my opinion with a reasonable degree of medical certainty that Wayne David*
25 *Wright’s criminal behaviours and impulsive actions are significantly impacted by*
26 *his psychiatric diagnosis and history of early neglect and trauma. Mr. Wright, while*
27 *having an understanding and the ability to differentiate between right and wrong is*
28 *unable to fully control his impulses as a result of psychiatric impairment. Mr.*

1 *Wright's clinical history, mental status examination and subjective testing all*
2 *confirm significant deficits in his mental state with consistent themes relating to*
3 *impulsivity, aggression, anger, low self-esteem and maladaptive mood systems."*
4

5 20. The Doctor then refers to the clinical evidence based on data and research and suggests
6 that the defendant would benefit from individual therapy to address his varying issues.
7 The Doctor states further that encouragement with vocational training and occupational
8 therapy would also be highly beneficial and that his responses highlight some interest
9 and desire on his part to engage in such interventions.



10
11 **THE SENTENCE**

12 21. Consideration has been given to the submissions of both Counsel in respect of this case.

13
14 22. In the absence of offence-specific Guidelines in the Cayman Islands, Counsel for the
15 Prosecution referred to the United Kingdom Sentencing Guidelines. Counsel submitted
16 that the case falls into Culpability A because of the use of an accelerant and Category 2
17 or 3 harm due to the low level of damage caused. It is proposed to apply Category 3
18 harm. The sentencing range is six months' to two years' imprisonment with a starting
19 point of one year custody. The Defence do not disagree with the categorisation.

20
21 23. Consideration was given to the impact of his mental state and to whether his
22 responsibility was thereby substantially reduced such that the level of culpability should
23 be reduced. Dr. Lockhart's report indicates that he appreciates right from wrong
24 although he is likely to be impulsive. There is no indication that at the time of the offence
25 his impairment impacted his ability to exercise appropriate judgment, make rational

1 choices or to understand the nature and consequences of his actions. The conclusion is
2 that there are no factors which would serve to reduce his level of culpability.

3
4 24. There are a number of aggravating factors, including the following:

5
6 a. This offence was committed whilst the defendant was on an 18-month suspended
7 sentence with a supervision order which was imposed in March of 2018, just seven
8 months before the commission of this offence;



9
10 b. The offence was committed whilst under the influence of alcohol or drugs;

11
12 c. According to the SIR there has been a failure to be compliant with current court
13 orders based on the supervision order

14
15 d. His antecedent record: He has previous convictions for damage to property, assault
16 causing actually bodily harm, failing to surrender, resisting arrest and a number of
17 other offences.

18
19 25. From the starting point of a year custody, his sentence would therefore be increased by
20 these aggravating factors to two years' custody.

21
22 26. In mitigation, Counsel on behalf of the Defendant detailed his troubled personal history
23 as set out in the SIR. Counsel stated that during 2015, he was the victim of two
24 unprovoked attacks, one of which was a shooting incident which resulted in a bullet
25 being still lodged in his spine and the diagnosis of post-traumatic stress disorder. This
26 remained untreated and his behaviour spiraled out of control leading to the commission

1 of several offences in 2015. He was sentenced to a Suspended Sentence Order in 2018
2 by the Grand Court.

3
4 27. Counsel submitted that the instant offence together with those which presently remain
5 in the Summary Court have a similar hallmark to those in 2016, that is, numerous
6 escalating offences over a short period of time.

7
8 28. Counsel stated that he was remanded for 10 months between February 2019 and
9 December 2019 and that following the grant of bail, he has been working as a handyman
10 in a family business. He has been attending counselling at Dr. Lockhart's offices and has
11 been on medication. Counsel submitted that for his counselling to continue, the support
12 of the Probation Service based on an order of the Court is required.

13
14 29. This offence was a deliberate act on the part of the defendant very likely in response to
15 being chased by the Police while driving that car. It is a fortunate circumstance that his
16 actions did not cause loss of life or harm to nearby residents. His likelihood of re-
17 offending is very high. He has failed to comply with conditions and Court orders in the
18 past. His conduct is serious such that the custody threshold is passed. However his
19 personal circumstances are such that the emphasis and aim in sentencing him must be
20 on his rehabilitation and assisting him to receive continued treatment.

21
22 30. The sentence of 24 months is reduced in light of mitigating circumstances to 22 months.
23 In relation to his guilty plea which was entered after a trial date had been set, he is given
24 credit of 20 percent - reducing the sentence from 22 months' to 18 months'
25 imprisonment.



1 31. Given his personal circumstances, a sentence of immediate imprisonment will not be
2 imposed. The Court proposes that, under s.24 of the *Penal Code* in relation to the
3 suspended sentence which was in force at the time of the commission of this offence, no
4 order will be made with respect to that sentence.

5
6 32. In respect of this offence, a new suspended sentence will be imposed with a supervision
7 order. The sentence will be one of 18 months' imprisonment and it will be suspended
8 for two years with a supervision order and the following conditions as recommended by
9 the Probation Officer:

10
11 i. He will complete the Inter Relationship Enhancement Programme –
12 Beginning and Advanced;



13
14 ii. He will complete the Anger Management Programme;
15
16 iii. He will attend counselling as recommended by the counsellor following
17 initial assessment. This must include counselling and anger management
18 sessions with the psychologist and the Health Services Authority (HSA);

19
20 iv. He will attend the Department of Community Rehabilitation (DCR) as
21 instructed by his assigned Probation Officer;

22
23 v. He will reside at the address in George Town known to his Probation Officer
24 for the duration of his suspended sentence;

25
26 vi. He will be prohibited from entering the Watler's Road community. Should
27 the defendant need to visit his father, he must obtain the approval of Ms.
28 Natasha Williams, the DCR Officer, before entering the area;

1 vii. He will submit to random drug testing when he is instructed to do so by a
2 probation officer;

3
4 viii. He is to visit Dr. Lockhart for ongoing assessment during the course of his
5 Suspended Sentence Supervision Order.
6

7 33. Any time served on remand is to be deducted.
8
9

10 **Dated this 3rd day of June 2020**



11
12 **Honourable Justice Cheryll Richards Q.C.**
13 **Judge of the Grand Court**