

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

INDICTMENT NO: 58 of 2015



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8 THE QUEEN

9 v.

10 ROBERT AARON CRAWFORD

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18 **Appearances:**

Mrs. Darlene Oko, Senior Crown Counsel for the
Prosecution

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21
22 Mr. Trevor Burke Q.C., with Mr. Lawrence Aiolfi of
23 Priestleys, Counsel for the Defendant

24
25 **Before:**

Justice Marlene I. Carter (Actg.)

26
27 **Judge Alone Trial:**

13 - 17th September 2019

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30 **Delivery of Decision:**

4 November 2019

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33 **HEADNOTE**

34 *Criminal Law; Trial by Judge Alone;*
35 *Attempted Murder; Criminal Procedure Code Section 33A; Hostile Witness*
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38 **VERDICT JUDGMENT**
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THE INDICTMENT

1. The defendant was on trial on an indictment with three counts as follows:



“Statement of Offence – First Count

Attempted Murder, contrary to section 194 of the Penal Code (2013 Revision)

Particulars of Offence

Robert Aaron Crawford on the 4th day of July 2015 at 26 Sunburst Lane, West Bay, Grand Cayman, Cayman Islands, attempted to murder Daric Ebanks.

Statement of Offence – Second Count

Attempted Murder, contrary to section 194 of the Penal Code (2013 Revision)

Particulars of Offence

Robert Aaron Crawford, on the 4th day of July 2015 at 26 Sunburst Law, West Bar, Grand Cayman, Cayman Islands, attempted to murder Errolyn Thompson.

Statement of Offence – Third Count

Possession of an unlicensed firearm, contrary to section 15(1) of the Firearms Law (2008 Revision)

Particulars of Offence

Robert Aaron Crawford, on the 4th day of July 2015 at 26 Sunburst Lane, West Bay, Grand Cayman, Cayman Islands, was in possession of a firearm otherwise than in accordance with the terms of a firearm user’s licence.”

THE LAW ON JUDGE ALONE TRIALS

- 2. The defendant elected trial by Judge alone pursuant to Section 129 of the *Criminal Procedure Code*.
- 3. The Cayman Islands Court of Appeal (CICA) has given some guidance on the duties of a Judge in a Judge Alone trial. In *K. Richards v R*¹ Rowe JA, stated:

¹ 2001 CILR 496
191104 – Robert Aaron Crawford – IND 58 of 2015 - Verdict Judgment [*with errata released 10 February 2020]



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“When a trial judge sitting alone has advised himself to the applicable principles of law, and given himself any necessary warning, he must indicate clearly in his judgment his reasons for acting as he did in order to demonstrate that he has acted with the requisite degree of caution in mind and has therefore heeded his own warning. No specific form of words is necessary for this demonstration, what is necessary is that the Judge’s mind upon the matter should be clearly revealed.”

4. In *Randy Martin v R*², Mottley JA stated as follows:

“A judge sitting in a criminal case without a jury, in rendering his decision and giving his reasons for so concluding is not required to review every fact and to detail each argument on which the prosecution and defence rely as if he were summing up to a jury. The judge must set out the conclusion reached and make clear the reasons for arriving at that conclusion. He is required to have regard to any difficult or unusual points of law and to show how those points of law has in any way impacted the conclusion that he has reached.”

5. As in all criminal trials the burden is on the Crown to prove beyond a reasonable doubt that the defendant is guilty of the offences charged.

6. There is no burden on the defendant to prove that he is innocent. There is no responsibility on the defendant to do so. There is no onus on the defendant to prove anything at all. The defendant has no obligation to prove that he is not guilty, or to explain the evidence offered by the prosecution.

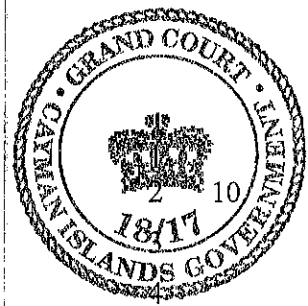
7. I will not review every single detail of the evidence, but I will address my mind to the important or prominent aspects of the evidence in deciding the critical issues in this case. I will not decide every single point that has been raised – only such matters that will enable me to determine whether the charges on the indictment have been proved.

8. I remind myself that I am not to speculate about things or matters that are not covered by the evidence. I must have regard only to the whole of the evidence that has been presented at trial and form my own judgment about that evidence. The questions of fact at issue on this trial are for me to determine.

9. I must consider all of the evidence in this case and if after having done so, I have any reasonable doubt as to whether the defendant is guilty or not, I must resolve that doubt in favour of the defendant and find him not guilty of the offences for which he is charged.

² CICA Crim. Appeal No. 2/2010 (Ind. 27/2009)

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On the other hand, if having considered the evidence I am satisfied so that there is no reasonable doubt in my mind, and I am sure of the guilt of the defendant, then it will be equally my duty in law to find him guilty as charged.

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7 **THE PROSECUTION CASE**
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9 11. The case for the prosecution against the defendant was supported by the evidence of 9 witnesses.
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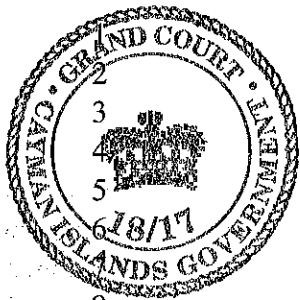
11 **The evidence of Daric Ebanks**

12 12. The evidence of Daric Ebanks was admitted into evidence pursuant to an application under s.33
13 (3)(b) of the *Evidence Law*. This court was satisfied that the statements which contained his
14 evidence were made to a constable charged with the duty of investigating offences, and that Daric
15 Ebanks could not give oral evidence ~~through~~ owing to his fear. His evidence was received by way
16 of his audio and video recorded statement of the 4th of July 2015, and his statement dated 9th July
17 2015, without the need to call the witness to give live evidence. There is no evidence or submission
18 that the actions that caused the witness to be in fear were in any way related or caused by the
19 defendant and I do not draw any adverse inference against the defendant as a result.
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21 13. The salient aspects of Daric Ebanks' evidence was as follows:
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23 ***“Q: Just tell me everything.***

24 *R: Well this morning early I was sleeping me and my girl was chilling out,*
25 *sleeping and my dad ran to my door screaming, telling me there's somebody*
26 *outside, somebody dressed in black, somebody looking through the glass door*
27 *window, they coming into the house. So I got up and ran to my door to see*
28 *what's going on, when I open my room door I seen this..um guy in a black suit*
29 *with a gun sticking out, point in my face. I ran back in the room and locked*
30 *the door and at that time the guy ran to the door and tried to break it down, to*
31 *kick it down, so I had the door the door locked, the door handle holding the*
32 *door so he didn't get in and at the time I was holding the door, gunshots were*
33 *starting to pop through the door. I heard gunshots going off. I heard like five*
34 *coming through my door, so at that time I kept on holding the door lock and*
35 *the guy kicked the door in. So me and him were wrestling with the door, I were*
36 *blocking him off from getting, trying to get in the room with the room door but*
37 *me and him locked up, like struggling with each other then. I was struggling*
38 *with him trying to get the gun outta his hand and at that point we was starting*



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to lick down bureaus, lick things down in the room, buck up in the wall. I was struggling with him holding my finger in the trigger so that he couldn't squeeze the gun. I was just trying to stop him from doing all the craziness that he was doing in the house. I was trying to protect myself and....[motioning]

.....
And at that time when I was telling him to drop the gun, to please put it down; stop. He wasn't listening to me so I started retaliating then. I struck him a couple of times and then me and him was struggling more with the gun and we were fighting in the room trying to – I was trying – me and him were fighting in the room trying to get – I was trying to get the firearm from him and at that time there was ..there was blood, bleeding. Blood was bleeding at that time from the guy. Me and him was locked up and we ended up slipping down in the room on the blood and at that time we hit down - a bureau was hit down – was liked down when me and him was scuffling and a knife fell on the ground, at that time when me and him slipped down in the room on the blood and the gun came away from his hands, I grab for the gun. We were struggling, he grabbed it back up, I jumped up, I was holding the gun trying to tell him say please, stop this, stop weh yuh doing, think about this really good. I wasn't hearing nutten, no reply saying nothing. It was just struggling and the fighting and I defend myself and defended everybody in my yard from – from this gun this gun person from this gun guy and I ended up...[motioning]

I ended up cutting him with the knife, so he can try drop the, drop the gun. From then on, we just started wrestling again. We started fighting, fists and we slip down in the room, the gun came from his hand. I grabbed for the gun, at that time I ran outside in my living room to hide it so he couldn't find it to use it to try to kill me, my father or the next – the girl that was there – Errolyn. So when I ran back in the room, me and him was just fighting and I was holding him down, retaining him, trying to stop him from doing anything else. So at that time I gave him a good lick and struck him couple more times and then I had cut him with the knife at that time then the fighting just eased down. I tried – I grabbed him and tried and dragged him out my room – and tried to drag him out my room and carried him outside in the front yard. At that time there was the ambulance and the police department on it was and I was just waiting at that time so the police and the ambulance can come there.”

- 37 14. After this narrative Daric Ebanks was asked to give further detail on some aspects of this account.
38 Some of the more salient responses are set out below.

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40 **“Q: Ok - And you talked about your girl who was sleeping. You talked about**
41 **your girl, so who is your girlfriend?**
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R: *Well me and me and my lady Errolyn was sleeping at that time and we was woken by a door get kicked open that was the house door, and dog barking, and then my father ran to my room door, he was shouting telling me somebody outside – there’s somebody dressed in black outside, somebody looking through the house door.....*

.....
And the next thing I heard from my father was the person is in the house now. So I ran to my room door to find out what was going and when I opened my door this guy was standing in front of me with a – a gun pointing in my face³.

Q: *OK, and you talked about, um, you opened the door, so when you open your room door tell me what you can see?*

R: *Well when I opened my door my father was standing to the back of my room door to his – to his room door that’s right on the next side of my room door and as soon as I look through the – my room door to see who was out there, what going on, there was a guy just ran – just ran in and pointed to me with a black sweat suit on and a black thing – he was pointing at me with the gun⁴.*

.....
Q: *Okay, so you see this guy, he’s pointing a gun at you, do you say anything, does he say anything?*

R: *From the time I came out and I seen this guy looking at me, point this gun, automatically I just ran back in my room and lock my door for our safety and*

Q: *hold on a second... Did you know who it was when you saw him stood outside your room? Did you recognize him?*

R: *Well when I looked at him when I first seen him I couldn’t really clearly tell it out until he kicked in my room door and I seen who it was.*

Q: *OK so who was it?*

R: *At that time the person was JR.*

Q: *JR do you know JR by any other name?*

R: *No, Ma’am.*

³ See page 8 of trial bundle.

⁴ See page 9 of trial bundle.



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Q: How long have you known JR?

R: I knew him from in the late 90s

Q: And what was he to you then in the late 90s?

R: He was um a friend coming up that I had known growing up.

Q: When was the last time you had any contact with JR?

R: This - this is - The last time I had contact with JR was 2013 I think I seen him one time in 2013.

Q: Was there any problems with you and JR?

R: No ma'am.⁵

.....

Q: [He is trying to break the door down to get into the room] Okay. What are you doing at that point?

R: I am holding the door trying to don't make him break it down or kick it in.

Q: And how are you feeling at that point?

R: At that time I'm feeling very spooked out, frightened, don't know what's going on, what's happening, til I heard bang bang bang.

Q: So tell me about that, you're at the door, he's kicking at it, what's your positioning at the door? What are you doing?

R: Um, my position at the door at that time was I was bending down, laying down sideways - I was leaning up against the door hiding myself from view of the door itself, so in case anything would have happen I wouldn't get shot or anything and the next thing I know I heard gunshots coming through the door and the door got kicked in and me and him started scrambling and I started wrestling him trying to get him to the ground to take the gun away⁶.

.....

Q: Describe the gun to me.

R: It was - When I seen it, it was dark looking, rusty brown colour gun.

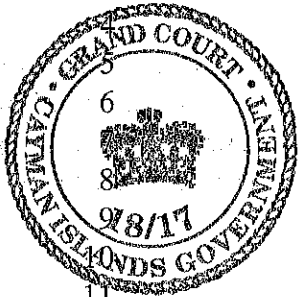
Q: Do you know what type of gun it is?

R: No, no I can't really say I know what type of gun it is⁷.

⁵ See pages 10 and 11 of the trial bundle.

⁶ See page 12 of trial bundle.

⁷ See page 13 of the trial bundle.



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.....
Q: When the struggle is happening what were you doing what was each of you doing?

R: Well when the struggle was happening, he was holding on to the machine. I was holding the machine in his hand so he couldn't use it and were pelting him against the wall, to try to get him on the ground, so that I could take away the firearm from him and save my family, save my father, save the girl, save myself⁸.

.....
Q: Okay, before we talk about the knife and how you came about and the bleeding, did you see any blood coming from you or him during the fight?

R: Well when me and him was fighting at that time I couldn't really see if any blood was coming from each other at that time, because I was just trying to hold on to the gun and get this away from him. I was scared outta my mind at that time⁹.

.....
Q: How many times did you cut him?

R: As far as I know one time I, I hit him with the knife.

Q: Okay then what happened to the knife?

R: After that the knife got flung down, like from after I cut him with the knife we we rushed into each other one more time and the knife had got licked outta my hand at the time and me and him went on the ground and that's when the knife – that's when the gun/the firearm slip from his hand. I picked it up in the room and I ran outside in the living room to hide it off from him so he couldn't use it or have any weapon to use to try to kill me or my family or-

Q: Where did you put it?

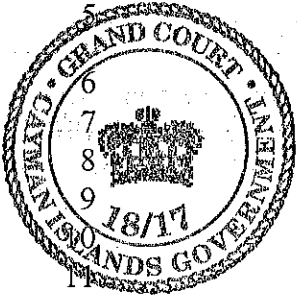
R: I ran into the living room and just put it down somewhere in the living room. At that time I was just worried about my father and the other girl in the room with him and this – and them fighting in the room. I just wanted to get back in there so I could try break this guy up and get him outta my house¹⁰.

⁸ See page 14 of the trial bundle.

⁹ See page 15 of the trial bundle.

¹⁰ See pages 16 and 17 of the trial bundle.

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R: *I just ran out – I just ran outta my room into the living room – throw – throw it somewhere in the living room to mask it off, like hide it somewhere in the living room¹¹.*

.....

Q: *[When he was struggling with the girl], OK then what happened?*

R: *I shot inside the room and I tore him off – I pulled him off of her. I grabbed him at that time to restrain him. I hold him down. I struck him like two times in the face to try to weaken him up because he was still coming hard, liking things down in the room trying to do whatever he could. At that time I struck him a couple of times, I weakened him up and I managed to retain him, and pull him outside to get him out the house from grabbing any more weapons or anything that he could use to hurt us¹².*

.....

Q: *Earlier on when we were at the hospital you said about in his breathing, his type of breathing and he was saying something to you and he seemed like he was breathing hard.*

R: *Oh he was like he was breathing a little hard at that time but at the time we were on the phone with 911 and they told me must get a towel and to put – to hold on top a his chest to push his chest down til they get there and I did that. I grabbed the towel and I was bracing it on top of the wound so when the ambulance came they could take him in¹³.*

.....

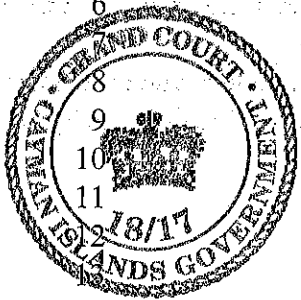
Q: *What time did Errolyn go over to yours?*

R: *Errolyn was there like came across like 3 o'clock.*

Q: *And when you say 3 o'clock, are we talking about 3 o'clock in the afternoon or 3 o'clock in the morning?*

R: *In the morning¹⁴.*

¹¹ See page 17 of the trial bundle.
¹² See page 18 of the trial bundle.
¹³ See pages 18 and 19 of the trial bundle.
¹⁴ See page 22 of the trial bundle.
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Q: Was he talking or responsive to you when you were doing the towel on his chest?

R: He were just moving.

Q: He was just moving, okay. When he came in with his hold up and his clothes on you said you first realized it was JR when he came through the door?

R: Yeah. When I seen the person with the jacket with the hood on top of his head. I couldn't see the - the - I could see the eyes and the face but I couldn't really see it too good until he kicked down the room door then and me and him started fighting¹⁵.

.....

Q: How did your dad end up with blood on him?

R: Well my daddy end up with blood on him because my daddy ran back in the room when he heard me and the guy shuffling in the room against the wall. My daddy try to break it up and pull us to break it apart and get this guy away from me same time and the blood from him and me on top of my clothes and on top a this guy clothes now get messed up with my father. Everybody were touching each other.

Q: So you are saying whilst you were fighting him and trying to get the gun away from him, your father also came and assisted you?

R: No my father ran into the room - my father ran into the room and started yelling and screaming and telling - saying yo - trying and telling this boy must stop and get outta his house and he's -- he grabbed all two of us at that time like to try and break us up now and get us apart now to stop all a this and at the time he was trying to break us up that when the blood got on top a him and there was blood on me¹⁶.

.....

Q: OK so can you talk me through your injuries.

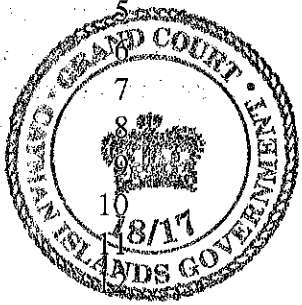
R: I have a painful right hand, my little finger - my whole joint from my wrist go up to my little finger is swell up by bone. My chest plate, my right hand side a my chest has a big inside black and blue, very it hurts a lot when I press the skin. You can feel inside black and blue. My left let on the side a my left knee is a scrape from where me and him hit the ground. My hip bone a little cut - two cuts that when we hit the ground. Also my ear. I had my earrings in, we

¹⁵ See page 26 of the trial bundle.
¹⁶ See page 31 of the trial bundle.
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1 were struggling and fighting and he ended up grabbing hold like hooking up
2 my earring and jerking it and it tore - it tore my earring open with my ear¹⁷.”
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4 15. He went on further to set out in his **Statement of 9 July 2015:**

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“At the time of the incident when I managed to get the gun off JR I took it out the room and get it away from him and I was going to take it out to the yard but I could still hear the shouting and screaming in my room and I didn’t want him to find anything sharp in my room to grab anybody so instead of throwing the gun in the bushes I hide it off in the living room so I could get it back real quick. When the police came I was still panicking at the time and JR was still in the yard so I just said that it was in the bush. At no time did I ever have any intention of keeping the gun for myself, I just wanted to get it away from JR.”



16. The *Evidence Law* allows for a statement received as above to be admissible as evidence of any fact of which direct oral evidence by the witness would have been admissible. I am mindful that this evidence was admitted and was not tested in cross examination. It is therefore necessary for this court to carefully assess this evidence to determine the weight to be given to this evidence in those circumstances.

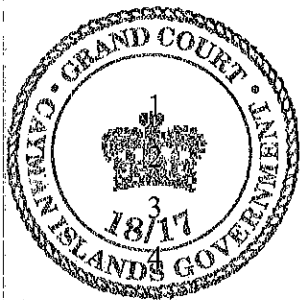
The evidence of Orlando Williams

17. Officer Williams is a Scenes of Crime officer of the Royal Cayman Islands Police. He related that he attended the Custody Suite at the George Town Police Station on the 4th of July and took photographs of the complainant Daric Ebanks. He also processed him for gunshot residue. These photographs were entered into evidence and exhibited as Court Exhibit 2.

18. At Sunburst Lane, the officer related that he was first asked to process that part of the scene where a gun was found. As far as he knew it had not been removed from where it was found before he photographed it. The gun was in a box. The box was on the shelf with the firearm in the combined kitchen/living room of the residence.

19. He completed a sketch of the scene at the residence as he found it on that day. This sketch was entered into evidence as Court Exhibit 1. The officer related that directly in front of the front doors

¹⁷ See page 32 of the trial bundle.



into the residence was a knife and sunglasses. The front doors open into a large room with a kitchen and living room in it. There is a kitchen door on the left of the kitchen leading to the side patio. There was also another knife at the front door.

5 20. Officer Williams took extensive photographs of the scene. These photographs were exhibited as
6 Court Exhibit 3¹⁸. With the aid of these photographs and Court Exhibit 1 the witness detailed his
7 findings. He noted that there were two motor vehicles parked in the driveway to the residence.
8 One of these a Hyundai Tucson vehicle was damaged. He noted that there were items on the
9 driveway which included a towel or medical gauze with what appeared to be blood on it and a cell
10 phone, as well as sunglasses and a curved knife. He did not note any damage to the front door of
11 the residence.

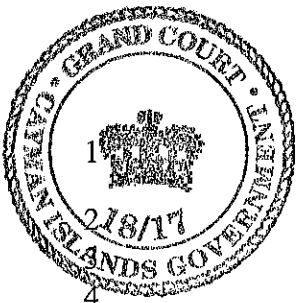
12
13 21. Inside the residence he noticed the door to the complainant's bedroom in the passageway. Inside
14 the complainant's bedroom he noted that the bed and bedside tables, as well as the wall of the
15 bedroom and items on the floor all appeared to be stained with blood. He observed a black item
16 which was tied like a headband. The officer stated that this item stood out to him because the knots
17 were still tied on it as though it had been removed without loosening the ties. He also noticed shoe
18 print impressions in what appeared to be blood as well as handprints on the wall in blood to the
19 right of the bed in the room.

20
21 22. The Officer went on to relate that he used trajectory rods to establish the path of the 5 gunshots
22 which he had noted on the complainant's bedroom door. He viewed the trajectory of the bullets
23 from inside the victim's bedroom and was able to see the possible bullet path. He described how
24 he was able to do so:

25
26 *"Holes from the outside are smooth and the inside edges are jagged and sections*
27 *of the door were facing inside. This tells me the bullets came from outside. [The*
28 *jagged edges were] going in the directions of the bullets. That is what the five*
29 *bullet holes tell me. This aids in finding the bullet and tell the story of what*
30 *happened. If the entrance was higher than the impact, this indicates that the*
31 *person was firing with a downward trajectory. The height of the shooter is*
32 *revealed.*

¹⁸ This exhibit consists of eighty six (86) photographs.

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.....
I noticed the trajectory was downwards and somewhat to the left for 3 of the bullets. The remaining 2 was downwards and to the left but not so far as the wall. They ended up in the night table in the room. The Shooter was shooting to a downward position from the downward trajectory of the projectiles.”

23. Officer Williams related that the trajectory rods can also point to the direction that the projectiles could have gone. For some of these it showed holes in the walls of the room. He related further:

“I believe that 4 bullets were recovered – 1 in the night table to the left of the bed. Two on the floor of the bedroom and one in the kitchen behind the refrigerator or in the vicinity of the refrigerator. There was an extra hole entering from the left wall of the bedroom but we did not see an exit hole, so in between the kitchen and the bedroom, entry in the bedroom and exit in the kitchen. One was lodged in front of the night table and one under a clothes basket and other on the ground on the left side of the room on floor. The hole in the wall to the left – it appeared that the bullet stuck the wall and did not go through and fell back from the bedroom.”

.....
Locating bullet #5 would have meant tearing down a section of the wall. Ultimately it was decided not to destroy the wall.

24. Officer Williams described that the door to the bedroom appeared to be ripped from the hinges. There were three sets of hinges on the door. All had been ripped off and he found the door on the floor. He described that the bedroom door was not operational. He noted that there was damage to the kitchen door to the lock area of that door. It was a deadbolt lock and he noticed a break in the area on the frame of the door.

25. With regard the gun that he processed when he first arrived at the residence at Sunburst Lane, his evidence was:

“I took a photograph of it and had an officer from the Uniform Support Group open the box and remove the firearm. I took photographs of inside the box and then they cleared the firearm to make it same. The lid to the box was closed when I first saw it.”

26. He noted that the pistol grip was taped and that there were 5 spent casings and 1 live round in the firearm. He took these out and noticed that the live round was pricked where the firing pin had

1 struck the bullet but it did not fire. He noticed an indentation where the firing pin struck and noted
2 the same indentation on the live round as on the spent casings.

3



With regard to fingerprinting the officer stated:

"I tried to recover fingerprints from the victim's bedroom door and on the entrance door at the front and also from the kitchen door. I did not recover any prints because the type of surface of some of the doors - I could not get them."

10 **Cross examination**

11 28. In answer to Queen's Counsel Mr. Burke:

12

13 *"The firearm was cocked when it was discovered by the Police. If you fire a revolver*
14 *like this one, once fired, you don't have to cock the trigger again. If fired it would*
15 *always have been in a position to fire."*

16

17 29. His opinion was therefore that the revolver was placed inside the box with the trigger cocked. He
18 confirmed that the gun contained 5 empty shell casings and one live round. Officer Williams was
19 unable to date when the trigger was pulled and the live round did not fire. He could not say whether
20 it was within an hour of it being recovered. He could not say if the live round was the 6th attempted
21 shot that led to the injuries.

22

23 30. In answer to Queen's Counsel for the defendant Officer Williams stated:

24

25 *"Having seen the gun and photographed it in the gun box, I was able to detect that*
26 *it was duct tape around it - it was not an attempt to conceal forensic evidence, but*
27 *only because the handle was getting bad or old and they had tried to tape it up.*

28

...

29 *It appears old, weathered, as if exposed to the elements. I can't say if it was stored*
30 *in a secure box."*

31

32 **Re-examination**

33 31. The officer stated that he could not tell the sequence in which the bullets had been fired.

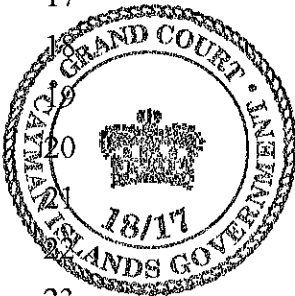
34

1 32. I found Officer Williams to be a credible witness. His evidence is an important foundation to assess
2 whether physical indicators on the scene can support the evidence of the other Crown witnesses.
3

4 **The evidence of Donovan Ebanks (“Ebanks”)**

5 33. Donovan Ebanks was the Crown’s third witness. He is the father of the complainant and also his
6 caregiver and holds a power of attorney for him. *(This was a consequence of the complainant*
7 *having suffered a head injury as a child resulting in him having serious frontal lobe dysfunction.)*
8 He related that the complainant lived with him at #26 Sunburst Lane in West Bay since 2007. He
9 described that he and the complainant lived there alone and that the home has two bedrooms, one
10 for each of them and that there were doors leading into the home from the front and from the
11 kitchen.
12

13 34. Ebanks described that he was a light sleeper. Around 3:30 am on the 4th of July 2015, he heard
14 something like a dog barking and a car coming into his yard. It was his son’s girlfriend Errolyn
15 Thompson (“Thompson”). He saw her come in and go to his son’s room. He related that he could
16 not sleep and so around 5:00 am he got up to make coffee. It was then that he heard something:
17



18 *“I heard something like ‘boom, boom’. I start to get irritated. I say, ‘what the f’*
19 *was going on’. I jumped out of my bed and walked into the living room and*
20 *realized someone was apparently trying to break my door in. This was the front*
21 *door. I was about to put my hand on the lock when I noticed someone peering in*
22 *through the window. I could see a mask or hoodie and knew it was not something*
23 *good - I jumped back from the door.”*
24

25 35. He related that he ran back to his room. He “popped” his son’s door and said that there is a man
26 outside here. He described-

27
28 *“He [the man] ran at the front door and jumped against the door. He walked down*
29 *the step and kicked Daric’s bicycle over. I noticed he started to walk around going*
30 *the other way coming towards the kitchen door. I heard another crash. That is*
31 *when I saw a masked man. I looked and I see the man coming. I have a phobia*
32 *for guns – shakes me to the bone. I noticed this person was looking down, I noticed*
33 *a gun in this person’s hand. I jumped back against my door and he never looked*

1 *[at me] and went straight to my son's door and held his hands straight out and he*
2 *started to shoot the gun in through the door where my son's room is."*

3
4 36. Donovan Ebanks stated that he went back into his room and out through his bedroom window. He
5 jumped over two fences within his property until he stopped at a chicken coop and called 911. He
6 stated that after talking to 911 he returned to the house. *"At that time, I just knew I feel like a rage,*
7 *scared and frightened and I said: "they are killing or shooting my son". I started to go towards*
8 *the house - back to the house. I thought my son was dead already."*

9
10 37. He armed himself with a machete which he used on his property. He related that he could hear
11 screams coming from the house and hollering. He ran into his son's bedroom and that is when he
12 noticed:

13
14 *"...the room door was broken in and I see the three of them in there by the bed.*
15 *They were holding on to the gun. At first, I couldn't see the person because he was*
16 *behind her. She is pretty big and I couldn't see who it was at all. The gun was*
17 *pointed towards me and I knew three hands were on this gun. I kind of went*
18 *berserk and grabbed the gun. I noticed my son's face was covered in blood. I*
19 *thought he was shot in the head, at that time. The father and protector in me came*
20 *out. I started hitting behind her with the machete and I hit this person with the*
21 *machete while holding the gun and I almost chopped everybody's hands off. I*
22 *made a motion to get hands off gun with the machete and they wouldn't let go. I*
23 *kept hitting the person and I kept screaming and hollering to let go or whatever."*

24
25 38. He left the home again and ran to his neighbour's house as the Police had not yet arrived. He
26 stated: *"I didn't know where the police was. I told them to call 911 as I had just chopped somebody*
27 *that had a gun."*

28
29 39. He returned to the house and went back into the bedroom. He stated:

30 *"I went back inside and the fight was still going on. I hit the person again and I*
31 *had seem who he was before I left the room. He did not have a hoodie on when he*
32



1 was behind Ms. Thompson. He is in court today. I know him as JR. He is there
2 [witness indicates defendant]. I hit the person on his legs.”
3

4 40. Ebanks related to the Court what he knew of the firearm that he saw in the room.
5

6 “The fight was going on and my son got gun or something. I don’t remember too
7 much more and he left and went out.
8

9 Daric got the gun and he stupidly ran away as usual into the living room or kitchen.
10 I just wanted him to leave the gun alone where it was. I don’t know what he said
11 [something like] ‘I’ll keep it.’ I was screaming at him “where is the ‘f’ gun” I
12 wanted the gun to go to the cops. That was my intention. That is where I was mad
13 at my son. He said ‘I threw it outside” and I screamed you are a liar.”
14

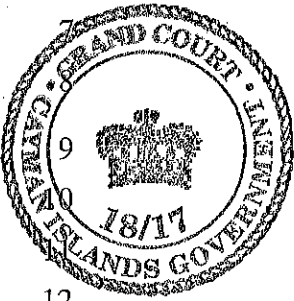
15 41. He went on to say that after the Police arrived:
16

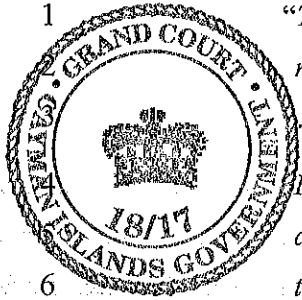
17 “I told Daric tell them where the gun is, and he said I threw it over there. I said
18 arrest him that is a lie. He did not go there. The ‘f’ gun is somewhere in my house,
19 to Daric and the police. Before the police came, I was screaming at the girl - I
20 said you bring gunman in my house to kill us.”
21

22 42. Ebanks related that he eventually saw Daric Ebanks and Thompson coming out of the house with
23 the defendant.
24

25 “I see my son and the girl coming out of the house with him. I said where the ‘f’ do
26 you think you are going with him? I picked up my machete again and said if you
27 move him I would be responsible. After that in a fit of rage I plucked up a huge
28 cement rock and I walked and threw it though Ms. Thompson’s car windscreen. I
29 didn’t want them to go anywhere with him. I wanted him to stay there.”
30

31 43. He described what happened when the Police arrived on the scene:
32





1 *"The cops came. I said to them arrest my son. When he recovers his memory*
2 *release him.*

3 *... I wanted him [Daric] removed from there. He kept saying the gun behind there*
4 *and I said no it is somewhere in my house. There was no gun in my house prior to*
5 *that date. I had not known Daric to keep a gun in our house prior to that. That*
6 *would not have been done before with my approval."*
7
8

9 44. He related what he heard the defendant say while waiting on the Police:

10
11 *"When I was outside, [Crawford] he was saying 'help me'. 'They going to kill me,*
12 *hide the gun.' At that time, he was talking to the woman, Errolyn Thompson just*
13 *then. Daric was right there.*

14 *...*
15 *Daric - he did not say anything. I don't think he said anything- there was lots of*
16 *screaming and hollering. There was so much chaos."*
17

18 45. Ebanks related that Daric Ebanks and 'his lady' were in the bedroom when he saw the person
19 looking in through the window at the front door. He said:

20
21 *"It was very quick, another crash and the man came in. The front door was locked*
22 *when the man was there. The kitchen door was locked as well. It was not damaged*
23 *before this happened. When the door was hit it ripped a piece out on the side of*
24 *the door frame - popped the door frame where the lock goes into. The damage*
25 *occurred when the door was kicked in. Daric and Errolyn were still in the room.*
26 *He [the man] was holding it down and the gun was open, and he seemed to be*
27 *putting something in the gun. The handle was red/dark.*

28 *.....*
29 *I saw Crawford came towards me and he turned to D's room. The door was closed*
30 *at that time."*
31



1 46. Ebanks related that he saw the shots going through the door. *"I heard like metal dropping on my tiled floor."* He offered that it was he who hit the defendant on the head with his machete:

"I was armed with the machete. Behind her I could see the top of someone's head. I hit him on the head with the machete. He kind of dropped down behind and I had grabbed Ms. Thompson to push her away from the person that had shot my son. My son's face was full of blood. I am thinking he is shot in the head."

8

9 47. The witness was able to identify various conversations which were recorded by the 911 operator of the incident on an open phone.¹⁹

11

12 48. On the third page of the transcript, from the middle of the page to the end of the page:

13

14 *"I remember chopping for the legs – I struck him 3 - 4 times. Daric was trying to keep me from hitting him anymore."*

16

17 49. With regard to his knowledge of the defendant:

18

19 *"I had known Mr. Crawford before the 4th of July, from birth. They used to be at Daric's mother's house. They [Daric Ebanks and the defendant] used to hang out from school days so I know him quite well and his mother his mother is some relation to us. ...I didn't know of any problem between them [Daric Ebanks and the defendant]"*

24

25 **Cross Examination**

26 50. Donovan Ebanks stated that Thompson had spent a couple of nights with Daric Ebanks from the 27 1st of July, at various times and it was obvious to him that they were having some kind of 28 relationship.

29

30 51. Regarding the damage to Thompson's Hyundai Tucson vehicle:

31

¹⁹ The transcript of the 911 call and the recording itself were together admitted in evidence as Court Exhibit 10 191104 – Robert Aaron Crawford – IND 58 of 2015 - Verdict Judgment [*with errata released 10 February 2020]



“I caused the damage because I was convinced that Daric and Errolyn Thompson was going to remove before the police arrived.

.....

She was trying to get in the car and D was helping. The point was to stop the three of them from leaving my yard before the police could get there and stop a proper investigation.”

7

8 52. With regard to the gun found at the residence Ebanks stated:

9

10 *“When the Police arrived and spoke to my son about the gun...I told them he never*
11 *went outside with a gun, he is trying to protect him, the gun is somewhere in my*
12 *house.*

13 *I knew my son told police the gun was thrown by Daric over the trees and into*
14 *swamp. I'd seen them going through and I said where are you going? I said the*
15 *'f' word a couple of times, it's not there. Some of them continued to search there.*
16 *Some followed me inside the house to look for the gun.”*

17

18 53. He agreed with counsel for the Defendant:

19

20 *“Daric lied to me and he lied to a number of Police Officers. The police will tell*
21 *you I ordered the police to arrest him. D did not assist the police as to where the*
22 *gun was. He alone knew where the gun was – he left out of the room with the gun.”*

23

24 54. With respect to the person who entered the house.

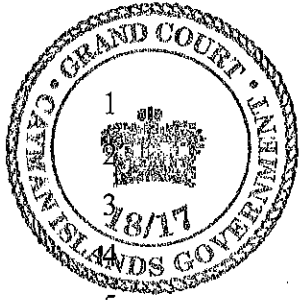
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26 *“He immediately fired through the closed door. I did not recognize him at that time.*
27 *He must have known who I was. There was no attempt to harm me. I made a*
28 *statement to the police on 4/07 at GTPS within a few hours of the incident.”*

29

30 55. When it was suggested to the witness that he had said in that statement that “JR looked in my face
31 and pass me and I looked at his face too,” he answered:

32



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"I said it was as 'if". I signed it under duress. It was as if we had seen each other. ...He didn't see me. The hoodie was all the way down. I said "as if we look into each other's eye." ... The Police never understand what I said. He knows that I live there. He did not notice that I was standing there."

56. Defence counsel suggested to Ebanks:

PUT: *"You are seeking to distance yourself because if he had seen you, you would not be here. If your evidence was that Crawford saw and recognized you before the shots were fired, why weren't you shot yourself?"*

R: *"I was mad when they gave this to me. Why isn't he charged with attempt murder on me?"*

57. In answer to the question of why he had not mentioned what the defendant had said outside the home as they waited for the police in his statement on the 4th of July:

"I did not tell police that C asked D to hide the gun because of my frustration and outrage because of my son and ET. I just didn't remember at that time.

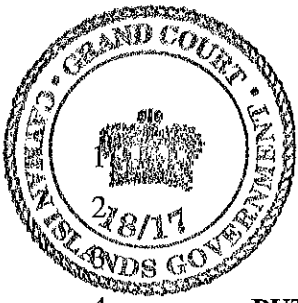
PUT: *"The first time you said it [what Crawford had said when he was on the ground waiting for the police to come] was to Crown Counsel in readiness for trial in Oct 2018 - 3 years later."*

R: *"I said he said hide the gun. My stupid son probably thought it was he that Crawford was talking to. Daric had already hidden the gun in my kitchen before Crawford asked him to. He took it and said 'I goin' keep it'."*

58. On whether there was collusion between Ebanks and Daric Ebanks regarding a reason why Daric Ebanks hid the gun:

"The relationship that we have is not how you would suggest that I would protect him if he had a gun. He probably would not have told me too much if I had asked."

59. When it was suggested that Daric Ebanks had given the same explanation for the hiding of the gun: 191104 – Robert Aaron Crawford – IND 58 of 2015 - Verdict Judgment [*with errata released 10 February 2020]



“It was not prepared between us – we had a nasty argument. We were not buddy buddy after that.”

4 PUT: *“In Oct dealing with the lawyer you knew someone would ask why did Daric lie to*
5 *police.”*

6 R: *“We do not have that kind of relationship. ... I said to him that he was stupid to*
7 *believe that JR was talking with him. I said why would you do that? [This was]*
8 *there on the scene. I did not say on that day because of the trauma, blood*
9 *everywhere, I would have made a mistake here and there. I should not have given*
10 *the police a statement at that time – I should have been taken at the hospital.”*

11

12 60. Referring to Page 2 of transcript of the 911 call, the End of page 2 when Ebanks was questioned
13 by 911 about who was shooting:

14

15 Q. **Do we know who was shooting at Daric?**

16 R: *“Yes, but I can’t remember his name. I had recognized who it was, but I*
17 *could not put a name to the face. The reason was I thought I knew him*
18 *because of the woman in the house. When the police came and [spoke to*
19 *me] I said Aaron Crawford. I said I don’t know who you know him as. I*
20 *had him as JR – her boyfriend. Errollyn Thompson’s boyfriend was known*
21 *to me as JR or Super C. I could not say I knew his name.”*

22

23 61. Page 4 of Transcript of the 911 call – middle of page

24

25 *“Daric was in possession of the gun. There were no bullets in the gun at this stage.*
26 *Daric pulled the trigger one time I saw him.*

27 *He pulled the trigger. He was not pointing it at Errollyn. The gun was not pointed.*

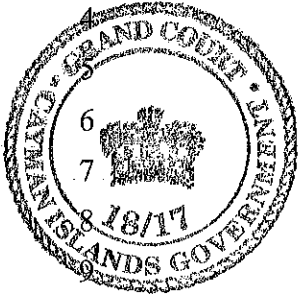
28 *He pointed it and she said what are you going to do shoot me now? It did not*
29 *discharge a bullet that I can remember. It was almost immediately before he left*
30 *the room.*

31

32 *When he got control, I was screaming at him and he goes out through door and*
33 *leaves. I went out after him and he was coming back and so I knew he didn’t go*

191104 – Robert Aaron Crawford – IND 58 of 2015 - Verdict Judgment [*with errata released 10 February 2020]

1 outside, he was in my kitchen. He hadn't left the house. I knew the gun could not
2 have been in bushes. I never told police that Daric pulled the trigger of the gun.
3 I didn't remember that at that time. That's how I knew there were no bullet in the
4 gun. I don't know why I didn't tell the Police."



6 **Q:** *It was out of desire to protect D*

7 **A:** *I think it was because I forgot it. Listening to the audio brings it all back*
8 *to me.*

9 **PUT:** *"The only reason why you concealed the pulling of the trigger and only*
10 *disclosed that Crawford had asked him to dispose of gun is because of*
11 *desire to protect a venerable child."*

12 **R:** *"What I said here is the truth."*
13

14 62. It was further suggested to Ebanks that he was not telling the truth in his account. It was put to him
15 that the defendant knocked on the door and asked to speak to Daric, that Daric came on the porch
16 and spoke to him and that a fight started there. Ebanks denied this account.

17
18 63. He denied that Daric Ebanks ran somewhere around back of premises and retrieved the gun. He
19 also denied that when Daric Ebanks returned that the defendant was in his bedroom and that it was
20 Daric Ebanks who fired through the door. He denied lying to the Police to protect the complainant.
21

22 **Re-examination**

23 *"I said I saw Daric gain possession of gun and clip the trigger. The gun went off*
24 *when they were struggling. I heard it ... I heard a noise. That indicated to me as*
25 *if no bullets left. Nothing discharged. It just sounded like one. Couldn't say whose*
26 *hand was on the trigger. No idea if it was deliberate or accidental.*

27 ...

28 *When I overheard Crawford saying, 'hide the gun,' - It was a muffle, and then a*
29 *weak thing 'hide the gun'. I think he [Daric] misunderstood because of his injury*
30 *and how he thinks..."*
31

32 **The evidence of Errollyn Thompson**
33

1 64. The witness Errolyn Thompson gave evidence by video link upon the Crown's application. The
2 application was not opposed by counsel for the defendant.

3
4 65. Thompson testified that she had been in a relationship with the defendant that lasted for seven (7)
5 years. The relationship ended in November of 2014. She saw the defendant on the 1st of July 2015.
6 At that point she described that the relationship between them was still on and off. She received
7 two phone calls from Daric Ebanks who she said she was just talking to as friends, while in the
8 presence of the defendant. The defendant asked who was calling but she tell him who it was
9 because she felt that the defendant would have gotten jealous. The defendant attempted to get her
10 phone away from her to see who was calling. He did get the phone from her:

11
12 *"While driving he got the phone from me. I can't remember if Daric called back or
13 if JR called him and when the person answered, I can't remember if he hit me or
14 pulled my hand and then he hung up. I think he hit me again. He hit me in my head
15 and then pulled my hair, yanked it. He put the car in park. ...He started to hit me
16 again and I started to fight back and he was trying to choke me.*

17 ...

18 *When this was going on he was cursing at me saying I am with someone else.*

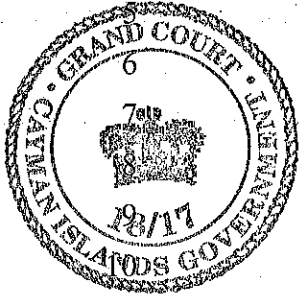
19
20 66. The witness went on that she got away from the defendant and went to her home. She stated: "*He*
21 *said he was going to kill me. He did not say when he was going to kill me.*" He left with her phone.
22 Thompson made a statement to the police about that incident on the same day.

23
24 67. Thompson related that on the 4th July 2015 she was at Daric Ebanks' residence. She stated that she
25 and her girlfriend had been out drinking from late afternoon of the 3rd of July:

26
27 *"We went to her place that she was staying. I don't know how much [we drank]
28 but it was quite a lot. I drank hard liquor, rum is my drink of choice, but I don't
29 remember exactly what I was drinking. We ended up going to a few bars again
30 that. I had mixed drinks at the various bars, can't say how many I had. Then I
31 decided to go to Daric Ebanks' residence."*

32 ...

33 *At that point, I was pretty much what I call 'wasted'. Way over the alcohol limit,
34 highly intoxicated.*



1 ...
2 *I went there, sat down, talking and having some drinks.*
3 ...
4 *I can't say how much beer I had, probably no more than 3 at that point. I am*

5 *guessing 2 -3. Daric had 1 or 2. I am not sure. As far as I can remember only*
6 *beer.*
7 ...
8 *Inside the house, I was so drunk I went to lie down in D's room. D was in there*
9 *also.*
10 ...

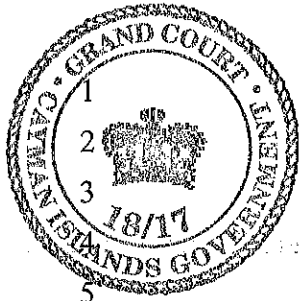
11 *I was going to sleep and that's when my phone started to ring. It was JR asking*
12 *where I was. I can't remember the words I used but I said I was at home. He*
13 *didn't need to know where I was. I don't remember what he said. I don't know if*
14 *he answered me. I don't remember how long a phone call it was. I hung up and I*
15 *think he called back 1-2 times. I don't think I answered. I don't remember. I don't*
16 *remember him saying anything back to me. Don't you know what time it was when*
17 *I received the phone calls.*

18
19 *I was awakened. I think I remember being dogs barking or something. After I*
20 *woke up I can't remember. I can say from the statement but I don't remember. I*
21 *have had opportunity to review my statement. I did review the statement. ... I can*
22 *remember the statement but many of what is the statement was told to me. I have*
23 *vague memory of that night. Daric is who informed me of exactly what happened.*
24 *This was told to officer at the time before she took my statement.*

25
26 *I gave a statement to police about what happened on 4 July 2015 and on 7th July*
27 *2015. On the 7th July I gave an audio recording."*

28
29 68. The witness identified both her written statement and the transcript of the recording of her statement
30 on the 7th July 2015.

31
32 *"I am saying I have no independent recollection of what happened on 4th July 2015.*
33 *I cannot recall given it's been so many years.... I cannot recall what I did*
34 *yesterday.*



...
they [the police officers] were aware I was highly intoxicated and I didn't remember what happened what I knew Daric had informed me. He came into my house the day after and he told me what had happened. I don't have any recollection of what happened in his house."

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69. The witness related that before she gave a statement on the 4th of July she had discussed the fact that she did not have any independent recollection with the officer taking the statement. She admitted that there was nothing on the audio to indicate or confirm this and as well that there was nothing in her written statement to confirm what she was now saying in evidence. She testified that she told the officer before giving the statement and that she was reassured that she would not have to come to testify.

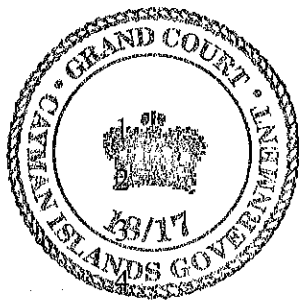
70. Crown Counsel applied to have the witness deemed a hostile witness and this application was granted. Thereafter in answer to questions posed by Crown Counsel the witness stated:

"I remember up to a point at which I passed out and went to bedroom with Daric. I have no recollection of what happened after that. The next recollection was later when I was at the hospital and I was getting treated for an injury I received. I had a memory gap I don't remember everything that happened at hospital but I don't remember anything in between."

71. Thompson insisted that the statement that she gave on the 7th of July, 3 days after the incident, was not her recollection of the events, repeating that it was something told to her by Daric Ebanks.

72. Thompson also stated:

"I received multiple summonses [to come to court]. It was not my intention to disrespect the court. I had to be brought on a witness warrant. I felt for some reason that I could not repeat it on the stand because it was not my memory. For that reasons during that process I tried to explain the situation. I felt no one cared or listened to my situation. I gave a further statement in July when I said I was fearful after I tried to tell you the same situation. That was after you told me the Judge would keep me in prison



for the rest of the trial that I gave a statement to make the application based on fear for the statement to be put in evidence, to have it become my evidence, so I wouldn't have to testify.

I felt I was forced to make the application in order to get out of jail."

5

6 73. In answer to Learned Queen's Counsel in Cross examination, Thompson stated:

7

8 *"During the 5th and the 6th [of July 2015], it was plain to me that Daric wanted me to*
9 *assist the Police and he asked me to. When I said I had no recollection he told me what*
10 *happened because I could not remember. He filled in all the blanks. We spoke about it*
11 *multiple times."*

12

13 74. The prosecution called three witnesses relevant to the issue of whether Thompson had ever
14 indicated to police officers or anyone else involved in the taking of her statement and witness care
15 that the written statement that she had given to the Police was not her statement in the sense of
16 being her own independent recollection of events reproduction but was only an account of what
17 had been told to her by the complainant, Daric Ebanks.

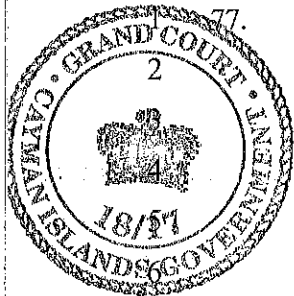
18

19 75. Sgt. Anderson Taylor is a Detective Sargent in the Criminal Investigation Department of the
20 RCIPS. He testified that he took over the investigation after Officer Twydell left the RCIPS in
21 2017. He related that he had had the opportunity to interact with Thompson when he served her
22 with summonses for court in this matter on several occasions. He stated that she never said to him
23 that she had no independent recollection of the events of the 4th of July or that her witness statement
24 was what the complainant had related to her.

25

26 76. Dennis Walkington who is the Serious Crime Case Manager at the Office of the DPP also gave
27 evidence. He described attending a meeting with Thompson on the 15th of July 2015. He related
28 that the purpose of this meeting was to ascertain and seek to allay fears that the witness may have
29 pre-trial. He noted that she appeared frustrated and angry at the length of the court process in
30 bringing the matter to trial. Mr. Walkington stated that Thompson did relate a conversation that
31 she had had with Officer Twydell in which she stated that Officer Twydell had assured her she
32 didn't have to come to court to testify and in which she had told the officer that she was highly
33 intoxicated when she gave her statement and that she did not remember anything.

34



77. Mr. Walkington related that Thompson said: *"I told people I did not want to go to Court to face Aaron. I do not want to face Crawford. I don't feel comfortable. It is not safe if I go ahead with this case. This is just how I feel. Just a general feeling."* There was no reference to her saying that she did not remember. I did not sense any reluctance on the part of Thompson to make the statement.

78. Officer Emma Twydell gave evidence by way of video link. She was first assigned to the shooting on the 4th of July 2015. She interacted with Thompson during the course of the investigation. She related that Thompson did not want to speak to her on the morning of the 4th of July and told her she did not remember what happened. She noted then: *"I don't remember believing that she was particularly drunk or intoxicated. She just did not want to speak to us was my impression."*

79. With regard to the recording of Thompson's witness statement, taken on the 7th of July 2015, the officer testified that she did not meet with Thompson prior to taking the statement. She had no recollection or note of Thompson saying that she did not remember the incident. The officer stated: *"In conversation with Errolyn Thompson she did not tell me what she was relating came from Daric Ebanks...I did not have any concerns that what she was saying was not her recollection."* The witness went on to say that Thompson seemed unsure if she wanted to testify. She described her as a reluctant witness.

80. Pursuant to Section 33 of the *Evidence Law*, the statements of the witnesses Kevin Gibson and Christopher Donaldson were read into the record as evidence for the prosecution.

81. Officer Gibson was one of the first police officers on the scene at #26 Sunburst Lane on the 4th of July 2015. He arrived there at approximately 5:55am. He observed the complainant, Daric Ebanks and his father Donovan Ebanks at that location. Daric Ebanks was observed with blood on his face and hands. Daric Ebanks related to the officer that he had wrestled a gun from an intruder and that he threw into the bush.

82. Christopher Donaldson is a Police Officer who attended the location on the morning of the 4th of July 2015. Donaldson's evidence was that Daric Ebanks related to him that he was alerted by his father about a man in black clothes outside the residence. He opened the door to his room and observed Aaron Crawford with a gun in his hand pointed at his face. He slammed the door and used his body to brace the door to prevent Crawford from opening it. Crawford fired several shots

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1 through the door. He forced himself in and during a struggle Daric Ebanks managed to get hold of
2 the gun and flung it from a step to the rear of the house into a swamp behind the house.
3

4 83. Pursuant to Section 34 of the *Evidence Law* (2018) Revision, the prosecution also submitted facts
5 admitted by the defendant, Robert Aaron Crawford, as conclusive evidence of the fact so admitted
6 for the purposes of dispensing with formal proof therein.
7

8 84. In summary,

9
10 (i) **Admitted facts 1-7** all related to the firearm recovered from the residence at #26 Sunburst
11 Lane, West Bay by the Scenes of Crime Officer, Orlando Williams as "OW2". The firearm
12 a 338 Caliber revolver was black or blue in color, appeared rusted, with black duct tape on
13 the pistol grip.
14

15 (ii) 4 projectiles (bullets) were recovered from the residence all of which were .38 caliber
16 bullets used and normally loaded in a .38 caliber firearm. The bullet located from beneath
17 the refrigerator was fired from the firearm. The remaining bullets could also have been
18 fired from the firearm.
19

20 (iii) On 9th July 2015, the handgun exhibit OW2 was test fired by police officer Anthony
21 Stewart, an authorised National Police Firearms Officer and Instructor of the RCIPS and
22 determined to be fully operational. It is a lethal barreled weapon and therefore a "*firearm*"
23 as defined under the *Firearms Law* (2008 Revision) of the Cayman Islands.
24

25 (iv) At the time of this incident, the defendant, Robert Aaron Crawford, was not in possession
26 of a "*Firearm's User's Licence*" pursuant to the provisions of the *Firearms Law* and
27 therefore not legally authorized to possess the firearm. The firearm, was not a licensed
28 firearm.
29

30 (v) **Admitted facts, 8-13** relate to the defendant. The defendant was transported from 26
31 Sunburst Lane, on the 4th July 2015 to the George Town Hospital where he was treated for
32 his injuries. He was arrested at the Hospital for various offences relating to the incident.
33 His clothing was seized by police officers at the hospital and photographs of his clothing
34 and their contents were taken. Among these were 2 black gloves.

(vi.) The defendant's injuries consisted of multiple scalp lacerations and a single stab 2 cm stab wound to his sternum/breast bone and a collapsed lung. The injuries were consistent with infliction by penetrating trauma with a sharp object. The injuries were not permanent. Photographs were taken of these injuries at the Hospital.

(vii.) The defendant's injuries were consistent with Ebanks' evidence that he repeatedly hit the intruder with his machete on the head while the intruder was behind Thompson. The 2 cm stab wound could have been inflicted with the complainant's knife.

(viii.) **Admitted facts 14-15** relate to the complainants. Both complainants were transported to the George Town Hospital on the 4th of July 2015. The complainant's injuries consisted of a 3 mm laceration of his left earlobe, swelling and tenderness over the 5th metacarpal of his left hand, a 2 cm scrape on his left forearm, an abrasion to his left knee and tenderness in his lower back. The injuries were consistent with infliction by a blunt object. The injuries were not permanent. Thompson's injuries consisted of a 1 cm laceration to her right wrist. The injuries were consistent with infliction by a sharp object. The injuries were not permanent.

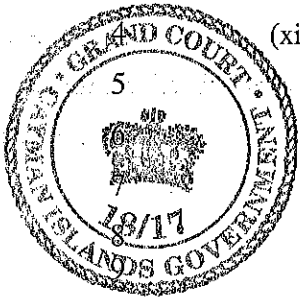
(ix.) **Admitted facts: 16 - 17**

"16. On July 4, 2015 at 11:58 a.m. a search of the premises of the defendant located at #86 Jefferson Road, West Bay was undertaken pursuant to a search warrant. A gold and white iPhone cell phone in a pink case belonging to Errolyn Thompson was recovered from on top of the cupboard over the stove in the kitchen and seized by the police.

17. On August 4th, 2015 and August 5th, 2015, RCIPS Detective Constables Emma Twydell and Owen Santo interviewed the defendant Aaron Crawford on audio recording in the presence of his attorney with respect to the events at Sunburst Lane on July 4th, 2015."

(x.) **Summarising Admitted fact 18:** Daric Ebanks was charged with offences of possession of an imitation firearm (an Orion flare gun) with intent to commit an offence (supply ganja)

1 and possession with intent to supply ganja on 16th September 2016. Both charges were
2 discharged in Summary Court on 28th February 2018.
3



4
5 (xi.) **Summarising Admitted facts 19-31:** Intelligence Analyst Joanne Delaney of the RCIPS
6 was tasked with analyzing the cell phone downloads from the phones of the defendant
7 Aaron Crawford, Daric Ebanks and Errolyn Thompson in relation to the events of 4th July
8 2015.

9
10 (xii.) Two cellphones belonging to the defendant were examined. Analysis of the cell phone
11 download confirmed phone calls between the defendant Aaron Crawford and Errolyn
12 Thompson between 3rd and 4th July 2015.

13
14 (xiii.) Analysis of the cell phone download of Daric Ebanks confirmed phone calls between Daric
15 Ebanks and Errolyn Thompson between 00:45:30 and 03:35:49 on 4th July 2015.

16
17 (xiv.) Analysis of the cell phone download confirmed phone calls between the defendant and
18 Errolyn Thompson and Daric Ebanks and Errolyn Thompson on 1st July 2015.

19
20 (xv.) Analysis of the cell phone download confirmed phone calls between the various identified
21 parties on 4th July 2015 as reproduced in exhibit JD/6.
22

23 (xvi.) **Admitted facts 32-34**

24 "32. On May 5, 2016: Daric Ebanks was threatened and stabbed at Bananas
25 Bar in George Town by Justin Jackson who was later convicted of
26 wounding with intent of Daric Ebanks.

27 33. In September 2016, Daric Ebanks was threatened by inmates at
28 Northward Prison and Daric Ebanks believed his life was in danger.

29 34. There is a closet in the bedroom of Daric Ebanks located at #26 Sunburst
30 Lane on the wall to the right as you enter the bedroom."
31

32 **THE DEFENCE CASE**
33

1 85. The defendant elected not to give evidence at trial. That is his right. His record of interview of the
2 4th of August 2015 was admitted in evidence during the presentation of the Crown's case.
3

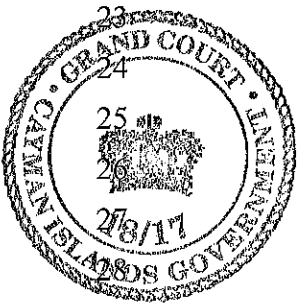
4 **The Defendant's record of interview**

5 86. The defendant recounted a sequence of events that was similar to that described by the witnesses
6 Daric and Donovan Ebanks. He related that he had gone to the residence to find Thompson. Daric
7 Ebanks came to the door and he tried to push past him to go inside the residence in search of
8 Thompson. He stated that Daric burned him with his eye with a cigarette that he was smoking at
9 the time – *"he burnt me in the eye-in my fact two times with the cigarette."* They began to fight
10 and he stated that Daric Ebanks left and went around *"to the corner to the side to the back of the*
11 *house and I went inside and lock the door."*
12

13 87. He stated that it was Daric Ebanks who came back and attempted to kick in the door to the bedroom.
14 He was standing behind the door and Daric Ebanks: *"he began kicking it and I was standing up*
15 *behind the door and after that I assume I think it was gunshots because it came through the door...I*
16 *can't recall how much shots was fired but shots was fired and after that he began kicking the door*
17 *again and I just gave up holding the door and he came in and I try to get away from him and I went*
18 *to one corner."*
19

20 88. The defendant stated:

21
22 *"...Errolyn came out the closet and she was standing in the front a me and Daric had the*
23 *gun pointing after me telling Erolyn to get out the way so – so he can kill me and Erolyn*
24 *were telling him no and then he came over and he tried to push the gun over but they*
25 *actually put – put the gun over Erolyn towards my head and I grab the gun and me and*
26 *him were tussling with the gun and after that Erolyn kinda pushed him off and then he*
27 *went out and came back again and at that time me and Erolyn were rowing and I thought*
28 *he had fist me in my chest and after that me and Erolyn began fighting and I realise that*
29 *I was losing blood, and after that – After that I was trying to get outside because I couldn't*
30 *breathe and at that time Daric's father, which is Donovan, came in but Erolyn block me*
31 *again and he still lick me in my head with a machete three times I can recall and Daric*
32 *came in and told him must come out the room. And then after that Daric came back again.*
33 *He were walking around and he pointing the gun after me again and I just told him to kill*
34 *me and Erolyn told him no and then I can't really remember.*



1 *After that I just remember is when I were outside laying on the ground, so I can try get to*
2 *the car. I were telling Daric and Errolyn to get me to the car so I can go to get to a*
3 *ambulance and – and the guy Donovan picked up a rock and try drop on my head and*
4 *Daric push him off and told him no and that was that.”*

5
6 89. With regard to his relationship with Thompson:

7
8 *“ET: Okay, And so you’d gone to his house to look for, you say, Errolyn*
9 *Thompson?*

10 *RC: Yes Ma’am.*

11 *ET: Who is Errolyn to you?*

12 *RC: Um it’s kinda complicated. I would say girlfriend but we had on and off*
13 *relationship.*

14 *ET: Uh- huh How long has it been since you’d actually been in a relationship?*

15 *RC: From 2008, March the 7th.*

16 *ET: So is she still your girlfriend?*

17 *RC: I would basically say yes.*

18 *ET: Sorry?*

19 *RC: Yes, Ma’am*

20 *ET: She’s still your girlfriend*

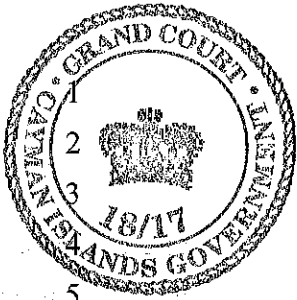
21 *RC: Yes, Ma’am*

22 *ET: Okay. And yet you’ve also – Prescilla Jackson is your girlfriend, is that*
23 *right?*

24 *RC: Yes Ma’am”*

25
26 90. In the record of interview the defendant agreed that he knew Donovan Ebanks and had known him
27 since he was six or seven years old since her and Daric Ebanks were close friends from that age.
28 He denied that he had ever been to Sunburst Lane during those years. He stated that he had no
29 issues with Donovan Ebanks, but he had a verbal issue with Daric Ebanks over Daric’s baby
30 mother. He had not had any contact with Daric Ebanks since April or May of 2014.

31
32 91. On the morning in question he stated that Thompson called him at his home. He did not answer but
33 he called her back after 6:00 am. He related in the interview:



“RC: Then after 6.00, um, I returned the call. I returned the call then she answered and then she said to me - Weh, she say: I don't know directly how she put it. She said to me if I think - I can't remember directly show she put it but basically saying that if I think is only when I call that I can get sex but when she call she can't get it or something like that.”

92. The defendant then described going in search of Thompson. He described going to her home to look for her. When she was not there he did not return to his home but spoke to Thompson's friend Anna who told him that Thompson was “with the guy she was fooling with.” Anna told him that Thompson was at Daric Ebanks' house. He went to the house.

93. When asked why he went there the defendant said:

“I wanted to tell her-well, show her that I know what were going on from long time.”

94. He stated that he intended to let her know that she was a liar. He stated that he never had a gun or a knife with him when he went to Sunburst Lane on the morning of the 4th of July 2015.

95. The defendant maintained that his was a true account of the events of the 4th of July 2015.

Court's analysis and findings

96. I have considered the submissions arguments by Crown and for the defence at the end of the evidence as to how I should view the evidence presented.

97. I found Officer Williams to be a credible witness. His evidence is an important foundation to assess whether physical indicators on the scene can support the evidence of the other Crown Witnesses.

98. **Donovan Ebanks.** I found this witness gave credible and compelling evidence. I believe his account of the incident. I bear in mind that this was a chaotic scene in the early morning hours of the 4th of July 2015. The accounts and photographs of the scene as well as the 911 recording of what was transpiring in real time confirm this assessment. However, these do not take away from Ebanks' evidence. I have listened to the 911 call and considered it with Ebanks' testimony in court.

The 911 call conveys the terror and fright evident in Ebanks' voice. What Ebanks says to the 911

1 operator is entirely consistent with his evidence in court. The timing of the call and the continuing
2 events recorded by the open microphone on the phone give a real time view of the incident and
3 support the sequence and account reported by Ebanks.

4
5 99. His evidence is largely uncontroverted. Counsel for the defendant has raised questions about his
6 motives and also collusion with his son, Daric Ebanks. I have considered Ebanks' responses to
7 those questions. I find that his explanations are plausible and any inconsistencies such as they were
8 do not cause me to doubt Ebanks' account of what transpired at #26 Sunburst Lane in the early
9 hours of the 4th of July 2015.

10
11 100. The physical evidence particularly that related by Scenes of Crime Officer Williams support the
12 evidence of Ebanks to the following extent:

13
14 (i.) The kitchen door was the door through which the defendant entered. It was broken and the
15 lock was broken. I find as a fact that the defendant entered uninvited through the kitchen
door and not the front door of the residence.

16 (ii.) There was no evidence of a struggle at the front door.

17 (iii.) The black hoodie recovered tied as it was and described by Williams supports the evidence
18 that the person was trying to hide their identity.

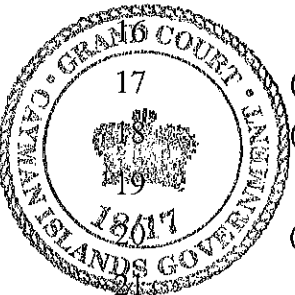
19 (iv.) The trajectory of the bullets supports Ebanks' evidence that shots were from the outside
20 through Daric Ebanks' bedroom door.

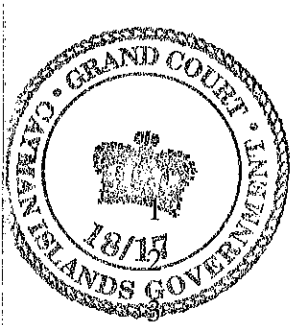
21 (v.) The damage to the car noted by Williams - Ebanks described when and why he did that -
22 is consistent with his account.

23 (vi.) The gun and where it was hidden is consistent with his account.
24
25

26 101. Other aspects of the prosecution's evidence support Ebanks' account. The telephone calls between
27 Daric Ebanks and Thompson support Ebanks in that they stopped at just about 3:00 am, close to
28 the time that Ebanks says that Thompson came to the residence. The phone calls also support his
29 evidence of the time that he awoke and saw the man at his front door. These are the calls between
30 Thompson and the defendant.
31

32 102. Ebanks' evidence of his son wrestling the gun from the defendant, of the gun being jammed when
33 Daric Ebanks pulled the trigger and of his son's lie to him about where he had put or disposed of
34 the gun are consistent with Daric Ebanks' account. Daric Ebanks' statement was that he had his





hand on the trigger to keep the gun from firing. Ebanks does not seek to deny that his son's hand was on the trigger although he is clear that Daric Ebanks did not point the gun at Thompson.

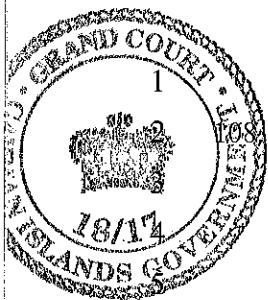
4 103. I believe this witness' evidence of what he heard the defendant say as he lay on the ground outside
5 the residence, having been carried there by Thompson and Daric Ebanks. I am satisfied that
6 although this was not recorded in his original statement to the police with the explanation offered
7 by Ebanks, relating to the chaos at the scene. However even if I am not correct in this assessment,
8 I find that the balance of his evidence is credible and supported.

9 104. The transcript of the 911 calls also support his evidence of the times that he related and to a large
10 extent support his evidence of his actions on the night. His calling them more than once, of running
11 away and being outside and returning to the scene, of him losing his temper and what he says he
12 was doing while in the room with the defendant, Thompson and Daric Ebanks that morning, is not
13 at variance with the 911 recording.

14
15 105. **Errolyn Thompson.** I remind myself that I do not have to accept all of a witness' evidence. I can
16 reject part of a witness's evidence and reject other parts of that evidence. I believe the initial part
17 of Thompson's evidence when she described the relationship between herself and the defendant. I
18 believe that she was very intoxicated in the early morning hours of the 4th of July 2015 when she
19 arrived at the residence at Sunburst Lane. I believe her evidence of calls she received from the
20 defendant that morning and her conversation with him.

21
22 106. She does not deny that she gave a statement to the Police on the 7th of July 2015. Witnesses called
23 by the Crown show that she did state that she did not remember the events because of intoxication
24 before giving the statement. The witnesses all deny that she said that what she recounted was really
25 Daric Ebanks' account. I prefer the evidence of Officer Taylor, Mr. Walkington and Ms. Twydell
26 on this point. The witnesses have no reason to lie and in two instances had taken contemporaneous
27 notes of conversations with Thompson. I do not believe that she said that it was someone else's
28 statement.

29
30 107. She has now been deemed a hostile witness. What is the value of her evidence? When confronted
31 with the statement she did not adopt the statement but has resiled from it. The witness statements
32 have been introduced into evidence for the fact of her having given them. If I find that she was in
33 fear I can consider them and use the facts stated therein. If I find she is not in fear and is just a
34 hostile witness she not having adopted the contents, then they have little value.



I am mindful that the witness Thompson may be in fear, although she does not say so. Even if I were to accept what is contained in Thompson's witness statement in preference to her evidence at court because I was satisfied she was in fear, I would do so with caution.

6 109. I am especially mindful of this witness' answers in cross examination set out at paragraph 73 above.

7 I am mindful of her relationship with the defendant and with Daric Ebanks which may have caused
8 some conflict in her mind. I find that I am not satisfied so that I am sure that the witness has, in
9 effect, retracted the account outlined in her witness statement because of fear.

10

11 110. In the circumstances of this case and given the nature of the offences for which this defendant has
12 been indicted and the penalties to which he is liable I am satisfied that this witness evidence of the
13 events of the 4th of July should not be relied upon by this court. I must go on to consider whether
14 the other evidence in the prosecution's case is sufficient to satisfy me so that I am sure of the guilt
15 of the defendant and if I am not satisfied of his guilt then I must find him not guilty.

16

17 111. **Daric Ebanks** - I am mindful that this evidence was admitted and was not tested in cross
18 examination. It is therefore necessary for this court to carefully assess this evidence to determine
19 the weight to be given to this evidence in those circumstances.

20

21 112. Does the evidence of Donovan Ebanks corroborate the evidence of Daric Ebanks? I bear in mind
22 the evidence that has been part of this case that Daric Ebanks is an impaired witness. I have
23 considered the nature of the relationship between these witnesses. They are father and son. The
24 evidence of Donovan Ebanks corroborates various aspects of Daric Ebanks evidence. I have
25 considered whether there is evidence of collusion or the opportunity for collusion when looking at
26 this aspect. Daric Ebanks was taken into custody on the morning of the 4th of July. Donovan
27 Ebanks did not speak to Daric Ebanks before he gave his recorded interview to the police. The 911
28 recording fills the void. Daric can be heard attending to the defendant as they waited on the Police.
29 Once the Police arrive, they arrest Daric Ebanks and transport him to the Police station. He gives
30 his account soon thereafter.

31

32 113. Given the temperament of Ebanks at the scene from his own words and actions I am unable to
33 conclude that he could have colluded with Daric Ebanks to the extent necessary to concoct a version
34 of these events.

35

1 114. Taking all of these matters into consideration, I find that:

2 (i.) The sequence of events described by both is very similar.

3 (ii.) Donovan Ebanks' evidence corroborates Daric Ebanks that:

4 a) That it was Donovan Ebanks that alerted Daric Ebanks to the intruder;

5 b) The identity of the intruder as the defendant, that the defendant was
6 armed with a gun and that the defendant fired the gun through the
7 bedroom door;

8 c) There was a fight in the room over the gun and that Donovan Ebanks
9 entered the room with a machete;

10 d) That Daric Ebanks did not point the gun at Thompson;

11 e) That Daric Ebanks hid the gun and what he said to his father afterwards
12 when he went back into the bedroom about the gun;

13 f) The conversation related by the defendant as he lay outside the residence
14 before the Police arrived.
15

16 115. The evidence of the account given to two of the first officers on the scene by Daric Ebanks is also
17 relevant here. They both relate an account that is consistent with that given by Daric Ebanks in his
18 recorded statement. I find that I can accept Daric Ebanks account of the incident and I accept his
19 explanation for his actions in hiding the gun as detailed in his statement of. It may not have been
20 the wise thing to do, however the obvious chaos on the morning of the 4th of July may have dictated
21 his actions. In any event I accept and believe his explanation for these actions given on the 9th of
22 July 2015.
23

24 116. **The defendant.** I remind myself that the defendant did not give evidence in Court and his account
25 as detailed in his witness statement was not tested under cross examination. There are aspects of
26 his evidence that can be independently verified. The phone records are one such aspect that show
27 that the defendant did speak to Thompson by telephone at various points that morning. However
28 they do not support the defendant's account that it was Thompson calling him on the morning of
29 the 4th of July before 6:00 am. It is the defendant who called Thompson 9 times between 4:19 am
30 to 5:12 am on that morning.
31

32 117. The defendant's account of what transpired at the house is also not supported by the evidence. The
33 defendant stated in interview that Daric Ebanks was smoking a cigarette when he came to the front
34 door and that: "*he burnt me in the eye - in fact two times with the cigarette.*" There is no evidence
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1 of the defendant having received burns from a cigarette. The admitted facts detail the defendant's
2 injuries when he was admitted to hospital.²⁰ These facts do not support the defendant. There is no
3 mention of any injuries to the defendant's face and no mention of cigarette or other burns noted on
4 the defendant's body at all. The photographs of the defendant at the hospital show no injuries to
5 the defendant's face or anything of the sort that one would expect from cigarette burns.²¹

6
7 118. There is no evidence of a fight at the front door. I do not believe the defendant in interview when
8 he stated that he entered the residence through the front door. I refer to the physical evidence which
9 points to the intruder having entered the kitchen door by force.

10
11 119. With regard to the defendant's account of what transpired in Daric's bedroom after he entered the
12 house, this part of his account is implausible. The defendant says he entered the house after Daric
13 had burned him in the face with a cigarette and after he and Daric Ebanks had begun to fight at the
14 front door. Even so when Daric Ebanks leaves to go around to the back of the house he proceeds
15 into the house and goes into his bedroom. If, as the defendant says, he just wanted to let Thompson
16 know that he now knew that she was seeing someone else, it is incredible to think that he would
17 have so boldly entered the home after being greeted by Daric Ebanks in this way.

18
19 120. Much of what happened in the bedroom is captured on the 911 recording. The 911 recording causes
20 me to doubt the defendant's version of events that Daric Ebanks was the aggressor. The calls record
21 Daric Ebanks attempting to keep his father away from the defendant both in the bedroom and while
22 they were all outside the residence awaiting the Police. The 911 calls record Daric Ebanks
23 attempting to stem the defendant's bleeding after the incident, while they awaited the Police and
24 the ambulance. Daric Ebanks assisted Thompson to take the defendant outside the residence.
25 These facts are inconsistent with the version of events related by the defendant that Daric Ebanks
26 was the aggressor on the morning of the 4th of July.

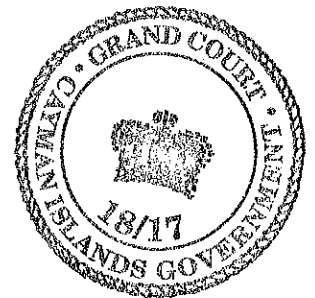
27
28 121. I prefer the evidence of Donovan Ebanks and Daric Ebanks to that of the defendant.
29
30

31 **COURTS CONCLUSIONS**

²⁰ Admitted facts 8-13

²¹ The photographs of the defendant are Court Exhibit 2

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Count 3 - Possession of an Unlicensed Firearm contrary to section 15 (1) of the *Firearms Law*.

From the admitted facts, facts 1-7 summarised at paragraph 84 above, I find that the firearm found at the residence was not a licensed firearm. It is a lethal barreled weapon within the definition of the *Firearms Law* and the evidence is that the shell casings from the bullets fired at the scene on the morning of the 4th of July 2015 were discharged from that firearm.

123. The defendant stated in his witness statement that he was at the residence. Two witnesses have testified that he was at the residence. The issue for this court is whether he was in possession of the firearm on that date. I find that I am satisfied so that I am sure that the defendant was in possession of the firearm. I find that he broke into the home through the kitchen door and I am satisfied on the evidence of Donovan Ebanks and Daric Ebanks that when he entered the residence he was armed with the firearm in his hand. I find the defendant guilty of Count 3 of the indictment.

124. Counts 1 and 2 of the indictment – Attempted Murder. The evidence of Thompson, of her interaction with the defendant on the 1st of July 2015 and his threats to her is relevant and uncontroverted. The defendant threatened to kill her. As noted above, the defendant still considered that Thompson was his girlfriend. He went in search of her in the early morning hours of the 4th of July.

125. The transcripts of calls to Thompson’s cell phone admitted into evidence as part of the admitted facts. (Admitted facts 19-31), support Thompson’s evidence that it was the defendant who called her in the early morning hours of the 4th of July. He called her repeatedly. He called her mobile telephone nine times between 4:19 am to 5:12 am on that morning.

126. Her evidence is that she answered one of those calls. The defendant wanted to know where she was. It is significant that the calls stopped close to the time that Ebanks says that the intruder appeared at his premises at #26 Sunburst Lane at some time close to 5:00 am. The calls resume when Thompson calls 911 at approximately 5:54 am. The defendant in his record of interview admits that he knew that Thompson was in the residence as he had seen her car in the driveway.

127. The defendant entered the residence in search of Thompson and Daric Ebanks. He was intent on finding Thompson. He knew that she was in the residence. He had been informed of this by her friend Anna and he saw Thompson’s car in the driveway of the residence. Donovan Ebanks described him loading the firearm *as he entered the residence having broken in through the kitchen*

1 door. This was not an attempt to frighten or even intimidate by just brandishing the gun. This was
2 not an attempt to break the lock. There are two bits of Donovan Ebanks' evidence that are
3 especially prominent:

4
5 *I noticed this person was looking down, I noticed a gun in this person's hand. I*
6 *jumped back against my door and he never looked [at me] and went straight to my*
7 *son's door and held his hands straight out and he started to shoot the gun in*
8 *through the door where my son's room is."*

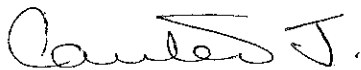
9
10 *"It was very quick, another crash and the man came in. The front door was locked*
11 *when the man was there. The kitchen door was locked as well. It was not damaged*
12 *before this happened. When the door was hit it ripped a piece out on the side of*
13 *the door frame - popped the door frame where the lock goes into. The damage*
14 *occurred when the door was kicked in. Daric and Errolyn were still in the room.*
15 *He [the man] was holding it down and the gun was open, and he seemed to be*
16 *putting something in the gun.*

17
18 128. I am satisfied that the defendant shot through the bedroom door intending to *murder Thompson
19 and Daric Ebanks. He was obviously intent on his task. This is the intention to be inferred from
20 his actions in all the circumstances.

21
22 129. On count 1, I find the defendant guilty of attempting to murder Daric Ebanks on the 4th of July 2015

23
24 130. On Count 2, I find the defendant guilty of attempting to murder Errolyn Thompson on the 4th of
25 July 2015

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29
30 Dated this 4th day of November 2019

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34
35 **Madam Justice Marlene I. Carter**
36 **Judge of the Grand Court (Acting)**
37
38

