

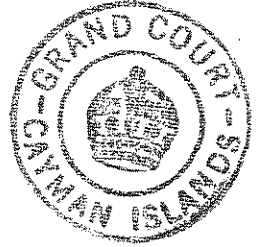
1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**  
2 **CRIMINAL SIDE**

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4 **INDICTMENT NO: 0065/2014**

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6  
7 **THE QUEEN**

8  
9 **V**

10  
11 **ERIKA CHANNEL WATLER**



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14 **Appearances:**

**Ms. Candia James for the Crown**

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16 **Ms. Prathna Bodden of Samson & McGrath**  
17 **for the Defendant**

18  
19 **Before:**

**The Hon. Mr. Justice Charles Quin**

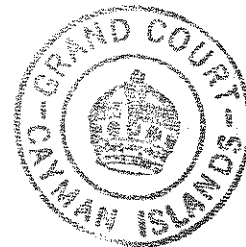
20 **Submissions heard:**

**6<sup>th</sup> November 2014**

21  
22 **SENTENCE RULING**  
23

24 ***INTRODUCTION***

- 25 1. On the 5<sup>th</sup> September 2014 the Defendant pleaded guilty to Unlawful Wounding  
26 contrary to s.203 of the Penal Code (2010 Revision). The particulars of the offence  
27 are that the Defendant, on the 9<sup>th</sup> day of November 2013, at Nectar Night Club,  
28 West Bay, Grand Cayman, unlawfully wounded Jessica Veronica Jackson-Eden.
- 29 2. On the 5<sup>th</sup> September 2014 the Defence and the Crown entered into an agreed Basis  
30 of Plea to the lesser offence of Unlawful Wounding.
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*SUMMARY OF FACTS*

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3. On Saturday 9<sup>th</sup> November, 2013, the complainant, Jessica Eden was out enjoying the Pirates Weeks festivities with friends. She eventually arrived at the Nectar Night Club. Shortly after her arrival there, the defendant entered along with another person.
  
4. The complainant states that while she was at the bar, the defendant looked at her and then pointed her middle finger in the air. The complainant sent her a “WhatsApp” message telling her to *“Put that finger up your ass bitch.”*
  
5. The defendant then retaliated by using a beer bottle to strike the complainant to the left side of her face. A fight then ensued during which punches were exchanged. The Complainant and the Defendant were eventually parted by others and the fight ended.
  
6. The complainant was subsequently taken to the George Town Hospital for treatment and then discharged. The complainant’s injuries were photographed. The complainant sustained two facial wounds - a 1.5 cm x 2cm left temporal laceration and a 2 x 2 cm contusion to frontal aspect of the head. The complainant’s injuries were not considered to be serious injuries.
  
7. The defendant was subsequently arrested and interviewed under caution. During her interview she admitted that she struck the complainant with a beer bottle but claimed that she had been acting in self-defence.

*DEFENCE SUBMISSIONS*

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8. Defence counsel states there appears to be a history of bad blood between the complainant and the Defendant. Defence states further that the Defendant had had a brief relationship with the complainant’s husband however at the time of the relationship the Defendant was unaware of the fact that the complainant’s husband was a married man.

9. Defence counsel submits that although there was this history of animosity between the complainant and the Defendant, the Defendant accepts full responsibility for her actions in relation to wounding the complainant. The Defendant accepts that she should never have let the complainant provoke her and Defence counsel submits further that the Defendant is deeply remorseful – evidenced by the fact that she admitted her involvement in the incident to the police immediately afterwards and then entered a guilty plea at the earliest opportunity.

10. The Defendant is 23 years of age with no previous convictions.

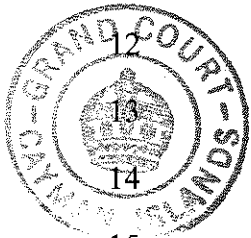
11. The Defendant has provided a letter of reference from Alison Sims – a former employer of the Defendant. Ms. Sims confirms that the Defendant is a young woman who takes her employment very seriously, who wishes to pursue academic studies in the immediate future and who desires to be a role model for her young daughter.



1 12. Maria Zingapan, Director of the Economics and Statistics Office (ESO) confirms  
2 that the Defendant is a Survey Editor, Coder and Verifier who is a “*hard working*  
3 *staff member who displays commitment to the job [and who] shows proper respect*  
4 *to both staff members and management of ESO.*”

5  
6 Ms. Zingapan states: “*Erika also demonstrates good leadership qualities as one of*  
7 *the ESO’s team-building leaders. Among her peers her Supervisor considers her*  
8 *above average in terms of delivery of tasks and assignments.*”

9  
10 13. The Court has been provided with a very helpful Social Inquiry Report (SIR) dated  
11 the 5<sup>th</sup> November 2014. The Probation Officer confirms that the Defendant has no  
12 history of illegal drugs or any other problems with the law. The Defendant is  
13 described in the report as a very quiet, responsible, trustworthy and respectful  
14 young lady.



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16 14. The report reveals that the fight between the Defendant and the complainant was  
17 fuelled by alcohol and it is apparent that both were trying to hurt each other. The  
18 Defendant told the Probation Officer that the complainant “*was making her life a*  
19 *living hell*” and, in light of what was happening in the bar on the evening in  
20 question, she became “*overwhelmed with frustration.*”

21  
22 15. The Probation Officer states that it is clear that the Defendant has expressed deep  
23 remorse regarding the incident and the injury to the complainant. The SIR reveals  
24 that the Defendant has clearly stated that she had no intention of having an  
25 altercation with the complainant and, further, she had no intention to harm the  
26 complainant but it appears that, with alcohol, alongside the difficult circumstances  
27 which arose in the bar, matters got out of hand.

1 *ANALYSIS*

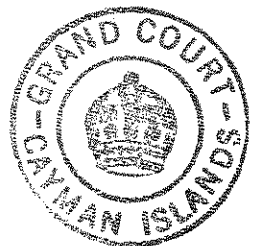
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3 16. Crown counsel makes reference to the UK Sentencing Guidelines on Unlawful  
4 Wounding and states that the obvious aggravating factor is that the Defendant used  
5 a bottle to hit the complainant.

6 17. Crown counsel points to the fact that *The Chief Justice's Guidelines*<sup>1</sup> precede the  
7 introduction of this offence and therefore do not assist. The UK Sentencing  
8 Guidelines, whilst not binding in the Cayman Islands, have been accepted by the  
9 Grand Court and the Cayman Islands Court of Appeal (CICA) as offering guidance  
10 to assist in circumstances where our local guidelines are silent.

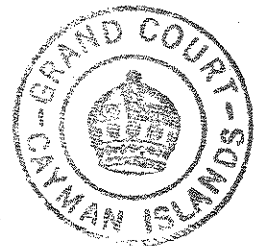
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12 18. Following the UK Guidelines, the Crown submits that this is an offence of lesser  
13 harm and higher culpability. The Crown further submits that the higher culpability  
14 arises from the Defendant's use of the bottle as a weapon. Consequently, Crown  
15 counsel submits that these factors place the Defendant into Category 2 and the  
16 suggested starting point for Category 2 is one (1) year and 6 months' custody and  
17 the sentencing range is from one (1) year to three (3) years in custody. Crown  
18 counsel notes that the maximum penalty in the United Kingdom is five (5) years'  
19 imprisonment, which is lower than the maximum in the Cayman Islands, which is  
20 seven (7) years. The Court also notes that for Category 3 offences, the UK  
21 Guidelines recommend a range from fifty-one (51) weeks in prison to a low-level  
22 Community Service Order.  
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<sup>1</sup> *Statement on Tariffs and Guidelines for Sentencing for Certain Offences* dated the 16<sup>th</sup> January 2002



- 1 19. Whilst these injuries (as seen in the photographs), must have been extremely  
2 frightening and painful, fortunately, they were not considered to be medically  
3 serious.
- 4  
5 20. The Defence submits that there was a lack of pre-meditation and it is arguable that  
6 the Defendant was using excessive self defence.
- 7  
8 21. The Court notes that the Defendant is a young 23-year old Caymanian with no  
9 previous convictions. She has excellent reports from her employers and has  
10 obtained an educational grant to pursue further studies at a UK university.
- 11  
12 22. The offence may meet the custodial threshold however the Probation Officer has  
13 said that he is sure that the Defendant is genuinely remorseful. The Court accepts  
14 that the Defendant has no history of illegal drugs or any other problems with the  
15 Law. The SIR confirms that the Defendant has no previous convictions and the  
16 Probation Officer considers that this offence is out of character. The Defendant is  
17 assessed as having a low risk of reoffending and, in light of that, the Probation  
18 Officer has asked the Court to consider a 12-month Probation Order with the  
19 conditions that the Defendant performs community service and reimburses the  
20 complainant for medical expenses.
- 21  
22 23. Up to the date of the sentencing hearing the complainant had not submitted any  
23 invoices for medical expenses. However, following the hearing, the Court received  
24 a Victim Impact Statement, dated the 14<sup>th</sup> November 2014, along with invoices for  
25 costs incurred for medical treatment – totalling CUS\$1,354.32.
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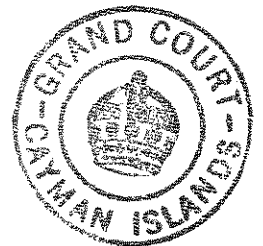


1       24.    I have taken into account the Crown's submissions as well as the submissions made  
2            by Defence counsel, along with the SIR, the letters of reference and the Victim  
3            Impact Statement.

4  
5       25.    The Court recognizes that both the Complainant and the Defendant participated in  
6            and contributed to bringing about this altercation. The Court is concerned that a  
7            young woman with such a promising future and young child allowed herself to be  
8            pushed to the point where she unlawfully wounded the complainant. Alongside this,  
9            the Court notes that the Probation Officer records that the Defendant does show  
10           some deficiency in the area of problem solving and self-management. The  
11           Defendant must never let her temper get the better of her ever again. Therefore, I  
12           propose to adopt the Probation Officer's carefully considered recommendations but  
13           I also make an Order that Defendant is to participate in anger management  
14           counselling as directed by the Probation Officer.

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16       26.    Accordingly, having taken all these factors into consideration I sentence the  
17            Defendant as follows:

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19       i.    The Defendant is to be the subject of a 12-month Probation Order;
- 20       ii.   The Defendant is to perform 240 hours Community Service as directed by the  
21            Probation Officer;
- 22       iii.  The Defendant is to participate in a programme designed by the Probation  
23            Officer relating to Anger Management.

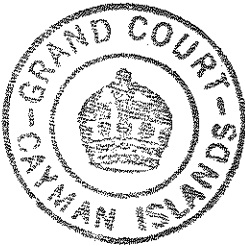
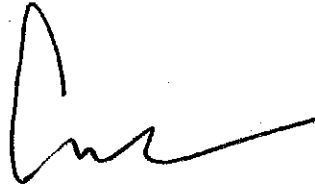


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iv. Compensation Order: The Defendant is to pay to the Court Funds Office the sum of CI\$1,354.32 which is to be sent to the Health Services Authority (HSA) to cover medical bills for the complainant. The Defendant is to pay this sum within six (6) months of today's date, that is, on or before the 22<sup>nd</sup> May 2015.

If the Defendant fails in any way to comply with the Probation Order, or commits another offence whilst on Probation, she will be liable to be sentenced<sup>2</sup> for this offence.

**Dated this the 24<sup>th</sup> day of November 2014**



**Honourable Mr. Justice Charles Quin Q.C.  
Judge of the Grand Court**

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<sup>2</sup> Pursuant to s.35(4) of the Alternative Sentencing Law (2008 Revision).