

BETWEEN:

HER MAJESTY THE QUEEN

Respondent

- and

Corey Bowen

Appellant

Before:

**The Rt. Hon Sir John Goldring, President
The Hon Sir Richard Field, Justice of Appeal
The Hon Dennis Morrison, Justice of Appeal**

Appearances: Appellant in person, Scott Wainwright for DPP

JUDGMENT

**Revised from transcript of oral judgment 28 February 2017 and Approved
Released 15 March 2017**

Honourable Dennis Morrison, J.A:

On 31 March 2016, after a trial before Mr. Justice Malcolm QC and a jury, the applicant was convicted of the offence of wounding with intent to cause grievous bodily harm contrary to section 203 of the Penal Code (2013 Revision).

On 6 May 2016, he was sentenced to five years and three months' imprisonment. By his application for leave to appeal dated 14 June 2016, the applicant seeks leave to appeal against his sentence on the ground that it was manifestly excessive.

The incident in respect of which the applicant was convicted took place in the following circumstances. At about 5:00 a.m. on 13 June 2015, the applicant was in the process of taking the mother of his child, described as his "baby mother" to her home. Shortly before arriving at her home, the applicant observed the complainant, with whom his baby mother had also had a child previously, in the back of the baby mother's parked car.

As the learned judge put it delicately, there had been a history between the two men over their respective connections to the same woman. After letting off his baby mother,

the applicant emerged from his car and approached the complainant armed with a knife. A struggle ensued and the complainant tried to protect himself from the applicant, who was coming towards him briskly, knife still in hand. As the two men grappled together, with the applicant on the ground, the applicant stabbed the complainant in his neck with the knife. The baby mother, upon hearing the sounds of the fighting from inside her home, came outside shouting to the applicant, "Stop, you are killing him". When the fight ended, the complainant, who was bleeding a lot, left the scene and later collapsed before being taken to the hospital. He had, in fact, sustained three stab wounds to the head and neck. Fortunately, however, he made a full recovery, although the residual scars from the injuries remain a permanent reminder of the applicant's attack.

In determining the appropriate sentence to be imposed on the applicant, the jury having found him guilty on the facts we have outlined, the judge at the outset remarked the potential danger caused by knives. The judge said this:

"Knives are serious weapons and if taken into any confrontation can easily cause fatal consequences. Anybody using a knife can expect to be dealt with seriously by the courts."

Referring to the UK Sentencing Council's Definitive Guidelines ('the Guidelines') and various decisions of the Grand Court and of this Court, the judge recorded that it had been agreed that in this case that the use of a knife placed the case in Category 2 of the Guidelines, thereby attracting a starting point of six years, with a sentencing range of five to nine years' imprisonment.

The judge next took into account the matters of mitigation urged by the appellant's counsel at trial – that is, that he had no previous convictions for offences involving violence; there was no premeditation; and his behaviour that night was out of character.

On the other side, the judge considered that there were no aggravating factors to be brought into account. Accordingly, taking six years as the starting point, the judge reduced it to the five years and three months to which he ultimately sentenced the applicant to reflect the mitigating factors.

Before us this morning, the applicant has represented himself and we will say at once that, in doing so, he has said everything that could possibly be said on his own behalf. He tells us that he thinks the sentence is excessive. On that night, his own brother had been shot and he had been to the hospital to see him. He was told by the complainant that he wished that he, the applicant, had been shot too. The applicant tells us that he is a law-abiding citizen. This is the first time he has been in trouble, that he is really sorry about the event. He was not trying to kill anybody. He did not approach the complainant with a knife. He is remorseful. He has six children at home and his home is about to be lost because of his inability to work to support his family.

Mr. Wainwright for the Crown was content to submit that the judge's approach was well within the Guidelines and also within the authorities emanating from this Court.

We will refer to two of the cases briefly; in *R v Ricardo Hyre* (Criminal Appeal No. 9 of 2009, judgment delivered 2 September 2009), the appellant, who was charged with wounding with intent, stabbed the complainant with a knife five times during an altercation in a night club. One of the wounds penetrated the muscle in the left side of the complainant's back and punctured his lung. Had he not received prompt and expert medical treatment he would have died, but in the end he made a full recovery.

On appeal, this Court declined to disturb the sentence of seven years' imprisonment imposed after a trial before Mr. Justice Quin and a jury. In delivering the judgment of the Court, the President, Sir John Chadwick, expressly adopted the proposition found in Blackstone's Criminal Practice (2009 edition), paragraph B2. 55 that, in the United Kingdom, "... an offence involving the infliction of very serious injuries by the use of a knife would attract a sentence of between seven and nine years in a contested case".

More recently, in *Kenroy Rowe v R* (CACAR009/2015, judgment delivered 11 February 2016), this court upheld a sentence of six years' imprisonment given after trial for wounding with intent, again committed in a night-club setting.

As the judgment of the Court in *Kenroy Rowe v R* emphasises, in keeping with the long-standing practice of the Court, the Court will not usually interfere with a sentence given at trial "unless it is shown to be manifestly excessive or wrong in principle". In our view, the judge's approach to sentencing in this case fell squarely within the range of sentencing options suggested by the applicable guidelines and confirmed by previous decisions of this Court. In these circumstances, we have come to the conclusion that, notwithstanding the strong plea, essentially in mitigation, made by the applicant on his own behalf today, no basis has been shown upon which we could properly disturb the sentence imposed by the judge. The application for leave to appeal is therefore dismissed.