

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

3
4 INDICTMENT NO: 0115/2014

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7 THE QUEEN

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9 V

10 ANDREW SANTANGELO LOPEZ
11 BRON OHARA WEBB
12 RANDY CONNOR
13 DEVON EMMANUEL WRIGHT JR.



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16 **Appearances:**

17 **Mme. DPP Cheryll Richards Q.C. and Ms.**
18 **Tanya Lobban Jackson Snr. Crown Counsel on**
19 **behalf of the Crown**

20 **Mr. Bernard Tetlow Q.C. instructed by Ms.**
21 **Amelia Fosuhene of BRADY¹ Attorneys at Law**
22 **for the Defendant LOPEZ**

23
24 **Mr. Brendan Kelly Q.C. instructed by Ms.**
25 **Alice Carver of Samson & McGrath for**
26 **Defendant WEBB**

27
28 **Mr. Crister Brady and Mr. John Furniss for**
29 **Defendants CONNOR and WRIGHT**

30
31 **Before:**

Justice Francis Belle (Actg.)

32 **Trial by Jury:**

10th to 26th August 2015

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34 **Sentence hearing:**

22nd October 2015

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36 **Delivery of Sentence Decision:**

25th November 2015

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40 **HEADNOTE**

41 *Criminal Law – Robbery – Possession of an Unlicensed Firearm – Statutory*
42 *minimums following trial and a guilty plea – Joint Enterprise – Dominant/Lesser*
43 *Roles argued – Aggravating and Mitigating factors.*
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¹ Ms. Fosuhene was with Stenning & Associates when this trial commenced on the 10th August 2015.

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SENTENCE JUDGMENT

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THE INDICTMENT

4 1. The three charges for which these four Defendants are herein to be sentenced all relate
5 to an offence of armed robbery and the charges are set out on the Indictment as
6 follows:

7 a. Count 1: ROBBERY – Contrary to s.242(1) of the Penal Code (2013 Revision).

8 The particulars of this count are that all defendants, on the 17th day of December
9 2014, in George Town, Grand Cayman, Cayman Islands, stole cash amounting to
10 CI\$4,604.42 and US\$582 from Donya Chisholm, cashier of Blackbeard’s Liquor
11 Store, Grand Harbour, and at the time of doing so, and in order to do so, put or
12 sought to put the said Donya Chisholm in fear of being then and there subjected to
13 force.

14 b. Count 2: ROBBERY - Contrary to s.242(1) of the Penal Code (2013 Revision).

15 The particulars of this count are that all defendants, on the 17th day of December
16 2014, in George Town, Grand Cayman, Cayman Islands, stole a purse containing
17 cash, bank cards, photograph, and other personal items from Kelly Ann Watson,
18 customer of Blackbeard’s Liquor Store, Grand Harbour, and at the time of doing
19 so, and in order to do so, put or sought to put the said Kelly Ann Watson in fear of
20 being then and there subjected to force.





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c. Count 3: POSSESSION OF AN UNLICENCED FIREARM – contrary to s.15(1) of the Firearms’ Law (2008 Revision). The particulars of this count are that all defendants, on the 17th day of December 2014, in George Town, Grand Cayman, Cayman Islands, had in their possession a firearm, not under and in accordance with the terms and conditions of a Firearm User’s (Restricted) licence.

2. One Defendant, Wright, pleaded guilty to all three charges on dates set out in paragraph 12 of this Judgment. The other three defendants were found guilty of all three charges after trial by jury, by unanimous verdict.





CASE SUMMARY

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3. On the 17th day of December 2014 at about 7:40 p.m. three armed men – one armed with a sawed-off shotgun, and another with a handgun – entered Blackbeard’s Liquor Store at Grand Harbour, George Town, Grand Cayman. All three men were hooded and masked. They took money the cash register and stole a distinctive purse from Kelly-Ann Watson, who was a customer at the store at the time. The purse contained a number of items of value, including cash and credit cards. Stolen from Blackbeard’s was CI\$4,604.42 and US\$582.00 and found in the house at which the defendants were arrested was CI\$4,536.00 and US\$594.00. In addition, CI\$50.00 was recovered at the Police Station.

4. One of the men forcibly restrained Albert Thompson-Lopez, another customer of the store. After taking the money and the purse the men exited the store and drove away in a Ford Escape which had been parked outside of the store.

5. Security cameras in the area, including in the Blackbeard’s Store itself, showed that the Ford Escape was the vehicle which delivered the robbers to the scene and the vehicle in which they fled.

6. The evidence later showed that Lopez’s mother is the owner of the said, or a very similar, Ford which CCTV footage confirmed was driven by Lopez from a car park in Georgetown earlier the same evening.

7. Two women sitting in the sidewalk area of the Hurley’s Shopping Centre saw the robbers leaving Blackbeard’s store after the heist and raised an alarm. An off-duty police officer heard the “hue and cry,” saw the departing Ford and followed it until it disappeared in the Prospect area.

1 8. Within minutes of the robbery police officers who had been informed of the robbery
2 descended on a house at 48 Morningside Drive and saw the Ford parked in the back
3 yard. The police officers scaled the fence and as they approached the vehicle they
4 encountered. Lopez, and later, Connor, Webb and Wright and arrested them.

5 9. Money, articles of clothing, and items which belonged to Kelly-Ann Watson were
6 found in a storeroom at the house at 48 Morningside Drive and the gold-painted
7 shotgun used in the robbery – was found in the attic above the laundry room which
8 adjoins the bedroom of Andrew Lopez.

9 10. DNA evidence connected the vehicle to Lopez, and the clothing was connected to
10 other three defendants both by DNA evidence and by comparison with the clothing
11 worn by the robbers at the scene of the robbery and afterwards.

12 11. Lopez, Webb and Connor denied playing any role in the robbery after they were
13 arrested and interviewed by police officers. All four men were charged with two counts
14 of robbery and one count of possession of a firearm when not being the holders of
15 firearms' users' licences.

16 12. Devon Wright later confessed and entered guilty pleas to all three counts during the
17 case-management process. Pleas were entered by the defendants as follows:



2015	OPEN COURT PROCEEDINGS
16 th Jan.	1 st appearance for all defendants in the Grand Court.
20 th Feb.	Lopez, Webb and Connor plead NOT GUILTY to all counts
17 th April	Wright pleads GUILTY to Count 1
8 th May	Wright pleads GUILTY to Count 2 and NOT GUILTY to count 3
15 th May	Wright pleads GUILTY to Count 3.
10 th – 26 th Aug.	12-man jury trial for Defendants Lopez, Webb and Connor

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19 13. Lopez, Webb and Connor were found guilty on all three counts.



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THE LAW

ROBBERY (Counts 1 & 2)

14. Section 242(1) and (2) of the Penal Code (2013 Revision) reads:

“242. (1) *A person commits robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.*

(2) *A person who commits robbery is liable to imprisonment for life.”*

15. In pursuance of the sentencing process the Court must follow the relevant statutory provisions, guidelines and decided cases which provide the legal basis for sentences imposed in criminal cases before the Grand Court.

16. The Chief Justice’s Sentencing Guidelines² set a tariff of 14 years’ imprisonment for a first offence of Robbery involving the use of a firearm.

17. I remind myself that in the Cayman Islands Court of Appeal (CICA) case of *Barnett*³, after being found guilty and sentenced to 12 years’ imprisonment for demanding money from a petrol station, the CICA reduced the sentence to nine (9) years’ imprisonment.

18. I also remind myself of the CICA case of *R v. Haylock, Avila, McLaughlin, Watson*⁴ in which the President of the CICA, Sir John Chadwick, stated at paragraph 11:

“Nevertheless those who arm themselves with weapons and undertake pre-meditated robbery of small commercial businesses in these islands must expect at least five years’ imprisonment if they are convicted.”

² *Statement on Tariffs and Guidelines for Sentencing for Certain Offences 2002*. I note that this Mention for Sentence (MFS) was held on the 22nd October 2015 when the Cayman Islands Sentencing Guidelines – dated October 2015 – were just about to be published and not yet in effect.

³ CICA 5/2012 dated the 24th December 2012

⁴ CICA (Crim) No. 33 of 2010

1 19. In addition, the UK Sentencing Guidelines state:

2 *“It is the use of violence that is the most serious part of the offence of robbery, but*
3 *it is not the only determinative factor.*
4 *The relative seriousness of each offence depends on factors such as the degree of*
5 *injury to the victim or the nature and duration of threats.*
6 *The degree of force used is important in determining the seriousness of the offence*
7 *but the degree of fear which was experienced by the victim is a relevant*
8 *consideration.”*
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10 20. It is therefore necessary to look at various issues such as the aggravating and
11 mitigating factors relating to the commission of these offences. In this regard it is
12 necessary to take into account the Victim Impact Statements and the Social Inquiry
13 Reports (SIRs) which have been provided for all four offenders. I shall do this in the
14 relevant sections below.

15 ***POSSESSION OF A FIREARM***

16 21. Section 39(2) of the Firearms Law (2008 Revision) reads:

17 *“(2) Notwithstanding sections 6(2) and 8 of the Criminal Procedure Code*
18 *(2006 Revision), the court of summary jurisdiction or the Grand Court*
19 *before which the individual pleads guilty or is convicted, shall-*
20 *(a) in a case where the individual pleads guilty, impose a sentence of*
21 *imprisonment for a term of at least seven years (with or without a*
22 *fine); or*
23
24 *(b) in any other case, impose a sentence of imprisonment for a term of*
25 *at least ten years (with or without a fine),*
26 *unless the relevant court is of the opinion that there are exceptional*
27 *circumstances relating to the offence or to the offender which justify its not*
28 *doing so; and such exceptional circumstances shall be stated by the*
29 *relevant court.”*
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1 *SENTENCING ISSUES*

2 22. All four offenders are now before the court for sentencing. Based on the aforesaid facts
3 outlined in the Case Summary the court now proceeds to consider the issues arising
4 which should lead to an appropriate sentence for all four Defendants. To do this, along
5 with the items outlined in paragraph 20, the Court will also consider the Chief Justice's
6 Sentencing Guidelines for sentencing in cases of robbery (see paragraph 16), the
7 relevant United Kingdom (Sentencing Council) Guidelines, and, the relevant statutory
8 provisions.

9 23. The Court is also guided by the need to impose a sentence which is a deterrent to a
10 repetition of the offending behaviour while keeping in mind that, especially in the case
11 of young offenders, there may be hope for rehabilitation and the opportunity for such
12 rehabilitation should be extended to each offender.





AGGRAVATING FACTORS

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24. The Court considers that the armed robbery in which firearms were used involves many aggravating factors. These are:

- a. The use of the firearms;
- b. The use of firearms against unarmed civilians;
- c. The robbery took place in the night;
- d. The robbery (inside the store) involved three men;
- e. The three men who entered the store wore masks and hooded jackets to assist with concealing the faces and the upper portions of their bodies;
- f. The robbery was a planned joint enterprise and was not spontaneous;
- g. The robbery was an attack on a commercial establishment located in a family shopping complex;
- h. The robbery also victimized unsuspecting civilians who were customers of Blackbeard's liquor store as well as the store's employees.





1 *FIREARMS*

2 25. The facts disclose that the offenders used a shotgun – which was tested and identified
3 as a lethal-barrelled weapon – in pursuit of their criminal enterprise. This weapon was
4 very intimidating and would have instilled fear in the minds of employees and
5 customers of Blackbeard’s Liquor Store.

6 26. The robbers also used another firearm which appeared to be a pistol, but this was never
7 found and cannot be identified as a lethal barrelled weapon. The offender, Devon
8 Wright, told the interviewer in his SIR that he was in possession of this firearm before
9 the robbery. This second weapon would have contributed to the fear and intimidation
10 which was used to assist the convicted men in the robbery.

11 27. The fact of the intimidation and fear is more clearly demonstrated in the Victim Impact
12 statements.

13 *NIGHTTIME ROBBERY*

14 28. The facts also show that the robbery took place in the dark of night although the store
15 was lit. Choosing the nighttime for the robbery demonstrates the extent to which the
16 offenders – who were seen via CCTV footage to have been together from much earlier
17 on that day – intended to instil fear, shock and the highest degree of intimidation.

18 *NUMBER OF OFFENDERS*

19 29. Three of the men before the court entered the store and demanded money and took
20 items from a customer. This makes the aggravation more severe than if only one
21 person committed the robbery.

1 **OFFENDERS MASKED & WEARING HOODED JACKETS**

2 30. Three of the men before the court entered the store and demanded money and took
3 items from a customer. These men were masked and wore hooded jackets.

4 31. The use of the masks and the hooded jackets heighten the level of intimidation and the
5 consequential fear instilled in the victims since the appearance would be frightening
6 and would suggest that they intended to do harm if obstructed. The shock and
7 intimidation were augmented by the combined use of the various features of the
8 robbery being the number of robbers, acting in the night, being masked, wearing
9 hooded jackets, using firearms and aggressively demanding and taking money and
10 other property.

11 **PLANNED JOINT ENTERPRISE**

12 32. I remind myself of the provisions of s.19 of the Penal Code (2013 Revision) which
13 reads:

14 “19. *When two or more persons form a common intention to prosecute an*
15 *unlawful purpose in conjunction with one another, and in the*
16 *prosecution of such purpose an offence is committed of such a*
17 *nature that its commission was a probable consequence of the*
18 *prosecution of such purpose, each of them is deemed to have*
19 *committed the offence.”*

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21 33. And, as Quin J noted in his Sentence Judgment in *The Queen v Christopher Julian*
22 *Myles, James Herbert Mclean and Johnathan Mark Ramoon*⁵ I note that the UK
23 Sentencing Guidelines state:

⁵ Ind. No. 2 + 8/2014 – Judgment dated 19th January 2015



1 “Group offending will aggravate an offence because the level of intimidation and
2 fear is likely to be greater.”

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4 34. Clearly implied in everything that has already been said arising from the evidence
5 before the court is that this robbery was a planned joint enterprise and the following
6 points are made in this regard:

7 a. The Procurement of the Vehicle and the Assignment of the Driver: The planning,
8 based on evidence from the CCTV footage, involved the use of a Black Ford SUV
9 to which Lopez had access. Earlier in the day, he exchanged the vehicle he was
10 driving – a white vehicle – in a public parking lot, for the black Ford Escape
11 owned by his mother. The Ford Escape was used in the course of the robbery –
12 with Lopez as the driver. It is the Crown’s case that the planning took into account
13 that Lopez would have been easily identified by his tattoos and therefore would not
14 have wanted to be seen in the store and, accordingly, he played the role of the
15 driver.

16 b. The Procurement and Use of the Firearms: It certainly must have involved
17 considerable planning to obtain not one but two firearms – and drive with them for
18 whatever length of time – particularly when one of the firearms (the shotgun) is so
19 large and would be more difficult to conceal than most other weapons. The
20 shotgun recovered is agreed (in the Admissions) to be a caliber 12-gauge pump-
21 action shotgun made by Mossberg. The other weapon seen on the CCTV footage
22 was not recovered.



1 c. The quick execution of the Robbery: The CCTV footage inside the store gives
2 evidence of the speed with which the robbers acted – once inside. The robbery was
3 reported to have taken place at 7:41 p.m. and by 7:53 p.m. police were at 48
4 Morningside Drive in Prospect where all defendants were found along with the
5 black Ford Escape, the distinctive purse which Ms. Kelly Ann Watson had with
6 her only a few minutes earlier in the store, amounts of cash similar to the amount
7 stolen from the store, along with items of clothing which were connected to the
8 Defendants.

9 d. The use of a house nearby: The defendants were found in Prospect – a location
10 which is just minutes away from the subject Blackbeard’s Liquor Store. The house
11 – its attic and other locations – were used to dispose of the shotgun, the garments
12 worn, the money and other items stolen.

13 e. The Nighttime Robbery: (See paragraph 28 above).

14 f. The date of the Robbery: On the 17th December in the Cayman Islands – only some
15 8 days away from the celebration of Christmas – the ongoing and heightening
16 festive activities of the Christmas season would mean that stores like Blackbeard’s
17 Liquor would see increased patronage. This robbery was executed on a date when
18 the takings from the robbery of such a store would most likely be at its highest.



1 *ATTACK ON COMMERCIAL ESTABLISHMENT*

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3 35. It is notable that the robbery was an attack on a commercial establishment where it
4 would be known that cash is used and is available and other items of value are kept.

5 36. This kind of attack places pressure on the business community to provide security
6 guards and equipment. This will affect operating costs which would ultimately be
7 passed on to the consumer and have a negative impact on business and economic life in
8 the country.

9 *LOCATION OF THE BLACKBEARD'S LIQUOR STORE*

10 37. Alongside 25 & 26 above, it is an aggravating factor that the Blackbeard's store is
11 located directly next to and structurally adjoins a popular upscale supermarket – one
12 that is highly patronized by families on Mondays to Saturdays from 7 a.m. to 10:30
13 p.m. because of the range of food and other items available in that large supermarket.
14 Children and youth are regularly passing by Blackbeard's store *en route* to the
15 supermarket, or are in the well-laid out parking area waiting for adults. The risk that
16 this robbery posed to young passers-by – especially on a night when most schools
17 would have been on holiday and children would be out and about with parents at a later
18 hour – is nothing less than frightening for parents and Cayman communities.



1 *ATTITUDES TOWARD OFFENCE*

2 38. The SIRs show that three of the offenders - Lopez, Webb and Connor – have insisted
3 that they were not involved in the robbery and have demonstrated no remorse; neither
4 have they shown any empathy for the victims of the crime. Indeed they have expressed
5 contempt for and disappointment with the administration of justice. This is a factor
6 which does not sit well when placed alongside any kind of mitigation. Also, the court
7 notes that the SIRs have them all assessed as being likely to commit further criminal
8 offences unless significant change is made by them.

9 39. Also relevant is the fact that the instant offence was committed while they were
10 serving probationary sentences for other offences and their behaviour while
11 incarcerated has not been positive.

12 40. All four men score “high” in risk-of-repeat-offences category. Indeed Webb scored
13 “very high” on the Level of Service/ Case Management Inventory (LS/CMI) need
14 assessment tool used to assess the offenders in preparation for sentencing. More will be
15 said about this when I deal with the victim impact statements.



VICTIM IMPACT

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41. Three of the victims record negative psychological and social impacts stemming from the robbery. Ms. Donna Chisolm, an employee of Blackbeard’s who was on duty on the night of the robbery, says that she still works at Blackbeard’s but is fearful and nervous when customers come to the store during the night.

42. Ms. Kelly-Ann Watson says that she is sometimes paralysed when she sees groups of men walking toward her. She no longer shops at Blackbeard’s. She is fearful whenever she sees a man in a hoody.

43. Mr. Thompson-Lopez records a physical injury being suffered to his shoulder when the robber pulled his car keys from him. He is now reluctant to shop at Blackbeard’s since then.

44. The managers of Blackbeard’s recorded a loss of revenue on the night of the robbery and the consequential cost of having to employ increased security measures for the stores around the island to protect employees, customers and the business’ property.



RECOMMENDED 10-YEAR MINIMUM SENTENCES

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45. Section 39 (2) of the Firearms Law (2008 Revision) mandates a sentence of at least 7 years' imprisonment (with or without a fine) for a firearm offence contrary to s.15(5), if the convicted person pleads guilty at the first opportunity and at least 10 years' imprisonment (with or without a fine) in any other case where the defendant pleads not guilty. These minimum sentences are mandatory and cannot be interfered with. However based on the aggravating factors higher sentences can be imposed.

46. The Chief Justice's Sentencing Guidelines 2002 refer specifically to armed robbery and suggest a minimum sentence of as much as 14 years for such a robbery.



1 *MITIGATING FACTORS*

2 47. There are very few mitigating factors in this case.

3 48. Wright's Guilty Plea: It is notable that Devon Wright pleaded guilty to all three counts
4 on the indictment during the case management process. This would earn him a 33
5 1/3% discount on the sentence which the court would otherwise have imposed upon
6 him for this offence.

7 49. The Defendants' young ages: All four offenders are young persons. Andrew Lopez and
8 Bron Webb are 22 years of age. Wright is 24 years old and Connor is 25 years old.
9 Their ages would earn these men some consideration since it is assumed that they can
10 be reformed.

11 50. Impecuniosity: Connor and Webb were not regularly employed and may have been in
12 need of cash. But this cannot be said for Lopez who claimed to have more than one
13 source of income including the sale of vehicles and also had his mother, whom he said
14 gave him pocket money.

15 51. Therefore, in the final analysis, these men rely largely on the fact that they are young
16 and this is the first offence involving dishonesty on their records – with the exception
17 of Devon Wright who has 7 previous convictions for burglary.



1 *SUBMISSIONS OF COUNSEL – APPLICABLE TO ALL DEFENDANTS*

2 52. Poorly Planned Robbery: Counsel, Mr. Tetlow Q.C. – endorsed by all other defence
3 counsel – asked the court to view this robbery as falling at the lower end of the
4 sentencing scale because it was clear that the robbery was amateurish and poorly
5 planned.

6 a. Lopez was wearing an ankle monitor and therefore the robbers were therefore
7 bound to be caught.

8 b. Lopez used his mother’s vehicle, even though her residence was close by and the
9 police were at Mr. Lopez’s home in a matter of minutes after the robbery, where
10 the vehicle also was located - making arrests.

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12 53. Almost all the cash was recovered: Counsel Mr. Tetlow Q.C. submits (again endorsed
13 by all defence counsel) that the amount of money taken was small and almost all of it
14 was recovered. Therefore, although this robbery was frightening to victims, in
15 counsel’s view this robbery was not in the same category as those which are carefully
16 planned. Counsel said these are not sophisticated robbers. Counsel therefore again
17 submitted that this robbery should be at the lower end of the sentencing scale.

18 54. The very short duration of the offence: Counsel Mr. Kelly Q.C., counsel for Bron
19 Webb, submitted (a point applicable to all defendants) that court should consider the
20 duration of the offence – in that the offence was very quickly executed.



1 *SUBMISSIONS OF COUNSEL – SPECIFIC TO DEFENDANTS*

2 55. *Defendant Lopez:*

3 a. Mr. Tetlow Q.C. for Defendant Lopez submitted that, at age 22, Andrew Lopez
4 would have to serve the minimum term of 10 years' for the firearms offence and
5 that would be the equivalent of 20 years because of how that sentence would affect
6 this period of his youth.

7 b. Mr. Tetlow noted that Andrew Lopez's previous convictions were for possession
8 and consumption of ganja – not for offences involving violence. Indeed Mr.
9 Tetlow submitted that Lopez is a non-violent character and his role in the robbery
10 was as a driver.

11 c. Counsel also submits that even though Lopez was equally culpable based on the
12 theory of joint enterprise, it was clear that the robbery was amateurish and poorly
13 planned for reasons stated above.

14 d. Counsel pleaded with the Court to take into consideration that Mr. Lopez is a
15 father who would not be able to be part of his child's life while he is incarcerated.
16 As Lopez had no previous convictions of this nature and is still very young, and,
17 based on all other factors, his position as a young, first-time father, with an infant,
18 and the prospect of separation from his child's life during these early years should
19 be mitigating factors.



1 56. Defendant Webb:

2 a. Counsel Mr. Kelly Q.C. for Bron Webb asked the court to consider that the most
3 important thing was that Mr. Webb, who is 22 years of age, will have to spend at
4 least 10 years' in prison for the Firearms offence and, therefore, he would spend
5 the remainder of his twenties in prison. Based on these submissions counsel opined
6 that Webb should not spend more than 10 years' in prison.

7 57. Defendant Connor:

- 8 a. Mr. Furniss asked that the Court adopt a similar approach for Randy Connor.
- 9 b. Mr. Furniss pleaded for no more than 10 years' imprisonment as Defendant
10 Connor, during this period, would not be able to look after his children and he
11 would not be a proper father – noting that there have already been court
12 proceedings relating to the children.
- 13 c. Mr. Furniss echoed the sentiments of counsel, Tetlow Q.C. and Kelly Q.C.,
14 relating to this Defendant's youth and the prospect of spending the remainder of
15 his twenties in custody and said that, as Mr. Connor, who is 25 years of age, would
16 have to serve the term of 10 years' for the firearms offence, this should be taken
17 into account when sentencing and there should be no increase for the firearm's
18 offence.
- 19 d. Mr. Furniss also pointed out that Connor had 13 previous convictions but they
20 were not for offences involving dishonesty.



1 58. Defendant Wright:

2 a. Devon Wright who has 7 previous convictions for burglary. However, to the 3-
3 count Indictment dated the 14th January 2015, he entered guilty pleas in April and
4 May 2015 (ref. para 12 above). Mr. Furniss therefore submitted that Wright should
5 be sentenced to 7 years' imprisonment for the firearms offence.

6 b. Further, counsel submitted that the case of *R v Manuel Carter, John Philip Cohen*
7 *Ebanks and Brandon Liberal*⁶ - especially in relation to *Carter*, who was
8 sentenced to 6 years' imprisonment for a similar offence, also with previous
9 convictions for similar offences but not having entered an early guilty plea – would
10 support the argument for no increase in the sentence of 7 years' imprisonment for
11 Mr. Wright, and, further, it would support the imposition of a 6-year sentence for
12 Defendant Wright. In this regard counsel submits:

13 A. Although Wright (like *Carter*) has a record for similar offences, Wright is
14 entitled to his 33 1/3% discount for his early guilty pleas and therefore
15 should be considered for a 6-year sentence like Carter who only received a
16 10% discount because his plea came at a very late stage.

17 B. Like Quin J did in the case of *Carter*, there should be recognition of the
18 difficulties Wright had in his life based on the SIR.

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⁶ Indictment 98 + 98A + 106 of 2012; Ind. 85/13



1 c. I take note of the fact that Wright, like *Carter*, pleaded guilty. However, as
2 Defence counsel submits, *Carter* entered his plea sixteen (16) months after the
3 Indictment was first laid, on the morning the trial was set to commence and
4 following a *Goodyear* application on that morning, and therefore, the discount
5 awarded to *Carter* was only 10% and not 33 1/3%. Defence counsel therefore
6 submits that, however, in the case of Wright, his pleas were entered only four (4)
7 months after the Indictment was laid and therefore counsel submits that Wright
8 entered he is plea at the earliest opportunity and is entitled to his 33 1/3% discount
9 for the early plea.



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OTHER CONSIDERATIONS

59. *R v Manuel Carter, John Philip Cohen Ebanks and Brandon Liberal*⁷ the learned Justice Quin was guided not only by the Chief Justice's Sentencing Guidelines but also by the UK Sentencing Guidelines. I note that based on the UK guidelines, the offence before me would be a Category 2 offence – involving, as it does, threats and use of a firearm. The offence carries a starting point of 4 years and a range of 2-7 years imprisonment.

60. I have already noted the aggravating factors and the mitigating factors affecting all four offenders in the case before me. Only Devon Wright enjoys the significant mitigating factor of having pleaded guilty early and thus saving the court's time. All of the offenders are young men and three of them – Lopez, Webb, and Connor – have no previous offences for dishonesty on their records.

61. However, in my view, the impact of the offences by Lopez, Webb, Connor and Wright is serious psychologically, socially and financially.

62. The question which determines the fate of the three offenders who went to trial on all three counts is whether the aggravating factors take the matter outside of the range applied in *R v Manuel Carter, John Philip Cohen Ebanks and Brandon Liberal*.

63. In my view, taking other cases cited into consideration the court would have to consider those issues already discussed.

64. Indeed I am satisfied that this was a planned armed robbery even though amateurish.

⁷ *supra*



1 65. I have taken into account the ages of the offenders and the fact that they have no
2 previous convictions for dishonesty or violence. Connor comes closest to some degree
3 of violence appearing in his record. The others have no such record.

4 66. However in the case before me, the victims were many, whilst in the case of **R v**
5 **Manuel Carter, John Philip Cohen Ebanks and Brandon Liberal** the security guard,
6 and, of course the insurance company, were the only victims.

7 67. Lopez, Webb, Connor and Wright attacked a commercial establishment in the night
8 with firearms and stole money from two persons. The money has been recovered at the
9 location at which the defendants were apprehended along with other items stolen from
10 the second victim.

11 68. The impact on the victims and other persons present during the robbery, along with the
12 impact on commerce in general, are significant considerations as such an attack would
13 send the signal throughout the commercial and residential community that such
14 commercial establishments must now protect themselves with armed guards as there is
15 now the very real risk of shops and customers becoming victims of serious crimes
16 when doing business after dark.

17 69. Indeed there is the fact that the offenders have not shown any remorse – with the
18 exception of Wright’s guilty plea which receives consideration in this regard.

19 70. I also take into consideration that the offenders Lopez, Connor and Webb were actually
20 serving probationary sentences at the time they robbed the Blackbeard’s Liquor Store
21 on the 17th December 2014. This fact also has an impact on their sentences on the
22 aggravation side.



1 71. Accordingly, my assessment of the offenders for the purpose of sentencing is as
2 follows:

3 *DEVON WRIGHT*

4
5 72. The first factor taken into account is that Defendant Wright has previous convictions
6 for burglary.

7 73. The Aggravating factors in this case are outlined above. Two firearms were used. At
8 least one was tested and established to be a lethal barrelled weapon. Wright says that
9 he was in possession of a 9mm pistol. The appropriate ammunition was found with the
10 sawed off shotgun which implies that the weapon could have been fired.

11 74. It has also been established that this was an attack on a commercial establishment and a
12 customer of the establishment "Blackbeard's". There must have been some planning
13 even if not of a very sophisticated nature. The planning involved:

- 14 a. the use of a motor vehicle;
- 15 b. the involvement of four perpetrators in the actual execution of the robbery;
- 16 c. the use of the firearms, one being a shotgun;
- 17 d. the use of disguises;
- 18 e. the use of a hide-out after the robbery;
- 19 f. the speedy change of clothing and the disposal of the clothing at the apparent
20 hideout.



1 75. That the plan was poorly executed is acknowledged. But this is more an indication of
2 the disrespect for the law enforcement authorities than of any lack of culpability or
3 reduction on seriousness of the criminality. It may imply that the offenders are not
4 seasoned robbers – which is reflected in their criminal records. It will gain the
5 offenders very little consideration in their sentences.

6
7 76. In the circumstances an appropriate sentence for the offence of Robbery in the case of
8 Devon Wright is 14 years' imprisonment. This could be imposed for the two counts of
9 robbery in this case with the 33 1/3% discounts being taken into account – thus
10 reducing his sentence to eight (8) years' imprisonment for each one of the two counts
11 of Robbery.

12 77. Pursuant to the UK guidelines, the offences are category 2 offences. I do not think that
13 there are aggravating factors which increase the category even though the sawed-off
14 shotgun, the use of a second weapon, the planned nature of the robbery, executed in the
15 night, and with the use of disguises – all may result in some overlap with the higher
16 category, save and except for the fact that there is no serious physical injury inflicted to
17 the victims.

18 78. In my view the second robbery was part of the the robbery of Blackbeard's Liquor
19 Store and does not increase the category.



1 79. The use of the firearms has been taken into account in setting the starting point of 14
2 years imprisonment for some robberies, rather than a lower sentence. The maximum
3 sentence for the offence of Robbery is life imprisonment.

4 80. In relation to the two counts of robbery: Wright would have been sentenced to 14 years
5 imprisonment since he has a previous record of dishonesty and confesses that he used a
6 firearm in the robbery. However with the discount of 33 1/3% for the early guilty plea
7 Wright would be sentenced to 8 years' imprisonment on each of the two counts of
8 robbery.

9 81. In relation to the count of Possession of an Unlicensed Firearm: Mr. Wright confesses
10 that he was instrumental in obtaining the shotgun used in the robbery and thus this
11 would attract some increment in the sentence for possession of the firearm – which, in
12 my view, moves the sentence above the mandatory minimum up to 15 years.

13 82. Therefore, the sentence for Devon Wright for possession of the firearm, taking into
14 account the factors mentioned, in particular Devon Wright's early guilty plea, is nine
15 (9) years' imprisonment with the discount of 33 1/3% being considered.

16 83. All sentences imposed are to run concurrently, with the benefit of the time spent on
17 remand being taken into account.

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1 *ANDREW LOPEZ*

2 84. In the case of Andrew Lopez for the armed robberies – Counts 1 and 2 – I apply the
3 suggested possible sentence of 14 years in the Chief Justice’s Guidelines. I also take
4 into account that this is a first offence of this kind and I give a further discount of 1
5 year – to 13 years – for his relative youthfulness.

6 85. I do not consider that there were any other mitigating circumstances for Lopez since it
7 is implied in the evidence and the jury’s verdict that he was fully involved in the
8 planning and execution of the offence. Additionally, based on the jury’s verdict, he
9 also provided the getaway vehicle and was the driver of the vehicle. Lopez supplied the
10 hideout house if it could be called that. It is also taken into account that he was already
11 on probation for another offence for which he could have been sentenced to a term of
12 imprisonment.

13 86. However, I take into account the UK guidelines which categorise the robbery as a
14 category 2 offence with consideration that Lopez committed no previous offences of
15 this nature – on which basis I could consider a further reduction. However, as I have
16 mentioned, this case involves several aggravating factors that may upgrade it to a
17 higher category for the purpose of sentencing. The SIR states that Lopez is assessed as
18 being at a high risk for committing further offences. In consideration of the fact that
19 Lopez has no relevant antecedent history, I deduct a further 3 years from his sentence.

20 87. Lopez is therefore sentenced to 10 years’ imprisonment on both counts of Robbery.



1 88. In relation to the count of Possession of an Unlicensed Firearm: The case *R v*
2 *Jonathan Abdul*⁸ cited by the DPP is good authority that the use of a firearm for a
3 robbery at a commercial establishment could increase the sentence beyond the
4 minimum.

5 89. In my view, in the case against Lopez, there are the aggravating circumstances and
6 there are no special circumstances which move the court to adjust this sentence
7 downward to the minimum of 10 years.

8 90. Lopez is therefore sentenced to 12 years' imprisonment for the third count, possession
9 of a firearm without the necessary licence.

10 91. All sentences imposed are to run concurrently with the benefit of the time spent on
11 remand being taken into account.

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⁸ (2013) 1 Cr. App R (S) 30



BRON WEBB

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92. Webb was one of the men who entered the Blackbeard's store and took cash from the cash register. He was fully involved in the planning and execution of the offence and has no mitigating factors in his favour except his age and the fact that he has no previous convictions for dishonesty. He too had a probationary sentence pending when he committed the instant offence. The SIR shows that Webb falls in the very high risk category in the LS/CMI assessment methodology previously indicated, for possible repeat offending. Additionally, he did not plead guilty and has shown no remorse for the offence or empathy for the victims.

93. I have to also consider the position in the Cayman Islands which, based on the Chief Justice's Guidelines, places a possible sentence for a first offence robbery at 14 years in custody. Taking these factors into account the sentences for the two counts of robbery are 10 years' imprisonment.

94. In relation to the count of Possession of an Unlicensed Firearm: Webb cannot be sentenced to a term of less than 10 years' imprisonment because he has been found guilty after a trial. There are no special factors which would require that the court consider any reduction. However the use of the firearm in the commission of robbery at a commercial enterprise justifies some addition to the minimum sentence of 10 years. The sentence I therefore impose is therefore 12 years' imprisonment for the possession of a firearm while not the holder of a licence.

95. All sentences imposed are to run concurrently with the benefit of the time spent on remand being taken into account.





RANDY CONNOR

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2 96. The position of Connor is that he too has a probationary sentence pending and has
3 shown no remorse in relation to the offences of robbery and possession of a firearm.
4 He was convicted after trial and therefore cannot expect less than 10 years'
5 imprisonment for the offence of possession of a firearm without having the necessary
6 licence. There are no factors which move the court to consider any reduction of this
7 sentence.

8 97. Connor was one of three offenders who entered the Blackbeard's Liquor Store and
9 demanded money. He knew that firearms were used in the robbery of the commercial
10 establishment.

11 98. Connor's SIR shows that he falls in the high risk category in the LS/CMI assessment
12 methodology previously indicated, for possible repeat offending.

13 99. Mr. Connor benefits from the fact of his youth. I therefore sentence him to 10 years'
14 imprisonment on each of the two counts of robbery.

15 100. Connor is also sentenced to 12 years' imprisonment for the offence of possession of a
16 firearm when not the holder of a valid licence. The same aggravating factors
17 mentioned in relation to the other offenders are present in the case of Connor. The
18 firearms used were instrumental in carrying out the robberies. The use of the sawed of
19 shotgun is seen as a particularly aggravating factor as far as possession of firearms are
20 concerned.

21 101. All sentences imposed are to run concurrently with the benefit of the time spent on
22 remand being taken into account.

1 102. I should say also that in considering the appropriate sentences for all Defendants in this
2 case I do take into account the words of Quin J in *The Queen v Christopher Julian*
3 *Myles, James Herbert Mclean and Johnathan Mark Ramoon*⁸ commenting on the
4 impact of the UK guidelines states:

5 *“The UK Guidelines are promulgated to provide guidance for the Courts of*
6 *England and Wales as to sentencing for all criminal offences. England and Wales*
7 *has population of approximately 58 million. Grand Cayman has a population of*
8 *just over 58,000 with a land area of approximately 123 sq. mls. Consequently a*
9 *professional planned commercial robbery of the kind that has been perpetrated in*
10 *this case has a much more damaging effect on a small jurisdiction such as the*
11 *Cayman Islands. As Lord Judge said at paragraph 62 in Thomas:*

12 *“... the fact-specific nature of the criminal activity involved in each*
13 *offence remains the paramount consideration.”*

14 *I adopt this dicta of Lord Judge particularly as it relates to Count 1 on this*
15 *Indictment.”*

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17 103. Of course, Quin J was speaking of the armed robbery perpetrated by *Myles, McLean*
18 *and Ramoon* shortly after 8 a.m. on New Year’s Day 2014 on the Diamonds
19 International (Jewellery) Store, located on the island’s high-profile waterfront road,
20 opposite the entry station for cruise ship visitors (who were arriving in numbers at the
21 time), on North Church Street, George Town, Grand Cayman. Though Ramoon,
22 McLean and Myles had pleaded guilty and avoided a trial, their sentences of 15 years,
23 12 years and 10 years for Robbery were meant to act as an appropriate deterrent in the
24 view of the sentencing Judge, Quin J., who also stated:



⁸ Ind. No. 2 + 8/2014 – Judgment dated 19th January 2015

1 *"In the past five or six years we have seen what the Cayman Islands Court of*
2 *Appeal has described as a "massive increase in offences under the Firearms*
3 *Law." The Cayman Islands has also experienced a corresponding massive*
4 *increase in armed robberies. It is a very sad and depressing state of affairs that all*
5 *commercial properties and their staff must be protected from robbers by security*
6 *guards. In the best interests of these islands all residents must consider it a duty to*
7 *support the RCIPS in its efforts to combat these evil and violent crimes. People*
8 *must know something about the identity and whereabouts of the fourth robber who*
9 *regrettably is still at large along with the unrecovered jewellery."*

10
11 104. In the same vein I note that the second firearm used in the robbery of the Blackbeard's
12 Liquor Store on the 17th December 2014 has not been recovered by the police or
13 handed over by these offenders.

14 105. Defendants sentenced as follows:

15 **a. WRIGHT⁹:**

- 16 A. Count 1 – 8 years;
17 B. Count 2 – 8 years;
18 C. Count 3 – 9 years.
19 D. All sentences to run concurrently.
20 E. TIC to be deducted.

21
22 **b. LOPEZ¹⁰:**

- 23 A. Count 1 – 10 years
24 B. Count 2 – 10 years
25 C. Count 3 – 12 years.
26 D. All sentences to run concurrently
27 E. TIC to be deducted.

28
29 **c. WEBB¹¹:**

- 30 A. Count 1 – 10 years
31 B. Count 2 – 10 years
32 C. Count 3 – 12 years.
33 D. All sentences to run concurrently.
34 E. TIC to be deducted.



⁹ Full discount of 33 1/3% awarded for guilty plea and already accounted for in the sentence imposed.

¹⁰ Tried by jury and found guilty on all counts.

¹¹ Tried by jury and found guilty on all counts.

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- d. CONNOR¹²:
 - A. Count 1 – 10 years
 - B. Count 2 – 10 years
 - C. Count 3 – 12 years.
 - D. All sentences to run concurrently.
 - E. TIC to be deducted.

106. On the 22nd October at the MFS hearing the I ordered, and I now record in this Judgment:
a. The CASH recovered is to be returned to DART.
b. The firearm (the gold-coloured shotgun used in this robbery) is to be destroyed.

Dated this the 25th November 2015



Honourable Justice Francis Belle (Actg.)
Acting Judge of the Grand Court



¹² Tried by jury and found guilty on all counts.