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

**INDICTMENT NO: 0060/13**

**THE QUEEN  
V  
YOUNG PERSON  
(D.B.R. Jr.)**



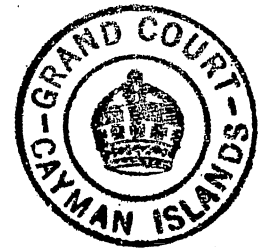
**Appearances:** Ms. Nicole Petit for the Crown  
Mr. John Furniss for the Defendant

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

**Submissions heard:** 22<sup>nd</sup> November 2013

**Important Notice**

*This Ruling is distributed on the strict understanding that, in any report of it, the anonymity of the Defendant, who is under the age of 18 years, and is therefore deemed by the Court to be a Young Person, must be preserved. Accordingly, no identifying reference shall be made in relation to the Defendant, and this includes, but is not limited to, the Defendant's name or initials, the Indictment Number shown, the names of the Defendant's relatives, or any other element that could identify the Defendant.*



SENTENCE RULING

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3       1.       On the 25<sup>th</sup> October 2013 the Defendant pleaded guilty to Counts 1 and 2 on  
4               this 3-Count Indictment. On that date the Defendant was not arraigned on  
5               Count 3.

6       2.       Count 1 is the charge of Robbery contrary to s.242 of the Penal Code. The  
7               particulars of that offence are that the Defendant, on the 28<sup>th</sup> May 2013, at  
8               Lookout Grocery Store, Anton Bodden Drive, Bodden Town, Grand  
9               Cayman, Cayman Islands, stole CI\$932.00 the property of Elizabeth  
10              Stephenson and at the time of doing so, and in order to do so, put the said  
11              Elizabeth Stephenson in fear of being then and there subjected to force.

12      3.       Count 2 is a charge of Possession of an Imitation Firearm with Intent to  
13              Commit an Offence contrary to s.18(6) of the Firearms Law (2008 Revision).  
14              The particulars of the offence are that the Defendant, on the 28<sup>th</sup> May 2013,  
15              at Lookout Grocery Store, Anton Bodden Drive, Bodden Town, Grand  
16              Cayman, Cayman Islands, had in his possession an imitation firearm with  
17              intent to commit an offence, namely robbery.

18      4.       On the 22<sup>nd</sup> November 2013 (following on discussions between the Crown  
19              and the Defence) the Defendant was arraigned on Count 3 – the charge of  
20              Assault – and he pleaded guilty to **Common Assault** contrary to s.215 of the  
21              Penal Code (2010 Revision). The particulars of the offence are that the  
22              Defendant, on the 28<sup>th</sup> May 2013, at Lookout Grocery Store, Anton Bodden  
23              Drive, Bodden Town, Grand Cayman, Cayman Islands, unlawfully assaulted  
24              Edmond Jackson.

*SUMMARY OF FACTS*

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5. At approximately 3:58 p.m. on the afternoon of the 28<sup>th</sup> May 2013 the Defendant entered a shop named Lookout Fresh Fruits & Juices on Anton Bodden Drive in Bodden Town. The Defendant wore a black face mask with only his eyes showing, a dark-coloured T-shirt and dark-coloured trousers. The Defendant was also wearing dark-coloured gloves.

6. The Defendant entered the store and pointed the imitation firearm at the store owner, Elizabeth Stephenson, and shouted,

*“Give me the fucking money.”*

The Defendant appeared to be in an agitated and erratic state.

7. In the store at that time there was an employee at the back of the store, and an elderly male customer, Mr. Jackson, standing by the cash-out counter. Another witness – who worked in the adjacent building – entered the store.

8. The Defendant then pointed the imitation firearm intermittently at Mr. Jackson, the store owner and the other witness and continued to shout, *“Give me the fucking money.”*

9. Mr. Jackson attempted to confront the Defendant and the Defendant pushed Mr. Jackson and kicked him in the groin area and Mr. Jackson fell to the ground.

10. The store owner opened the till and removed the \$932.00. The Defendant took the money, left the store, mounted a bicycle and rode off.



1 11. Two other witnesses saw the Defendant leaving and gave an immediate  
2 description to the police and the Defendant was eventually apprehended and  
3 arrested. Clothing matching the description of the offender, a Silver Flare  
4 Gun, and some other items were found very near to the Defendant's location.

5 12. Although the Defendant is now 16 years of age, at the time of the offence he  
6 was 15 years of age and is therefore classified as a young offender and not an  
7 adult offender.

8 13. The Court expresses its gratitude to the two witnesses who came forward  
9 with the information to the police, resulting in the Defendant's arrest.

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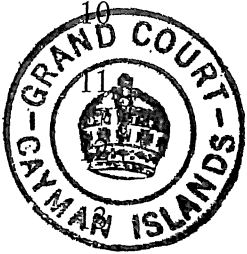


1 *ANALYSIS*

2 14. Defence counsel points out to the Court to accept that the Defendant pleaded  
3 guilty at the very earliest opportunity.

4 15. Furthermore, the Defendant appears to have cooperated fully with the police  
5 and there is significant evidence of remorse.

6 16. The Court has been provided with a very helpful report dated November  
7 2013 from Ms. Sherine Barnes, the Defendant's Social Worker. This report  
8 makes for extremely depressing reading. The young Defendant has been  
9 known to the Department of Children and Family Services since he was an  
10 infant. At his birth in July 1997 he tested positive for crack cocaine and was  
11 placed on a "Fit Person Order". In 2005 the Defendant was living with his  
12 mother and was found to be a "neglected child" and he was subsequently  
13 placed on another "Fit Person Order" to his paternal aunt. The Defendant's  
14 two younger brothers are current subjects of Care Orders.



15 17. The Defendant's Fit Person Order with his paternal aunt broke down and a  
16 long period of instability has resulted – with the Defendant being placed in  
17 Bonaventure Boys' Home. The Defendant has absconded from the Boys'  
18 Home between 6 and 8 times.

19 18. The Defendant and his siblings have experienced a lifetime with parents who  
20 constantly struggle with drug and alcohol abuse. Both parents blame each  
21 other for the Defendant's current circumstances. The Social Inquiry Report  
22 confirms that neither takes any responsibility for their role as a parent in this  
23 young boy's life.

1 The Defendant's mother acknowledges that her years of drug and alcohol  
2 abuse impacted negatively on her ability to be a parent. The Defendant's  
3 father has a history of violence, with over 90 previous criminal convictions.  
4 Consequently, the Defendant's father is consistently in prison and has had no  
5 time for the Defendant.

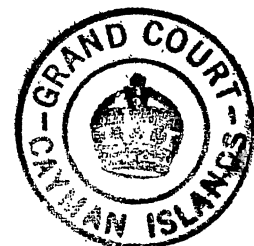
6 19. I can do no better than to quote Ms. Barnes who states that the Defendant's

7 *"... life experiences to date have been heartbreaking. He started life*  
8 *addicted to cocaine followed by years of instability, neglect and little*  
9 *parental love. His mother was a lifelong drug user and his father has an*  
10 *extensive criminal history. The nurture, discipline and stability needed*  
11 *by children to strive were missing throughout his life."*

12 20. It somehow seemed inevitable that this would lead to the Defendant having a  
13 list of previous criminal convictions, with many offences ranging from  
14 breaches of Youth/Juvenile Rehabilitation Orders (YROs/JROs) and driving  
15 offences, to threatening violence and consumption of ganja. And now the  
16 offence on this Indictment is a particularly serious offence.

17 21. This offence of robbery is an attack on a small business and the offence of  
18 robbery will inevitably merit a custodial sentence. It is the element of  
19 violence that is the most serious part of the offence of robbery, but violence  
20 is not the only factor determining the seriousness with which the Court  
21 should view the offence and the length or type of sentence the Court should  
22 impose.

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1           22.     As the United Kingdom Sentencing Guidelines Council states:

2                           *“The relative seriousness of each offence depends on factors such as the*  
3                           *degree of injury to the victim and the nature and duration of threats. The*  
4                           *degree of force used is important in determining the seriousness of the*  
5                           *offence, but the degree of fear which was experienced by the victim is a*  
6                           *relevant consideration.”*

7           23.     As has been said many times before:

8                           *“Whether the weapon is real or imitation is not a major factor in*  
9                           *determining sentence because the amount of fear created in the victim is*  
10                          *likely to be same.”*

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12                          It is quite clear that the Defendant, with his mask and his gun threatened both  
13                          the storekeeper and Mr. Jackson. It must have been an extremely terrifying  
14                          experience for them and the others in the shop.

15           24.     The President of the CICA, Sir John Chadwick, stated at paragraph 11 in the  
16                          case of *R v. Haylock; Avilla, McLaughlin and Watson* CICA (Crim) No. 33  
17                          of 2010:

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

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22           25.     Based on a review of the United Kingdom Sentencing Guidelines and  
23                          previous case law, if the Defendant had been classified as an adult offender  
24                          the starting point would be 4 to 5 years imprisonment, with a sentencing  
25                          range of 2 to 7 years.

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1       26.     However, the Defendant is a young offender and the UK Sentencing  
2             Guidelines Council states that the starting point for an offence of this type is  
3             a 3-year period of detention, and the sentencing range is 1 to 6 years'  
4             detention.

5       27.     This case is remarkably similar to the recent case of Derrick Lloyd Simpson  
6             in the case of *R v. Derrick Simpson & Dan Kelly* Indictment 0052/2011,  
7             who was sentenced to three years' imprisonment on the 27<sup>th</sup> September 2013.  
8             In that case, the Defendant Simpson, at his first arraignment on the 1<sup>st</sup> July  
9             2011 pleaded not guilty. However, on the 5<sup>th</sup> August 2013 he elected to be  
10            re-arraigned and he pleaded guilty to both counts on the Indictment. In that  
11            case, the learned Judge Malcolm J (Actg.) gave the Defendant a 10%  
12            discount because his guilty plea was entered almost three years after the  
13            offence was committed.

14       28.     I would like to record the Court's gratitude to Ms. Barnes for her in-depth  
15             and helpful SIR. It is obvious to the Court from a review of the SIR that the  
16             Defendant's childhood has been devoid of any love, support or guidance. Ms.  
17             Barnes states in her report that "*it can be argued that the Defendant's*  
18             *behaviour is rooted in his upbringing and the colossal failure of his parents*  
19             *to parent him*". I endorse her views. However, I stress that as the Defendant  
20             becomes older it is vital that he takes responsibility for his actions in relation  
21             to behaviour. The Defendant must help himself and stay away from criminals  
22             and crime.



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1       29.     I cannot ignore the fact that this Defendant has a record of previous criminal  
2             offences as set out in paragraph 19 *supra*, and the other aggravating features  
3             of this case. This leads me to view the starting point for this sentence to be  
4             four years or more. However, in light of his status as a young offender under  
5             16 years of age, and his very early guilty pleas, the Court sentences him to  
6             three years' imprisonment on Count 1.

7       30.     In relation to Count 2, I take into account that, for the robbery, he used an  
8             imitation firearm, and, accordingly, I impose a sentence of 3 years'  
9             imprisonment to run concurrent with the 3 years on Count 1.

10      31.     I come now to deal with Count 3 and the offence of assault against Mr.  
11             Jackson. To be faced with a man wearing a mask and pointing a gun must  
12             have been a terrifying experience for Mr. Jackson. For the Defendant to kick  
13             Mr. Jackson, causing him to fall to the ground was an act of gratuitous  
14             violence.

15      32.     The maximum sentence for this offence is 12 months' imprisonment. In light  
16             of the Defendant's early guilty plea, and his young age, I will impose a  
17             sentence of 6 months' imprisonment, to run consecutive to the 3 years' for  
18             Count 1.

19      33.     Time spent in custody is to be taken into consideration for this total sentence.

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1        34.    It is the sincere hope of this Court that this young Defendant will be  
2                    immediately enrolled in educational programmes whilst in custody so that, in  
3                    the less than three years ahead, he will equip himself to change the course of  
4                    his life and become a productive member of this society.



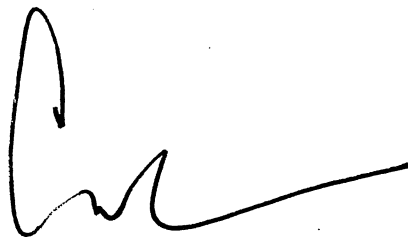
9        **Dated this the 11<sup>th</sup> day of December 2013**

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A handwritten signature in black ink, appearing to be "C. Quin", written over a horizontal line.

14        **Honourable Mr. Justice Charles Quin**  
15        **Judge of the Grand Court**

