

4-Dec-2009  
QJ

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CRIMINAL SIDE  
HOLDEN AT GEORGE TOWN

Indictment No: 37/08

REGINA

V.

TYRONE ROSWELL EBANKS

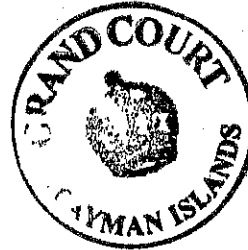
Appearances:

Candia James for the Crown

John Furniss for the Defendant

Before: Hon. Justice Quin

Heard: 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> of November 2009



SENTENCE RULING

1. The Defendant, Tyrone Roswell Ebanks, ("the Defendant") was convicted on the 18<sup>th</sup> of November 2009 of attempted robbery, contrary to Section 242 of the Penal Code after a three-day trial in the Grand Court.
2. The particulars of the offence were that the Defendant, on the 19<sup>th</sup> day of April 2008, on West Bay Road, Grand Cayman, attempted to steal a handbag from Agata Kalicki, the Complainant, and used force in order to do so.

3. The facts of the case are that early on the morning of Saturday the 19<sup>th</sup> of April 2008 the Complainant was walking home alone on the pavement from West Bay into George Town. At the exit of the Caribbean Club complex the Defendant, who was slightly hidden in the bushes, called out to the Complainant who, not unnaturally, ignored him. The Defendant proceeded to follow the Complainant, and then, some 30 or 40 yards later, accosted the Complainant at the entrance to the Caribbean Club. The Defendant demanded to know from the Complainant why she ignored him and the Complainant tried, on a couple of occasions, to placate the Defendant. Without any provocation whatsoever the Defendant punched the Complainant on her nose and on her head and attempted to rob the Complainant of her handbag. One of these punches broke the Complainant's nose. The Complainant tried to protect herself and then screamed for help. Fortunately, an alert security guard from the Caribbean Club rushed to the Complainant's aid. This caused the Defendant to fail in his attempt to rob the Defendant and flee the scene. The police were called and the Defendant was found with bleeding from her nose and bruising around her eyes and nose, and was taken to George Town Hospital for treatment.
4. After receiving treatment from George Town Hospital the Complainant went to George Town police station with the police to make a statement. At the police station she had an accidental encounter with the Defendant and she unhesitatingly identified him as the man who had attempted to rob her, a couple of hours earlier.
5. The Defendant's counsel, Mr. Furniss, made a number of submissions on behalf of his client. First, he submitted that Defendant should not lose all credit for challenging the Complainant's identification evidence, which was obtained during the accidental encounter with the Defendant at George Town Police Station.

6. Mr Furniss points out that the normal identification parade was not held, and asked the Court not to deny the Defendant all credit for making that submission.
7. It is this Court's view that the identity of the Defendant, in relation to Count 1 on the Indictment, for which the Defendant has been found guilty, has been clearly established during the course of the trial. The Court found the Complainant's identification of the Defendant to be accurate and reliable. Accordingly, the relevance of the fact that there was no normal identification parade for this defendant, whilst regrettable, stands for credit only in so far as an identification parade should, if possible, be afforded to all defendants in such circumstances. In this case, events happened too quickly to allow for the normal ID parade procedure to be carried out.
8. In addition Mr Furniss maintains that although self-induced intoxication is not a defence, it is clear that the Defendant is both a cocaine addict and an alcoholic. Indeed, defence counsel points out that when the Defendant was apprehended outside Ritz Carlton he was in a physical mess and mental mess – both of which were attested to by Officer Andrew Grevitt. The Court accepts that the Defendant has some serious drug addiction problems and is in need of appropriate treatment.
9. In addition, Mr Furniss argues that this was not a planned robbery. Mr Furniss submits that the Defendant had been drinking heavily and taking drugs, and had, shortly before the attack, come out of Peppers Night Club when the Complainant, a young lady, had the misfortune of walking past the Defendant. The Defendant spoke to the Complainant from a dark spot along the road, and, as I said earlier, she, not unnaturally, ignored him. The Defendant then attempted to rob the Complainant of her handbag and punched her on the head and on the nose.

10. Defence counsel maintains that it was an unplanned, spontaneous attack.
11. Furthermore, defence counsel submits that there was no weapon involved. Additionally, the attack was not of a sustained nature.
12. The Defendant relies on the *Attorney General's Reference, Number 22 of 2008 (Jordan Wilson)* 2009 1 Cr. App. R. (S) 54 and a decision of the Court of Appeal in the United Kingdom. The Court of Appeal referred to the Sentencing Guidelines Council's recommendations and considered in that case that the right sentence following a plea of guilty would have been three year's detention. The Sentencing Guidelines Council's guidelines for robbery indicated that the appropriate starting point for sentences for adult offenders was four years detention, with a range of 2 to 7 years.
13. Crown counsel in reply points out that the maximum for this offence is life imprisonment. Furthermore, Crown counsel describes the Defendant's previous conviction record as being one of a repeat offender – although, for offences other than the one for which he has been convicted. Crown counsel also points out that there are aggravating features. The Complainant is a vulnerable victim, being a young lady alone, late at night. The Crown Counsel also points out the fact that the Complainant suffered a broken nose, as well as being punched repeatedly in the face and head. This has resulted in the Complainant suffering considerable trauma, which continues today.
14. The Complainant is to be commended for her courage and for the manner in which she gave her evidence to the police and to this Court. It is clear that the Complainant suffered a serious assault as the Defendant attempted to rob her of her handbag. As a

result of this attempted robbery the Complainant is naturally scared to go out at night and never goes out alone.

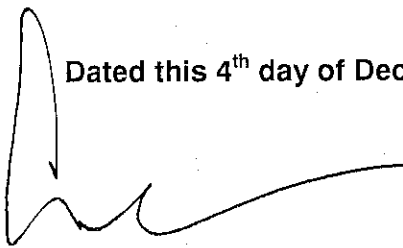
15. This was a wholly unnecessary and unprovoked attack on a defenceless young woman who was going home along the West Bay Road.

16. I accept that the Defendant did not necessarily plan this attack, nor did he use a weapon. However, this Court must take into account that the Complainant, not only experienced severe pain and suffering, but the degree of fear inflicted by the Defendant on the Complainant at that time of night must have been extreme.

17. This Court must impose a sentence commensurate with the seriousness of this offence. This sentence must contain a severe deterrent element so that people will understand that offences of this nature will not be tolerated, and, further, a significant period of imprisonment will inevitably be imposed.

18. Accordingly, in all the circumstances I impose a sentence of four years imprisonment.

Dated this 4<sup>th</sup> day of December 2009



Quin J  
Judge of the Grand Court

