

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
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4 INDICTMENT NO: 0109 + 0110/2016
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6

7 THE QUEEN

8
9 v.

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11 ADRIAN ADELA GEA
12 MADEINYS EBANKS-POL
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17 **Appearances:**

18 **Mr. Scott Wainwright for the Crown**

19 **Mr. Nicholas Dixey of Nelson & Co. for the**
20 **Defendant Gea**

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22 **Ms. Keva Reid of MKR for the Defendant**
23 **Ebanks-Pol**

24 **Before:**

Justice Stephen Hellman (Actg.)

25 **Judge Alone Trial:**

26th February 2018 – 7th March 2018

27 **Verdict Judgment:**

28th March 2018

29 **Sentence Hearing:**

30th June 2018

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32 **HEADNOTE**

33 *Criminal Law - Robbery – Possession of imitation firearm with intent – Sentencing*
34 *following a trial – Cayman Islands Sentencing Guidelines 2015 – Aggravating and*
35 *Mitigating factors.*
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40 **SENTENCE JUDGMENT**
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- 1 1. You have both been convicted, following a trial, of commercial robbery. You were
2 both equally responsible. I don't know the full extent of your motivation. In your
3 case, Ms. Ebanks-Pol, the robbery was, no doubt, partly to get back at your former
4 employer, who had recently dismissed you. Whatever your motivation, the offence is
5 extremely serious. It had far reaching consequences for your victims – the jewellery
6 store's owner, Mitzi Callan, and the store assistant, Jodi-Ann Ebanks-Dixon.
- 7 2. When sentencing you, I have to go through a formal process, which is set out in the
8 *Cayman Islands Sentencing Guidelines 2015* ("the Guidelines"). First, I must decide
9 what was your culpability for the offence, or in other words, how serious your actions
10 were. You were both highly culpable. The offence involved the production of a
11 firearm or imitation firearm to threaten violence. Mr. Gea, your counsel suggests that
12 maybe you didn't use a firearm or imitation firearm, but I found as a fact in my verdict
13 judgment that you did.
- 14 3. I then have to consider the level of harm which you caused. I find that this was a
15 category 2 offence under the *Guidelines*. It was not the most harmful commercial
16 robbery possible, but it was harmful. It was harmful in that you caused some
17 psychological harm above the level of harm inherent in the offence to Ms. Callan and
18 Ms. Ebanks-Dixon. It was also harmful in that it involved high to medium-value
19 goods, namely, the jewellery that you stole.
- 20 4. In finding that your actions caused psychological harm, I take account of the Victim
21 Impact Report. In considering the Report, I focus on what was said by Ms. Callan and
22 Ms. Ebanks-Dixon rather than the conclusions drawn by the probation officer who
23 wrote the Report. The Report mentions how your actions had a life-changing effect on
24 them both.



1 5. Ms. Callan explained that as a result of your breach of trust, Ms. Ebanks-Pol, she was
2 no longer able to trust anyone and that, after 42 years in business, she no longer felt
3 able to keep the store open. She had received counselling because of the robbery and
4 was still in counselling. She told the probation officer who prepared the Report:

5 *“For the longest time I thought they were going to come to the house for me.
6 When I saw a silver Volvo or heard a motor cycle I would think it’s them
7 coming for me.”*

8 6. Ms. Ebanks-Dixon said in evidence at trial that she heard a man say: *“This is a hold
9 up”*. When she looked up he had pulled down his tam to make a face mask with holes
10 for the mouth and eyes. He was holding a small gun which he pointed at her and put
11 up against her back. He asked whether she had children, and told her that if she
12 wanted to see them again she should do as he said. The man tied duct tape around her
13 hands, feet and mouth, and put her on a chair in a room adjacent to the store room. A
14 little later, some people came into the retail store. The man untied her so she could get
15 them out of there. He warned her that if she tried anything he would shoot her, and to
16 remember that he had a gun.

17 7. The robbery must have been a terrifying ordeal. Ms. Ebanks-Dixon told the probation
18 officer who prepared the Report:

19 *“I still panic, especially because I work in the evenings. I could have been
20 killed. The only thing going through my mind was my four children.”*

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1 8. The robbery involved the theft of jewellery with a retail value of more than
2 CI\$500,000. I accept that the robbery has had a detrimental effect on the business.
3 None of the stolen jewellery was recovered; there was over \$6,500 worth of damage to
4 the jewellery store; and Ms. Callan felt unable to run the business anymore.

5 9. I am satisfied that the offence is so serious that I must pass an immediate custodial
6 sentence on you both. Under the *Guidelines*, the starting point for an offence like this
7 – an offence of high culpability with a category 2 level of harm – is a sentence of 9
8 years' imprisonment. The range of possible sentences is 7 – 14 years' imprisonment.
9 Where your sentence falls within that range depends upon the balance of aggravating
10 factors and mitigating factors. Aggravating factors are things that make your actions
11 more serious and mitigating factors are things that make them less serious.

12 10. I have heard oral submissions on your behalf from counsel and I have read the written
13 submissions and authorities they provided.

14 11. There are a number of aggravating factors. The offence was premeditated. It involved
15 a mask and false licence plates. It also involved a firearm or imitation firearm, but I
16 don't treat that as an aggravating factor because I have already taken it into account
17 when assessing your culpability. The robbery was prolonged: Ms. Ebanks-Dixon was
18 subjected to a lengthy ordeal of some 1 ¾ hours. The robbery impacted on the
19 community by contributing to a public sense of insecurity.

20 12. Ms. Ebanks-Pol, there were two aggravating factors specific to you. You were a
21 former employee, so the offence involved a breach of trust, and you had recently
22 committed another offence, theft of jewellery, against the same employer.

- 1 13. There is very little mitigation. You have both shown no remorse, and the jewellery has
2 not been recovered. But there is some mitigation.
- 3 14. Mr. Gea, you were previously of good character. That means you had not previously
4 been convicted of any offences. If you had not known Ms. Ebanks-Pol, you might
5 never have carried out the robbery.
- 6 15. Ms. Ebanks-Pol, I accept that your judgment and moral compass were impaired under
7 the influence of financial pressure and clinical depression. These things were made
8 worse because you had recently lost your job, although that was something which you
9 brought upon yourself. Until recently, you, too, had been of good character.
- 10 16. Mr. Gea, up until the robbery, you had lived a good and useful life. Ms. Ebanks-Pol,
11 until shortly before the robbery, so had you. You are the single mother of two teenage
12 children and you look after your mother. I accept that for both of you, your offending
13 was out of character. You have both been assessed as having a low risk of reoffending,
14 although in your case, Ms. Ebanks-Pol, I am sceptical about that assessment.
- 15 17. You are both equally culpable. I sentence you both to 12 years' imprisonment. The
16 time which you have already spent in custody will count towards your sentence, but
17 the time which you have spent on curfew will not.
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19 **Dated this the 22nd June 2018**

20 *S. G. Hellman*

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22 **Justice Stephen Hellman**
23 **Acting Judge of the Grand Court**

