

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

3  
4 **IND NO: 0008/2020**

5  
6  
7 **REGINA**

8  
9 **v.**

10  
11 **KURT STEVENSON CARTER**



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13  
14  
15 **Appearances:**

**Mrs. Nicole Petit for the Crown**

16  
17 **Mr. Crister Brady of Brady Attorneys for**  
18 **the Defendant**

19  
20  
21 **Before:**

**Justice Roger Chapple (Actg.)**

22 **Heard:**

**27<sup>th</sup> April 2021**

23  
24  
25 **HEADNOTE**

26 ***Criminal Law – Possession of an Imitation Firearm with Intent to commit and***  
27 ***Offence – s.18(6) of the Firearms Act – Discount for guilty plea.***  
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32 **SENTENCE JUDGMENT**

1 1. This case has a long history. You faced a number of serious charges, as a result of a  
2 number of offences, said to have taken place on 30<sup>th</sup> of December 2019. Following  
3 a jury trial, which lasted some weeks, you were found not guilty of all the charges to  
4 which you had pleaded not guilty. Needless to say, I ignore completely all of those  
5 allegations. But on the first day of the trial, you pleaded guilty to an offence of  
6 possession of an imitation firearm with intent to commit an offence, that is to say, to  
7 cause by your behaviour harassment, alarm or distress. And it is for that offence that  
8 I must now pass sentence upon you.

9

10 2. I make it clear that I pass sentence, accepting as I do, the handwritten Basis of Plea  
11 (BOP) signed by you.

12

13 3. I should add that you sent a document to this court – received by the Court on the  
14 22<sup>nd</sup> April 2021 but dated the 8<sup>th</sup> April 2021 entitled “*Applicant submits prepared*  
15 *statement*”.

16

17 4. Defence counsel, Mr Brady, asks that I ignore that document and you confirmed to  
18 me that that was your wish. I have therefore put it from my mind.

19

20 5. There is no Social Inquiry Report (SIR) in this case. A sentence of imprisonment is  
21 altogether inevitable. That being so, as Mr Brady sensibly agrees, the assistance I  
22 would derive from such a report would be limited.

23

24 6. The circumstances of your possession of this imitation firearm on 30<sup>th</sup> December  
25 2019 emerge clearly from good quality CCTV footage recovered from cameras  
26 covering the exterior of Bananas Bar. Since hearing sentencing submissions on 27<sup>th</sup>  
27 April 2021, I have again viewed that footage.

28

29



1 7. The offence for which I have to sentence you, I bear firmly in mind, alleges  
2 possession of an imitation, rather than a genuine firearm. That said, as can be seen  
3 from the footage, it is a very realistic looking handgun.

4  
5 8. As you accept in your BOP, and is clear from the footage, you discharged that  
6 handgun twice. On both occasions, an explosive flash appears at the end of the barrel.  
7 It is then highly likely that the weapon was capable of ejecting a projectile with force.

8  
9 9. The CCTV footage shows you displaying that imitation firearm to your audience  
10 with apparent pride, for their admiration and approval. There is no evidence as to  
11 what the conversation was between you and those outside Bananas whilst you were  
12 displaying and demonstrating that weapon, but it is obvious, from gestures and  
13 expressions, that you and they were effectively revelling in gun culture. It very much  
14 looks as though you wanted to impress them - and that, sadly, they were impressed.  
15 To that extent I agree with Mr Brady's submission that your friends or associates  
16 were not alarmed or distressed by your possession or use of the imitation firearm.  
17 However, as you properly accept in your BOP, you used that weapon in a manner  
18 that did in fact cause harassment, alarm or distress and that was your intention.

19  
20 10. The place where you discharged that weapon, just outside Bananas, is on Eastern  
21 Avenue, often a busy road, although this was the early hours of the morning, when  
22 traffic was likely to have been light. That said, anyone witnessing what you did –  
23 discharging a very realistic-looking handgun twice, would be distressed, to say the  
24 very least of it.

25  
26



1 11. There can be no legitimate reason for being in possession of this weapon. As I have  
2 said, but it bears repeating, this was a very realistic looking handgun, capable of  
3 ejecting a projectile with force.

4  
5 12. It has not been recovered and thus remains in circulation. As Lord Bingham  
6 emphasised in *R v Bentham*<sup>1</sup>,

7  
8 *“While an imitation firearm lacks the capacity of a real loaded firearm to kill or*  
9 *injure, it has much the same capacity to frighten and enforce compliance, not*  
10 *least because many imitations are almost indistinguishable from the real thing*  
11 *and those threatened have little opportunity or inclination to examine the nature*  
12 *of the weapon used.”*

13  
14 Gun crime on these islands is a source of very serious concern.

15  
16 13. You are now 32 years of age. You are no stranger to these courts. You started  
17 appearing before the courts in 2008. You have on several occasions served sentences  
18 of imprisonment for drug offences, offences of dishonesty and violence. In 2014,  
19 you were sentenced in the Summary Court, as adjusted by the Grand Court, to 7 ½  
20 years’ imprisonment for possession with intent to supply cocaine.

21  
22 14. This offence was committed in breach of a suspended sentence for an offence of  
23 assault occasioning actual bodily harm, imposed on 18<sup>th</sup> July 2019 and in breach of  
24 a good behaviour bond imposed on 28<sup>th</sup> October 2019, just two months earlier. You  
25 were also on bail for another offence at the time, although it is right to note that the  
26 prosecution in that case eventually offered no evidence against you.

27  
28 15. There are no Cayman Islands guidelines for offences involving imitation firearms.  
29 Had this been a genuine firearm, you would now be facing a minimum sentence of  
30 seven years’ imprisonment, absent any exceptional circumstances.

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<sup>1</sup> [2005] 1WLR 1057



1 16. I have been referred to the England and Wales Sentencing Guidelines. Although the  
2 approach suggested by those guidelines and a list of aggravating and mitigating  
3 features have been of some assistance, overall the suggested starting point and  
4 sentencing range, as set out there, are not, unusually, of any particular help as, the  
5 maximum sentences are different, the statutory minimum sentencing regime for  
6 genuine firearms is different and the nature of the problem of gun crime is different.

7  
8 17. I have helpfully been referred to the authority of *R v Avis*<sup>2</sup> and the well-known  
9 questions that must always be addressed in firearms cases. I can summarise the  
10 answers to those questions very shortly:

11 i. This was an imitation firearm that looked very much like a genuine  
12 firearm;

13 ii. It was loaded and discharged twice;

14 iii. The intention with which you possessed it was to cause harassment  
15 alarm or distress.

16 iv. You have, as I have already mentioned, an extensive criminal record.  
17 Albeit you have no previous convictions for firearms offences, you have  
18 for very many years chosen to live outside the law.  
19

20  
21 18. I have also been referred to, and much assisted by, the case of *R v Welcome*<sup>3</sup> in which  
22 Dobbs, J (Actg.) conducted a thorough review of sentencing authorities involving  
23 imitation firearms.



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<sup>2</sup> [1998] 1 Cr App R 420

<sup>3</sup> Ind. 57/16: R v. Welcome (Jonathon) - Dame Linda Dobbs, Acting Judge, dated 15<sup>th</sup> December 2016

1 19. You are entitled to some credit for having pleaded guilty to this offence, although  
2 given that you did so only at the start of the trial, that credit must be reduced. You  
3 had earlier pleaded not guilty. Mr Brady urges that, nevertheless, this is a case for  
4 full credit, since it was only very late in the day, at the suggestion of the trial judge,  
5 that this additional charge was added to the indictment. It was of course always open  
6 to you to offer a guilty plea to this offence and, it must be said, given the CCTV  
7 footage, the evidence against you is overwhelming. In my judgement, the appropriate  
8 credit to reflect your guilty plea in this case is 20%.

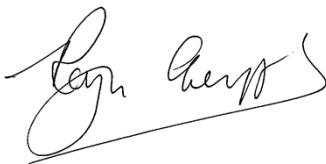
9  
10 20. Taking into account all the matters I have discussed, had you pleaded not guilty but  
11 been convicted, the sentence I would have passed is one of seven years'  
12 imprisonment. Albeit that this was not a genuine firearm, I emphasise again that the  
13 fact that it was fired twice in a public place is a substantial aggravating feature.  
14 Giving you credit for your guilty plea, I reduce that sentence to one of 5 years' and  
15 7 months' imprisonment.

16  
17 21. I also activate in full the 3-month suspended sentence imposed on 18<sup>th</sup> July 2019.  
18 That will run consecutively, making a total sentence of 5 years and 10 months'  
19 imprisonment.

20  
21 22. I order that all time spent in custody in relation to this offence shall count towards  
22 the serving of the sentence.

23

24 **Dated this the 25<sup>th</sup> day of May 2021**



25

26 **Justice Roger Chapple**  
27 **Acting Judge of the Grand Court**