

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

3
4 **IND NO: 0060/2017**

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6
7 **REGINA**



8
9 **v.**

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11 **DAVID DEAN MEADORS**

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15 **Appearances:**

Nicole Petit for the Crown

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17 **Mr. Ben Tonner Q.C. of McGrath Tonner**
18 **for the Defendant**

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21 **Before:**

Justice Roger Chapple (Actg.)

22 **Heard:**

24th May 2019

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25 **HEADNOTE**

26 *Criminal Law – Firearms Act - Importation of unlicensed firearm contrary to*
27 *s.3(1) and s.3(3); Possession of an unlicensed firearm contrary to s.15(1) and*
28 *s.15(5); Possession of an unlicensed firearm (ammunition) contrary to s.15(1)*
29 *and s.15(5) – Sentence following guilty pleas. Exceptional circumstances argued.*

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32 **SENTENCE JUDGMENT**

1 1. I make it clear at the outset of this judgment that in this case I will not be imposing
2 sentences of imprisonment.

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4 2. That, on the face of it, may very well be thought to be surprising, since first and
5 foremost, two of the offences to which this Defendant has pleaded guilty – Counts 1
6 and 2 - carry with them a mandatory minimum term of 7 years' imprisonment.

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8 3. Parliament has made its views plain that offences of importation and unlicensed
9 possession of a firearm are to be viewed with the utmost seriousness. It is not hard
10 to understand why. Gun crime has been described as the scourge of these islands.
11 This Defendant, and several of those who have written character references on his
12 behalf, speak of the beauty, tranquillity and unspoiled nature of these islands. All of
13 which descriptions are apt. However, below the surface is an underbelly of crime.
14 Gun crime is of deep concern to us all. Far too often these courts have to deal with
15 cases involving firearms – cases where firearms are used to threaten, to injure, to
16 maim and to kill – and the victims are often young men in the prime of life. Every
17 unlicensed firearm brought onto these islands is another firearm too many. The
18 unlicensed possession of firearms is illegal, and Parliament has made clear its policy
19 of almost zero tolerance. No matter how careful, how responsible a gun owner may
20 be, there is always a risk that the firearm will fall into the wrong hands. The weapon
21 with which this case is concerned, an apparently new 9 mm Glock handgun along
22 with 240 rounds of ammunition, falling into the wrong hands? The consequences do
23 not bear thinking about.



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1 **EXCEPTIONAL CIRCUMSTANCES**

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4. Section 39 of the *Firearms Act* 2008 requires that in respect of counts 1 and 2 of this indictment, the Defendant, David Meadors, having pleaded guilty, the court shall impose a sentence of imprisonment of at least seven (7) years, unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify it not doing so, and such circumstances shall be stated by the relevant court.

5. If the minimum term is to be avoided, the circumstances must be truly exceptional. It is important that the courts do not undermine the intention of Parliament or the deterrent purpose of the minimum-term provisions by too readily accepting exceptional circumstances in any given case. The superior courts have given useful guidance. In *R v Kelly*¹, Bingham, LJ said this:

“We must construe exceptional as an ordinary, familiar English adjective and not as a term of art. It describes a circumstance which is such as to form an exception, which is out of the ordinary course or unusual, or special or uncommon. To be exceptional, a circumstance need not be unique, or unprecedented or very rare; but it cannot be one that is regularly or routinely or normally encountered.”

6. In *R v Rehman and Wood*², Lord Woolf explained that circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence. He went on to explain that the court’s approach should be a holistic one. The court should look at all the circumstances of a particular case taken together. I have been assisted by the recent case of *Nancarrow*³ in which the England and Wales Court of Appeal conducted a helpful review of how the question of exceptional circumstances should be approached. If there are exceptional

¹ [2000] QB 198
² [2006] 1 Cr App R (S) 77
³ [2019] EWCA Crim 470



1 circumstances, then a sentence of imprisonment less than the statutory minimum
2 may be imposed or a different type of sentence.

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4 7. The Defendant is a citizen of the United States of America and ordinarily resident in
5 Florida. Sometime in or before 2017, he purchased land on Cayman Brac, where he
6 planned to build a house to which he and his wife intended, in due course to retire.
7 Construction work was underway when, on 17th July 2017, customs officers visited
8 the site and inspected a shipping container Mr Meadors had had shipped from the
9 United States to Cayman Brac. Inside the container, along with construction
10 materials and household items, officers discovered six boxes of 9 mm ammunition
11 – a total of 240 rounds. Mr Meadors was arrested and taken to the Brac police
12 station. When asked, he volunteered that he had a firearm at the property he was
13 renting while construction work was in progress. He later told the police exactly
14 where it was – in a dresser drawer under some clothing. A 9 mm Glock handgun
15 was found inside the manufacturer's locked hard plastic case. It was properly
16 secured, in that, a metal cable lock was running through the weapon. It was not
17 loaded. There was no ammunition with the gun. He was initially remanded in
18 custody at HMP Northward, before being granted conditional bail, including an
19 electronically monitored curfew.

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21 8. On 7 September 2017, he appeared before the Grand Court and was arraigned upon
22 a 5-count indictment. He pleaded guilty to counts 1 and 2 (importation and
23 possession of the Glock) – and not guilty to counts 3, 4 and 5 (importation and
24 possession of 240 rounds of 9mm ammunition and possession of a BB gun). Those
25 pleas were not acceptable to the prosecution accordingly a date was fixed for trial,
26 set to commence on 19 April 2018.



1 9. At the conclusion of the hearing on 7 September 2017, the Defendant’s bail was
2 varied at his request, so as to allow him to return to Florida for ten (10) days to make
3 preparations for a predicted hurricane. A subsequent application to extend his time
4 out of the jurisdiction was refused and the Defendant duly returned.

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6 10. On 18 January 2018, following an application, bail was again varied to allow the
7 Defendant to leave the jurisdiction until 4th February 2018 – this time, it was said,
8 for medical reasons. Further applications were made and granted for David Meadors
9 to remain outside the jurisdiction, since it was said that a series of medical tests and
10 procedures were required and that his condition had considerably worsened.
11 Following a hearing, at which the Defendant, David Meadors, appeared by video
12 link, bail was again varied, effectively requiring him to return to the Cayman Islands
13 by 27 April 2018. He did not do so. A warrant was issued for his arrest, but he has
14 consistently refused to return, contending that he is prevented from so doing by his
15 medical condition. He remains outside this jurisdiction.

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17 11. The prosecution applied for the Defendant to be tried in his absence upon counts 3,
18 4 and 5 of the indictment. A protracted hearing followed, during which I heard oral
19 evidence via video-link from David Meadors and from two medical experts. I also
20 considered a huge number of medical reports, notes and other material. The question
21 for resolution was whether David Meadors was voluntarily absent – essentially,
22 whether, as he contended, his medical condition was such as to prevent him returning
23 to this jurisdiction to stand trial. I gave a full reasoned judgment in September 2020.
24 I concluded that whilst he did suffer from some medical problems, they were not
25 such as to prevent him from traveling to this jurisdiction and standing trial. That
26 hearing began in October 2019 and was heard over a number of days. Judgment was
27 considerably delayed – amongst other things because of the pandemic restrictions.

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1 12. On 29 January 2021, at the request of the defence, the Defendant David Meadors
2 was re-arraigned on and pleaded guilty to count 4 of the indictment (possession of
3 ammunition), via video-link. That additional plea resolved the case to the
4 satisfaction of the prosecution. No trial was therefore necessary. I ordered that
5 counts 3 and 5 will lie on the file, marked in the usual way - that is to say, they are
6 not to be proceeded with without the leave of this Court or of the Court of Appeal.

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8 13. There are a number of features in this case which, when I put them together, the
9 holistic approach urged by the authorities drives me to conclude that the imposition
10 of the mandatory minimum term of imprisonment, or indeed any term of
11 imprisonment, would result in an arbitrary and disproportionate sentence. No one
12 factor is decisive, but the cumulative effect is that I do find that there are exceptional
13 circumstances in this case – both as to the offence and as to the offender. Here are
14 the main factors that have driven me to this view. The list is not exhaustive.

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16 **GOOD CHARACTER**

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18 14. There is clear authority for the proposition that good character, on its own, cannot
19 determine exceptional circumstances, but it is one of the factors I can take into
20 account. This Defendant is 56 years of age, he has no convictions. He has his own
21 business which he has built up over the years through, I accept, hard work and
22 dedication. I have a binder containing seventy-seven (77) character references,
23 provided largely by those who know him well. I have read and re-read each and
24 every one of them. They paint a clear picture of David Meadors. Many speak of his
25 honesty, his integrity, his kindness, his solid and steadfast support and friendship,
26 his generosity and charitable contributions.





1 **THE DEFENDANT’S HEALTH**

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3 15. No useful purpose would be served by my repeating here what was canvassed at the
4 earlier hearing in late 2019 and summarised at length in my earlier judgment. I make
5 it clear that I do not depart from any of the findings I made then. But it is clear that
6 David Meadors’ health is not what it was. He has significant problems with his
7 eyesight and his hearing; he suffers from arthritis; he is prescribed an
8 immunosuppressant (Rituxan), administered twice per month by infusion. This
9 medication of course lowers his immunity and makes him more vulnerable to
10 infection. A sentence of imprisonment would be harder for him to bear and a greater
11 punishment for him because of his failing health. His needs would present particular
12 difficulties for those at HMP Northward.

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14 **DELAY, MR MEADORS’ RESPONSE TO THE PROCEEDINGS AND THE EFFECT UPON**
15 **HIM OF THIS CASE**

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17 16. This case has taken a very long time to reach a conclusion. Well over 3 ½ years have
18 passed since this Defendant was arrested. I should say straightaway that most of that
19 delay is the fault of the Defendant. At the forefront of my mind – and it is a
20 substantial aggravating feature – is the fact that, having been entrusted with bail, he
21 abused that trust and has deliberately remained outside the jurisdictional reach of
22 this court when he could and should have returned. I do not resile from my earlier
23 finding that, on occasion, Mr Meadors has lied to this court and others to prolong
24 and/or seek to justify his avoidable absence from this jurisdiction. On the face of it,
25 this should not then be taken into account as a mitigating feature. However, the
26 reason for his failure to return – and the reason for his uncharacteristic lapses of
27 frankness and honesty – is his fear (terror is probably not too strong a word) of the
28 possible consequences of his actions, that is, fear of having to serve a sentence of
29 imprisonment. He spent 5 days in custody at Northward prior to being granted bail

1 and no doubt that experience remains firmly etched on his memory. It is that abject
2 fear which, in my judgment, has dominated his actions and responses – and it is the
3 reason for him on occasions to have acted dishonourably and dishonestly, which
4 includes attempted manipulation of the medical profession and this court.
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6 17. That said, I do not think this sits easily or comfortably with David Meadors. It is
7 clear from the character witnesses that he is generally an honourable and honest man.
8 Whilst he has not returned to this jurisdiction, he has, at all stages, sought to engage
9 in the court process, albeit at a safe distance. His legal team has remained fully
10 instructed throughout, he has actively participated and, obviously taken a keen
11 interest in the case. The point is well made that others in his position, having fled
12 the jurisdiction, would simply have disengaged, not co-operated and/or disappeared.
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14 18. Many of his character witnesses speak of the effect these proceedings have had upon
15 him. One speaks of the “heavy toll” the case has taken on him, his health and his
16 family. Another describes the effect of the last 3½ years as “devastating.” His sister
17 describes his experience as having been living through a nightmare.

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19 19. Suffice it to say that, whilst I do not begin to condone or make light of his refusal to
20 return to this jurisdiction, I am satisfied that the last 3 ½ years have been a real
21 punishment for David Meadors. He has not taken this case lightly. And of course,
22 the effect of his actions has meant the end of the future he had planned for himself
23 and his wife. His actions have cost him dearly, both in financial terms and in terms
24 of his hopes and his aspirations.





1 **THE OFFENCES AND MR MEADORS' CULPABILITY**

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3 20. I then come to look at these offences and particularly the Defendant's culpability –
4 that is to say the degree of blameworthiness that attaches to these offences.

5 21. It is urged on his behalf that he did not appreciate that he was committing an offence
6 by bringing a firearm into this country. It is common ground that the Glock handgun
7 was imported into this country in his checked luggage on a flight from Miami. David
8 Meadors maintains that he thought his American firearms licence would permit him
9 to import and possess a firearm in this jurisdiction. As I suspect was obvious, I had
10 considerable difficulty in understanding how anyone could imagine that it was either
11 acceptable or permissible to bring a firearm into another country, not apparently
12 checking whether that was in accordance with the laws of the country being visited
13 (and in this case, to which he intended to retire) or bothering to read, as David
14 Meadors told me he did not, the contents of the customs declaration form on this or
15 any or his many previous visits to these islands. But despite my misgivings, and
16 knowing all I now know about him, I am prepared to accept that he did not
17 understand the full import or gravity of what he was doing. That was either born of
18 arrogance or of naivety, and in his case, I think it was the latter. I appreciate and
19 make allowances for the very different attitude to possession of firearms that exists
20 in the United States.

21
22 22. That said, I do not believe what David Meadors says about the 240 rounds of
23 ammunition – that they were somehow packed in the container by mistake. That
24 stretches credibility too far. He imported the handgun, which he said he needed for
25 self-defence purposes, should he be attacked whilst on his boat. He would thus need
26 ammunition. It arrived in the container, I am sure, with his knowledge.



1 **THE NEED FOR DETERRENCE**

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23. Plainly, the main reason Parliament provided for a mandatory prison term for firearms offences such as those with which I am now dealing was for it to act as a deterrent, both to the individual defendant and to others. David Meadors, in all the circumstances, needs no further deterrent. Others knowing the full circumstances of these offences and of Mr Meadors' life since his arrest in July 2017 would, in my view, regard a substantial sentence of imprisonment as both arbitrary and disproportionate. Although not a factor I have taken into account in arriving at my conclusions as to the right sentence, a glimpse into the future, were I now to impose sentences of imprisonment, supports me in my view that it would be disproportionate. In that event, extradition proceedings would be commenced to compel this Defendant to return to the Cayman Islands. Inevitably those proceedings would be contested and, I suspect, take years to resolve, continuing the strain and uncertainty under which he has been living for some years already. A humane justice system should now draw these prolonged proceedings to a close, for the sake of all concerned.

24. The gravity of David Meadors' actions is now understood by him. I am satisfied that I can, in justice, deal with this case by way of financial penalties. Albeit David Meadors told me towards the end of the mention for sentence hearing that his business has suffered during the pandemic, he remains a man of very substantial means. The fines I impose recognise that and are designed to mark the gravity of the offences.

1 25. No sentencing exercise in a firearms case would be complete without mention of the
2 case of *R v Avis*⁴ and particularly the guidance given as to the four questions the
3 court should consider. I have addressed all of them in my earlier observations. They
4 are as follows:

- 5 i. This was a fully functioning, lethal handgun. It was not loaded. There was
6 no ammunition nearby. The weapon was in a locked case, but in an
7 unlocked drawer and easily portable
- 8 ii. No use had been made of the firearm
- 9 iii. I accept David Meadors possessed it for self-defence if attacked
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14 iv. This defendant's record and character, this case aside, is exemplary.

15 26. Again, for the sake of completeness, I should say that I have considered the very
16 recently issued England and Wales Sentencing Council Guidelines for firearms
17 offences, although in the circumstances of this case have not found them to add
18 anything of significance to the submissions made to me and the authorities to which
19 I have been referred. Importation of firearms to these islands by citizens of the
20 United States is a particular problem which is has no ready equivalent in England
21 and Wales.
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24 **GUILTY PLEAS**

25 27. Although Mr Meadors pleaded guilty to the three offences for which I now have to
26 pass sentence, I give him little credit for those guilty pleas. True it is that he pleaded
27 guilty to counts 1 and 2 at an early stage, but his behaviour, thereafter, staying away
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⁴ [1998] 2 Cr App R (S) 178

1 when he should have returned, all but removes the mitigating effect those early pleas
2 would otherwise have had. As to count 4, this of course came very late in the course
3 of this case and thus attracts little credit.

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5 **THE SENTENCES AND ORDERS OF THE COURT**

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7 28. Firstly, I order the escheatment in full of the US\$ 25,000 cash bond deposited with
8 this court as part of his bail conditions. Quite properly, Counsel Mr Tonner on the
9 Defendant's behalf does not seek to argue otherwise than that this is appropriate
10 given his breach of bail. It necessarily follows in this case.

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12 29. In respect of Count 1, importation of an unlicensed firearm, there will be a fine of
13 CI\$25,000.

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15 30. There will be no separate penalty upon Count 2.

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17 31. Upon Count 4 (the 240 rounds of ammunition) there will be a fine of CI\$ 5,000.

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19 32. I make an order as sought, for David Meadors to pay the Costs of the prosecution of
20 CI\$ 3000, together with the fees of Dr Yancey, the expert instructed by the
21 prosecution, in the sum of US\$ 13,483.11.

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23 33. The charge that I understand this Court holds on David Meadors' property on
24 Cayman Brac will remain in place until all fines and other financial orders have been
25 satisfied in full.

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27 34. I am required to fix terms of imprisonment in default of payment, and they are as
28 follows:



- 1 i. Count 1: 18 months' imprisonment in default of payment.
- 2 ii. Count 4: 3 months' imprisonment in default of payment
- 3 iii. Costs imposed: 9 months' imprisonment in default of payment.

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6 35. I make orders for forfeiture and destruction of the firearm and ammunition.

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9 36. As already mentioned, counts 3 and 5 will lie on the file, marked in the usual way.

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11 **Dated this the 12th March 2021**



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13 **Justice Roger Chapple**
14 **Acting Judge of the Grand Court**