

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

3  
4 **INDICTMENT NO: 78 and 79 of 2018**

5  
6  
7 **THE QUEEN**

8  
9 **v.**

10  
11 **ERNIE EMMANUEL RAMOON**

12 **MARVIN MATTHEW WATSON**



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14  
15 **Appearances:**

**Ms. Kerri-Ann Gillies for the Prosecution**

16 **Ms. Prathna Bodden of Samson Law for the**  
17 **Defendant Ramoon**

18 **Mr. Oliver Grimwood of Barton Attorneys for**  
19 **the Defendant Watson**

20 **Before:**

**Justice Cheryll Richards Q.C.**

21 **Sentence Hearing:**

**19<sup>th</sup> March 2021**

22  
23 **Sentence Judgment:**

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

24  
25  
26 **HEADNOTE**

27 ***Criminal Law – Grievous Bodily Harm – Principles on Sentencing -***  
28 ***United Kingdom Sentencing Guidelines – Whether injury serious in the***  
29 ***context of the offence – Common Assault and Causing Fear of Provocation***  
30 ***of Violence – Higher maximum term in the Cayman Islands – Whether***  
31 ***adjustment to starting point is necessary.***  
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35 **SENTENCE JUDGMENT**

1 1. The defendants are before the Court for sentencing following convictions after trial by  
2 jury which concluded on the 2<sup>nd</sup> December 2020.

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4 2. The defendant Ernie Ramoon is to be sentenced on two counts as follows:

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i. Count 1:

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1. Count 1 of the Indictment charges him with Causing Grievous Bodily Harm with Intent, contrary to s.203 of the **Penal Code** (2018 Revision). The Particulars are that he, on the 30<sup>th</sup> October 2018, at Shedden Road. George Town, Grand Cayman, Cayman Islands unlawfully and maliciously caused grievous bodily harm to Kevin Parchman with intent to do grievous bodily harm to him.

2. The maximum sentence for this offence is life imprisonment.

ii. Count 2:

1. No verdict was returned on Count 2, the alternative count of Inflicting Grievous Bodily Harm.

iii. Count 3:

1. Count 3 charges him with Common Assault contrary to s.215 of the **Penal Code** (2018 Revision). The particulars are that he, on the said day and at the same place, unlawfully assaulted Kevin Parchman.

2. The maximum sentence for this offence is imprisonment for one year.

1 3. The defendant Marvin Watson is to be sentenced on Count 4 of the Indictment which  
2 charges him with Causing Fear or Provocation of Violence contrary to the s.88 of the  
3 said *Code*. The particulars are that he, on the said day and at the said place, used, towards  
4 Kevin Parchman, threatening, abusive or insulting words or behavior with intent to cause  
5 him to believe that immediate unlawful violence would be used against him. The  
6 maximum sentence for this offence is four years' imprisonment, this being an offence  
7 committed at night.

8 **THE FACTS**

9 4. The facts may be briefly summarised as follows.

10  
11 5. On the evening of the 30<sup>th</sup> October 2018, all parties were inside, or in the vicinity of, the  
12 Sea Inn Bar. This is located in a plaza on Shedden Road, a short distance from the traffic  
13 lights at the intersection of Eastern Avenue and Shedden Road.

14  
15 6. Sometime after 9pm that evening, outside the Bar, there was an initial exchange of words  
16 between Jeremy Parchman and the defendant Ernie Ramoon. This escalated. Jeremy  
17 Parchman punched at Mr. Ramoon and a fight ensued between the two of them. Kevin  
18 Parchman who had been a short distance away, smoking a cigarette, intervened to assist  
19 his brother Jeremy. In the course of the altercation, Mr. Ramoon swung a machete at  
20 Kevin Parchman who was then unarmed.

21  
22 7. The fight continued after a pause and then another pause. The third continuation took  
23 place while they were all between two cars.

24



- 1 8. Thereafter Mr. Ramoon was seen on CCTV footage to go beside his car, a green Toyota  
2 motor vehicle with silver at the base, which car was parked in the parking lot of the  
3 complex close to the bar.
- 4  
5 9. Mr. Watson who had been inside the bar came outside. He is the nephew of Mr. Ramoon.  
6 Mr. Kevin Parchman and his brother left the premises and walked up Shedden Road in  
7 the direction of the Eastern Avenue stop light.
- 8  
9 10. Mr. Watson was seen on CCTV footage to retrieve a shovel from his truck, to go towards  
10 the direction of the brothers and to strike at Mr. Kevin Parchman with the shovel. Mr.  
11 Parchman fell to the ground.
- 12  
13 11. Mr. Ramoon got into his Toyota motor car and drove out of the complex in the same  
14 direction. The Toyota motor car driven by him ran over and was on top of Mr. Kevin  
15 Parchman, causing him serious injury. Mr. Watson and passersby lifted the vehicle off  
16 of Mr. Parchman and he was transported by ambulance to the hospital. Mr. Ramoon was  
17 not on the scene on the arrival of the Police and ambulance.
- 18  
19 12. The Prosecution's case at trial was that the actions of both defendants were by way of  
20 revenge following the fight and that neither had been acting in self defence at the  
21 material time.
- 22  
23 13. The medical evidence as to the injuries received by Kevin Parchman was agreed by way  
24 of Admissions and was as follows:



- 1                   “5.    On the 30<sup>th</sup> October, 2018 at about 11:37 p.m., Kevin Parchman was  
2                   admitted to the trauma room at the George Town Hospital. He was  
3                   examined by Dr. Adam Sowinski. On examination, he was found to have  
4                   multiple abrasions to the lower limbs and lower abdomen as well as the  
5                   right as the right shoulder. On arrival in the A & E he was found to be  
6                   hypotensive. His alcohol level was above 300.
- 7
- 8                   6.    On the CT evidence Kevin Parchman had fluid around the liver and  
9                   contusion in segment V, VI and VII. He was admitted to the surgical unit at  
10                  the George Town Hospital.
- 11
- 12                7.    On the 31<sup>st</sup> October, 2018 at about 3:52 a.m., Dr. Regina Turner examined  
13                Kevin Parchman D.O.B. 15<sup>th</sup> February, 1995. Dr. Turner observed the  
14                following injuries:
- 15
- 16                           a.   Multiple abrasions to the upper back, shoulders, right upper arm and  
17                           on the left leg;
- 18                           b.   Abrasion across the lower abdomen and pelvis;
- 19                           c.   Three to four (3-4) ill-defined hypodense areas in segments v, vi and vii  
20                           of the liver which could represent contusions;
- 21                           d.   Moderate hyperdense collection present in per hepatic region, left  
22                           upper abdomen suggestive of hemoperitonenum;
- 23                           e.   Small right pleural effusion/hemothorax with sub-segmental atelectasis  
24                           in bilateral lower lobes.
- 25
- 26                8.    Mr. Parchment was intubated by the anesthetist on duty, seen by the General  
27                Surgeon on duty and admitted to the Critical Care Unit. A CT Scan of Mr.  
28                Parchmen’s abdomen showed a subscapular hematoma of the liver.
- 29
- 30                9.    Mr. Parchman also had to undergo a laparotomy due to an injury noted to  
31                the sigmoid colon mesentery.
- 32
- 33                10.   A CT Scan of Mr. Parchman’s pelvis was done and he was admitted into the  
34                ICU. Mr. Parchman later underwent an orthopedic surgery in relation to  
35                an injury to his left clavicle on the 8<sup>th</sup> November, 2018. This surgery  
36                included the implanting of screws into the left clavicle.
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11. *Mr. Parchman was prescribed and provided with post-operative care in relation to his injuries.*

12. *Dr. Turner opined that the injuries received by the Mr. Parchman were serious but not permanent.”*

14. In the course of the altercation the defendant Ramoon sustained injuries to his eye.



**VICTIM IMPACT REPORT**

15. The Department of Community Rehabilitation (DCR) has provided a Victim Impact Report (VIR) in respect of the victim, Kevin Parchman. He is 25 years old.

16. Under impact of the offence, the victim reported to the Probation Officer that he had been unable to walk on his own for six months after the incident and was hospitalised for two months. He has healed from most of the injuries which he received but continues to have pain.

17. Under financial impact, the VIR records that he was unable to receive all surgeries required and still has a broken clavicle as he exhausted his medical insurance. Thus he was not able to receive the physiotherapy, counselling and other required medical and dental procedures.

18. He was unemployed for two years due to the lengthy hospital stay and his inability to work due to his injuries. His life savings were entirely depleted during this period. He is currently employed as a mechanic and truck driver but is not able to acquire preferred employment due to his physical ailments from his injuries and thus his ability to earn at the level to which he was previously employed has been affected.

1 19. While hospitalised for the two months, he lost his apartment and his income and had to  
2 relinquish custody of his companion dog, which he had had for two years. This has been  
3 emotionally difficult for him. In addition he reports experiencing depression, insomnia  
4 and fear of crossing the street and of cars approaching him. He has been referred by the  
5 Officer for counselling for post-traumatic stress.

6  
7 20. The Officer's Evaluation/Assessment is that it appears that there is a lasting impact from  
8 the incident upon him and that he suffered intense and life-threatening injuries. He is  
9 reminded of this incident on a daily basis as he suffers lasting physical ailments, has  
10 pending medicals for his other clavicle and has experienced psychological effects. He  
11 has suffered financial loss and his injuries prevent him from manual labour which was a  
12 source of employment for him.

13  
14 21. The Probation Officer concludes with recommendations for the consideration of the  
15 Court in respect of protection of the victim.

16 **SOCIAL INQUIRY REPORT– ERNIE RAMOON**

17 22. The DCR has submitted a Social Inquiry Report (SIR) dated 22<sup>nd</sup> February 2021 in  
18 respect of the defendant Ramoon. This provides details of the defendant's personal  
19 circumstances.

20  
21 23. The defendant is 49 years old with a date of birth of the 29<sup>th</sup> January 1972. He is the  
22 father of four children. Three are adults and one, a son, is aged 5 years old. He is a  
23 licensed electrician who was employed to various companies for 16 ½ years. He is now  
24 self-employed since 2005 and also does fishing for a living.



1 24. He advised the Probation Officer that he sustained damage to his right eye during the  
2 first phase of the incident and that he continues to experience random unexplained  
3 blurriness to it.

4  
5 25. His antecedent records indicate that he has four previous convictions, three are for  
6 fishing offences and one is for damage to property in respect of which he was  
7 conditionally discharged and ordered to pay compensation.

8  
9 26. The defendant was assessed using the LS/CMI Risk/Need Assessment Tool. His overall  
10 risk of re-offending was assessed as High. Three of the eight criminogenic factors were  
11 assessed as high. These included pro-criminal attitude /orientation. Under this heading  
12 the Probation Officer notes among other matters that he is a current ganja user and has  
13 been for the past seven years. Under personal problems with criminogenic potential the  
14 officer records that there has been a lack of compliance with a Probation Order  
15 previously imposed in respect of traffic offences. The Officer has also identified issues  
16 with self-control and records that the defendant, while stating that he had no intention of  
17 running over the victim with the car, did admit that he had chased and hit Jeremy  
18 Parchman and Kevin Parchman with the machete at a time when the fight had stopped  
19 after the first altercation.

20  
21 27. Under Sentencing options, the Officer records that given his high risk of re-offending  
22 and past non-compliance with a Court order, among other factors, it is difficult to  
23 recommend a community supervision order for him.





1 **SOCIAL INQUIRY REPORT- MARVIN WATSON**

2 28. The DCR has provided a SIR dated 5<sup>th</sup> February 2021 in respect of the defendant Marvin  
3 Watson. This provides details of the defendant's personal circumstances. He is 42 years  
4 old with a date of birth of 13<sup>th</sup> December 1978. He has been gainfully employed since  
5 leaving school, initially working in his family's business for five years before starting  
6 his own general maintenance business in 2007. He has one previous conviction for a  
7 drug offence in 1999. He was paroled in 2002 and adhered to the terms of his parole. He  
8 thus appears to have a record of compliance with community service orders.

9  
10 29. He is described by a member of the community who has known him since school days  
11 as hardworking, driven for success and not known to be a trouble maker. Another  
12 member of the community describes him as kind, thoughtful and loyal to his family.

13  
14 30. Under Assessment / Evaluation the Probation Officer concludes that it appears that the  
15 offence is out of character for the defendant and occurred because he "*saw wrong being*  
16 *done to his family members.*" He was assessed using the LS/CMI/Risk /Need Assessment  
17 Tool. His overall risk of re-offending was assessed as low. The only factor of the eight  
18 criminogenic factors which was assessed as high was pro-criminal attitude and  
19 orientation. The defendant is described as showing a poor attitude toward the offence  
20 and as believing that the victim was deserving of what occurred because of his behavior  
21 in the past. The defendant's specific risk need factors include anger management deficits  
22 and problem-solving/self-management skill deficits.

23  
24 31. Under sentencing options it is stated that he would require very little supervision from  
25 the DCR should a non-custodial sentence be imposed upon him.

1    **SENTENCING GUIDELINES**

2           32.    The *Cayman Islands Sentencing Guidelines* provides general guidance as to the aims  
3                   of sentencing, assessing the seriousness of an offence, the custody threshold and the  
4                   principle of proportionality. The Court reminds itself of this guidance, including that in  
5                   sentencing an offender, the Court has to balance a number of competing interests and  
6                   objectives and to tailor the punishment to the individual circumstances of the offender  
7                   while ensuring that it is in line with the seriousness of the offence. The Court should  
8                   consider which of the aims which govern the sentencing process will be best served by  
9                   the sentence to be passed. The aims which are set out in the *Alternative Sentencing Act*  
10                  *2008* include deterrence, punishment, rehabilitation and restitution. The Guidelines also  
11                  provide that a custodial sentence should not be passed unless the offence is so serious  
12                  that no other sentence can be justified for the offence. Custody should be reserved for  
13                  the most serious offences. Even where the custody threshold is passed, custody can still  
14                  be avoided in light of personal mitigation or if there is a suitable community intervention  
15                  which would meet the aims of punishment and rehabilitation.

16  
17           33.    In the absence of offence-specific guidelines in the Cayman Islands for the offences  
18                  charged all Counsel referred to the *United Kingdom Sentencing Council Definitive*  
19                  *Guidelines*.

20  
21           34.    In the United Kingdom the equivalent offence of Causing Grievous Bodily Harm with  
22                  Intent is contrary to s.18 of the *Offences Against the Person Act* 1861 and attracts a  
23                  maximum sentence of life imprisonment.



1 35. There is disagreement between the parties as to the Guideline category in which the  
2 instant offence falls. While there is some agreement as to the level of culpability, it  
3 being agreed that the use of the vehicle satisfies the factor of use of a weapon, the main  
4 area of disagreement is as to the level of harm.

5  
6 36. The Prosecution submits that the matter falls within Category 1, greater harm and higher  
7 culpability which would attract a sentence range of 9 years' to 16 years' imprisonment  
8 with a starting point of 12 years' imprisonment. The Defence submits that the matter  
9 falls within Category 2 as it is properly a case of lesser harm and higher culpability which  
10 would attract a sentence range of 5 to 9 years' custody with a starting point of 6 years'  
11 custody.



12  
13 37. The relevant Guideline states:

14 *“The court should determine the offender’s culpability and the harm*  
15 *caused, or intended, by reference only to the factors below (as demonstrated*  
16 *by the presence of one or more). These factors comprise the principal*  
17 *factual elements of the offence and should determine the category.”*  
18

19 38. The factors indicative of greater harm are:

- 20
- Injury (which includes disease transmission and or psychological harm) which  
21 is serious in the context of the offence (must normally be present).
  - Victim is particularly vulnerable because of personal circumstances.
  - Sustained or repeated assault on the same victim.
- 22  
23  
24

25 39. The Prosecution submits that greater harm is indicated as the injuries sustained are  
26 serious in the context of the offence. In support of this submission Counsel refers to the  
27 agreed medical evidence as well as to the after-effects upon the victim as detailed in the

1 VIR. The need for multiple surgeries, hospitalisation for an extended period and the  
2 inability to walk unaided for some six months after the incident are also referenced.

3  
4 40. The Defence submit that the injuries sustained are not serious in the context of the  
5 offence, given in particular that there is no loss of limb and no permanent disability. In  
6 support of this submission, the Defence refer to the English Court of Appeal case of **R v**  
7 **Smith (Grant Christopher)**.<sup>1</sup>

8  
9 41. This was an appeal which focused on the approach adopted by the trial Judge in  
10 sentencing for an offence of Wounding with Intent. In the course of an altercation, the  
11 victim received a final blow to the back of the head which required three stitches. In his  
12 sentencing remarks the learned Judge concluded that this fell into the category of greater  
13 harm and greater culpability. This was on the basis that the injury which was caused  
14 needed hospital treatment, stitching and had considerable lasting effect on him. The  
15 Appellate Court considered what is meant by the term “*serious in the context of the*  
16 *offence*” and stated:-

17 *“First, with regard to the injury, the question is whether the injury*  
18 *was serious “in the context of the offence”. It is axiomatic that all*  
19 *violence within the context of a section 18 offence is serious, but*  
20 *some violence is more serious than others. The purpose behind the*  
21 *words “which is serious in the context of the offence” in the*  
22 *guidelines is to distinguish between that level of violence which is*  
23 *inherent or par in a standard section 18 offence and that which will,*  
24 *by definition, go beyond what may be viewed as par for the course.*  
25 *In our view, given that there is such a marked disparity in the*  
26 *starting point between categories 1 and 2, the sorts of harm and*  
27 *violence which will justify placing a case within category 1 must be*  
28 *significantly above the serious level of harm which is normal for the*  
29 *purpose of section 18 .<sup>2</sup>*  
30

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<sup>1</sup> [2015] EWCA Crim 1482

<sup>2</sup> Paragraph 14



1 42. In considering the matter, the Court noted that while the blow to the back of the head  
2 was inflicted when the victim was prone and defenseless and necessitated three stitches,  
3 the victim was able, following the blow, to rise from the bed and pursue the Appellant  
4 out of the house. The Court concluded that given the great disparity in the sentence of  
5 six years between Categories 2 and 1, although it was a bad injury, standing alone, it was  
6 not a Category 1 offence.

7  
8 43. The Court also expressed the view that the concept of *sustained or repeated* imports  
9 some degree of persistent repetition. An assault may be sustained because it continued  
10 over a significant period of time or be repeated because it involved multiple blows over  
11 a short period of time.

12  
13 44. The Court concluded that the case was a borderline one which was either at the top end  
14 of Category 2 or at the borderline with Category 1 and 2. Among the aggravating factors  
15 in the case were the location of the offence and the manner of the Appellant's entry,  
16 namely breaking into the victim's home as well as the timing of the offence, given that  
17 it was committed in the middle of the night. Taking into account all the factors, the  
18 sentence of 12 years' imprisonment was reduced to 9 years.

19  
20 45. Defence Counsel for Mr. Ramoon also referred to the unreported Grand Court case of **R**  
21 **v Lyle Peart**<sup>3</sup> in which the victim had been stabbed with a knife. There had been damage  
22 to a lung and to the liver. The Prosecution accepted that the injury was not serious in the  
23 context of that offence. Counsel submitted that the difference in the sentencing



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<sup>3</sup> Indictment 32 of 2018 – Judgment dated 11<sup>th</sup> March 2019.

1 categories is so wide that category 1 should be reserved for the worst offender and the  
2 worst offending.

3  
4 46. In the instant case, the submission of the Defence that there is no evidence of permanent  
5 physical or proven psychological injury upon the victim is accepted. The victim's  
6 injuries have healed with the possible exception of the broken clavicle for which he is  
7 not yet able to have surgery. The agreed evidence of the doctor is that the injuries are  
8 not permanent in nature.

9  
10 47. Consideration has been given to whether the injuries can be considered serious in the  
11 context of the offence in the absence of permanent injuries.

12  
13 48. This Court is guided by the position taken by the English Appellate Court in the case of  
14 ***R v Vandross Zion Williams***<sup>4</sup>. Consequently, the Court does not consider that evidence  
15 of some permanent injury or effect is required in order for there to be a finding of greater  
16 harm. This is because the Guidelines provide that the factor of "*ongoing effect on the*  
17 *victim*" is one which is listed in Step Two under other aggravating factors, rather than in  
18 Step One, factors indicating greater or lesser harm. It is thus not listed as a defining  
19 factor for determining the category of harm. In the cited case the Appellate Court stated:



20 *"It would be counter-intuitive for a case where the victim is left at death's*  
21 *door but is saved by skilful medical intervention to be categorised as falling*  
22 *within anything other than greater harm. Although ongoing effects may have*  
23 *a part to play in assessing the gravity of an injury, they are not a precondition*  
24 *to a finding of greater harm."*

25  
26  
27 49. In the instant case in the Court's view, it is of significance that the injuries received by  
28 the victim required his admission to the Critical Care Unit and multiple surgeries. His

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<sup>4</sup> [2018] EWCA Crim 740

1 liver was punctured and his clavicle broken. The surgical intervention required in respect  
2 of his left clavicle included implanting screws into it. His lungs, abdomen and pelvis  
3 were injured. The impact of the totality of the injuries was such that he was hospitalised  
4 for two months and unable to walk unaided for some six months thereafter. The victim  
5 was clearly incapacitated as a result of the injuries sustained.

6  
7 50. Having considered all the circumstances and the submissions made, in the Court's view,  
8 the injuries sustained were serious in the context of this offence. This Court's view with  
9 respect to the instant case is that the harm factor places this matter into Category 1 harm.

#### 10 **FACTORS INDICATING LOWER CULPABILITY**

11 51. Defence Counsel submitted that, notwithstanding the acceptance that the use of a  
12 weapon places this matter into the category of higher culpability, a number of factors are  
13 present which are indicative of lower culpability. Counsel submitted that there was no  
14 premeditation in this case. The actions of the defendant were spur of the moment and  
15 relatively quick. It is submitted further that there was significant provocation given how  
16 the incident began. Counsel urged that the greater degree of provocation and lack of  
17 premeditation should result in a significant reduction in culpability and that any attempt  
18 to strictly categorize this offence given the particular facts and evidence during the trial  
19 would be difficult. It is argued that there is a risk of the Guidelines becoming tram lines  
20 where the circumstances in this case are so unusual.

21  
22 52. The Guidelines list five factors indicating lower culpability. Two of these are:

- 23 • A greater degree of provocation than normally expected.
- 24 • Lack of premeditation



1 53. As to the factor of provocation, while there was an exchange of words and a fight during  
2 which the defendant was punched, it is difficult to conclude that this can be characterized  
3 as a greater degree of provocation than *normally* expected. The conclusion is that there  
4 was some provocation but that it does not rise to the level set out in the Guidelines.

5  
6 54. It is accepted that there is no evidence that the offence was pre-meditated. There was  
7 evidence of an exchange of words and references during this exchange suggestive of  
8 existing disharmony among the parties but it is clear that whatever occurred was on the  
9 spur of the moment and unplanned. From the evidence, the infliction of injury using the  
10 motor vehicle appeared to be an impulsive response to an occurring event.

11  
12 55. There is thus one factor indicating higher culpability and one factor indicating lower  
13 culpability. In the Court's view the use of a weapon has to be given some weight and  
14 thus the conclusion is that this matter falls into the lower end of category 1 and is closer  
15 to a category 2 case.



17 **OTHER AGGRAVATING FACTORS**

18 56. Under aggravating factors, the Prosecution submits that there are three aggravating  
19 factors:

20  
21 a. The location of the offence:

22 i. It is submitted that the (latter) offence took place along a main road and that  
23 the CCTV footage showed pedestrian and vehicular traffic in the vicinity  
24 before, during and after the offence was committed.

25 b. The timing of the offence:



1 i. The offence took place at night.

2 c. The ongoing effect upon the victim as detailed in the Report:

3 i. It is submitted that the victim continues to have pain, a broken clavicle  
4 which requires surgery, significant financial implications and continued  
5 emotional trauma including depression and insomnia.  
6

7 57. The Defence in response say that the location and timing are not relevant in  
8 circumstances where the defendant Ramoon was on the premises to assist his family who  
9 own and operate the Sea Inn Bar. He had legitimate reasons for being there and was not  
10 just there to drink and to socialize.

11  
12 58. As to ongoing effects upon the victim, Defence Counsel submits that the VIR is in  
13 conflict with the evidence about the victim in relation to another case in which the victim  
14 pleaded guilty to assaulting someone in a night club on the 30<sup>th</sup> November 2019. The  
15 evidence in that trial shows that the victim continues to go to bars, to start fights and to  
16 be in cars at nights.

17  
18 59. The Defence submissions with respect to timing and location are accepted in so far as  
19 they relate to what occurred at the bar in the circumstances where the defendant was said  
20 to be there by way of informal employment. However the fact of the location of the latter  
21 incident being on a public thoroughfare in view of members of the public and in the path  
22 of vehicular and pedestrian traffic is a matter to be taken into account.

23  
24 60. With respect to the continuing effect on the victim, the Defence submission on the point  
25 of post-offence conduct is accepted. However even allowing for the inconsistency as to  
26 ongoing emotional effect in relation to cars and visiting bars and, therefore, discounting

1 the possible impact of such matters, there is still a clear physical and financial impact  
2 which continues. The conclusion is that there is an aggravating factor of continued effect  
3 upon the victim.

4  
5 61. From the recommended starting point of 12 years the sentence is increased in respect of  
6 the aggravating factors by six months.



7 **MITIGATING FACTORS**

8 62. The Court takes into account all that has been said by Counsel on the defendant's behalf  
9 in mitigation and in the SIR Of import is the fact that he is 49 years old and has no  
10 relevant previous convictions. Secondly notwithstanding his insistence as to how and  
11 why the incident occurred, he has expressed to the Probation Officer some remorse for  
12 the injuries which resulted therefrom. It is accepted, as submitted on his behalf, that any  
13 intention that he formed would very likely have been in the moment, that is, in the course  
14 of an incident with high emotion. There was some provocation resulting from the fight  
15 during which he himself was injured to his eye. He continues to feel some effects from  
16 this injury. He is the father of a young child. He is from a very large family to whom he  
17 is closely connected. He has technical skills for employment. In the words of his  
18 Counsel, he has lived a relatively good life and there have been no significant issues.

19  
20 63. Were these the only factors for this Court's consideration, the sentence would have been  
21 reduced, to one of 9 years and 6 months' imprisonment. However there is one additional  
22 mitigating factor which is considered to be of significance. This is the lapse of time since  
23 the offence which is not the fault of the defendant. This incident occurred in 2018.  
24 Following issues with various trial diaries of Counsel, the trial was scheduled to take  
25 place in March 2020 which fell within the period of the pandemic and the adjournment

1 of jury trials thereafter for some months. Whatever the reasons, the effect is that it is  
2 now more than two years since the commission of this offence. It is considered that a  
3 significant reduction is appropriate for this within the context of mitigating factors. The  
4 overall reduction reduces the sentence to one of 8 years' imprisonment.

5 **COMMON ASSAULT**

6 64. In the United Kingdom the maximum sentence of imprisonment for the offence of  
7 Common Assault is 6 months whilst in the Cayman Islands it is 12 months. The United  
8 Kingdom guidelines are therefore of assistance with respect to categorisation but the  
9 starting point and range of sentencing would require some adjustment.

10  
11 65. The Prosecution submits that the offence is one of lesser harm and higher culpability  
12 because of the use of a weapon, the machete. Defence Counsel submits that it can easily  
13 be categorised as excessive self defence, that the CCTV footage exhibited at trial shows  
14 that the defendant was being attacked and that it was the production of the machete that  
15 made the victim and his brother leave the area. Counsel submits therefore that, in all the  
16 circumstances, and given the principle of totality, any sentence imposed for Common  
17 Assault should run concurrently.

18  
19 66. This is a submission which is accepted. This offence falls into the category of lesser  
20 harm. No injury resulted. It is one of higher culpability given the use of a weapon. It is  
21 therefore one of lesser harm and higher culpability and would fall into Category 2 which  
22 has a starting point in the United Kingdom of a medium-level Community Order, with  
23 a sentence range from a fine to a high-level Community Order.



1 67. Given the higher maximum sentence in the Cayman Islands it is proposed to adopt a  
2 slightly higher starting point of three months' imprisonment. The sentence would be  
3 reduced by one month in respect of the mitigating factors to a sentence of two months'  
4 imprisonment. As the offences arise out of a related incident or facts, it is appropriate  
5 that the sentences run concurrently.

6  
7 68. In the view of the Court, these offences are serious. The jury found that this was a  
8 deliberate rather than accidental assault upon the victim by running over him with the  
9 motor vehicle. The vehicle ran over the victim, he was trapped under the vehicle, and  
10 sustained serious injuries. The victim and his brother had left the premises and were  
11 across the road walking away when the incident occurred.

12  
13 69. In the Court's view, given the nature of the offending and all the circumstances, the  
14 custody threshold is firmly passed in this case.

15  
16 70. The Court has given consideration to the personal circumstances of this defendant. He  
17 is assessed at high risk of re-offending. There is nothing in his circumstances which  
18 suggests that a custodial sentence is avoidable.



19  
20 **DEFENDANT MARVIN WATSON**

21 71. There is agreement between the Prosecution and the Defence that the offence committed  
22 by the defendant Watson falls into Category 2A of the relevant United Kingdom  
23 Sentencing Guidelines, lesser harm and higher culpability; higher culpability due to the  
24 production of a weapon - in this case the shovel - lesser harm because none of the three  
25 factors for greater harm are present in this case.

1 72. The maximum penalty in the United Kingdom is one of 6 months imprisonment whilst  
2 in the Cayman Islands it is one of 4 years' imprisonment, if the offence is committed at  
3 night. Thus the United Kingdom guidelines are referenced in respect of categorisation  
4 of culpability and Harm but would require some adjustment in terms of starting points  
5 and sentences.

6  
7 73. The starting point for category 2A in the United Kingdom Guidelines is a medium-level  
8 Community Order with a sentence range of a fine to 12 weeks' custody.



9 **AGGRAVATING FACTORS**

10 74. The Defence disagree with the Prosecution and submit that the location of the offence  
11 and the timing of the offence are not aggravating factors, neither is the presence of  
12 others.

13  
14 75. Defence Counsel also submitted that the statute has already decreed that if the offence  
15 is committed at night, there is an increase in the maximum sentence and thus the factor  
16 of timing ought not to be regarded as a separate aggravating factor.

17  
18 76. Counsel submitted that while the offence occurred in a public place, it was not akin to a  
19 busy market square and that the CCTV shows that at the time of the offence only the  
20 victim's brother was present.

21  
22 77. It is proposed to adopt a starting point of 12 months' imprisonment to reflect the higher  
23 maximum in the Cayman Islands. From that starting point, the submission that timing  
24 ought not to be treated as an aggravating feature because it is already reflected in the  
25 increased sentence for this offence is accepted.

26

1 78. The location of the offence is considered an aggravating factor for the reasons set out  
2 above. The single aggravating factor would serve to increase the sentence by one month  
3 to one of 13 months' imprisonment.



4 **MITIGATING FACTORS**

5 79. As to mitigating factors it is submitted by Defence Counsel that the defendant Watson  
6 did not initiate the aggression, he was a clearly a peacemaker. The facts show that the  
7 defendant Watson was not a party to the fight between the victim and others. His first  
8 reaction on exiting the bar had been to try to ensure that the fight had ended and that the  
9 brothers had left the scene. His criminality amounts to swinging the shovel once. The  
10 shovel did not make contact with the victim and there is no evidence that it caused injury.  
11 The submission is that he was acting under a misplaced desire to protect his family.

12  
13 80. Consideration has been given to all the matters raised in mitigation on the defendant's  
14 behalf and to the SIR. He has one spent conviction which is not of a similar nature to  
15 this offence. This offence is out of character for him. He is a man of middle years who  
16 is a family-oriented hardworking business owner and appears to be an upstanding  
17 member of society. His overall risk of re-offending is low.

18  
19 81. All of the mitigating factors are taken into account and serve to reduce the sentence to  
20 one of six months' imprisonment.

21  
22 82. This was a serious and deliberate assault. The defendant retrieved a shovel from his  
23 motor vehicle and followed the victim and his brother after they had left the premises.  
24 In the Court's view, given the nature of the offending and all the circumstances, the  
25 custody threshold is passed in this case.

1 83. Consideration has been given to the personal circumstances of the defendant and to  
2 whether an immediate custodial sentence is unavoidable. It is the view of the Court that  
3 his personal mitigation is of such a level that it suggests that an immediate custodial  
4 sentence can be avoided despite the custody threshold having been passed. In particular,  
5 the Probation Officer describes this offence as out of character for him. He has in the  
6 past demonstrated compliance with Community Orders. He is of low risk of re-  
7 offending and will require little supervision if he is in the community. A suspended  
8 sentence would impose punishment, having regard to the deterrent effect, and would  
9 guard against any re-occurrence but, would allow him to continue in his employment.  
10 The sentence of six months' imprisonment is therefore suspended for a period of two  
11 years.

12  
13 84. The sentences are therefore as follows:

14 a. Ernie Ramoon:

15 i. For the offence of Causing Grievous Bodily Harm: 8 years' imprisonment;

16 ii. For the offence of Common Assault: 2 months' imprisonment concurrent.

17 b. Marvin Watson:

18 i. For Causing Fear or Provocation of Violence: 6 months' imprisonment  
19 suspended for 2 years.

20 Any time previously served on remand is to be deducted in each case.

21 **Dated this the 19<sup>th</sup> April 2021**

22 

23 **Honourable Justice Cheryll Richards Q.C.**  
24 **Judge of the Grand Court**