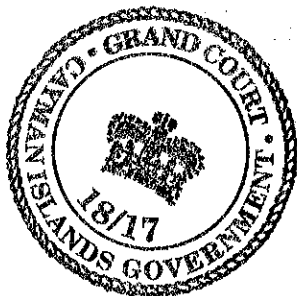


1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE

3
4 INDICTMENT NO: 80/2016 and 81/2016



12 REGINA

13 -v-

14 ADMIRAL CLEVELAND ANDERSON

15
16 Appearances:

Ms. Toyin Salako for the Crown

17
18 Ms. Prathna Bodden of Samson Law, Attorneys for
19 Defendant

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21
22 Before:

Hon. Justice Marlene Carter (Actg.)

23
24 Sentence Delivered:

25 2 April 2019

26 HEADNOTE

27 Forgery; attempt to obtain property by deception; breach of trust;

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29 SENTENCE JUDGMENT

30 (Revised transcript of oral ruling delivered on 2nd April 2019 and approved for release on
31 the 14th November 2019)

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34 Introduction

- 35 1. The Defendant is before the court for sentencing for seven offences for which he was found
36 guilty by a jury on the 24th of October 2018.

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2 2. These offences were three offences of forgery, one of which relating to forgery of a power of
3 attorney and other two in relation to the titles to land, for which the maximum sentence is life
4 imprisonment. There were also three offences of forgery of official documents for which the
5 maximum sentence is ten years' imprisonment. Finally there is the charge of attempting to obtain
6 property by deception, for which the maximum sentence is ten years' imprisonment.

7 3. I agree with prosecution and defence counsel that neither the UK sentencing guidelines nor the
8 Cayman Islands Sentencing Guidelines are appropriate for the instant case where the facts of the
9 case take it outside of those Guidelines, in that they are so fact specific and therefore I will not be
10 applying those Guidelines to this case.

11 **Aggravating Factors**

12 4. There are a number of aggravating factors present in this case. These include:

13 (i) the fact that there was significant planning involved in the commission of these
14 offences;

(ii) That there was an abuse of trust on the part of this defendant: the trust that was placed
in him by his parents.

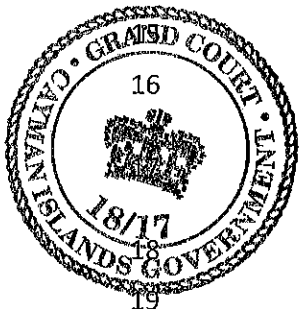
(iii) That these offences were ultimately with a view for financial gain; and

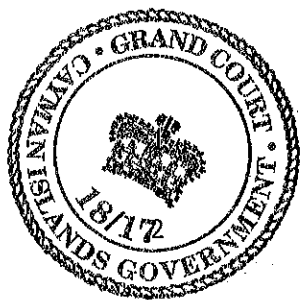
(iv) The defendant has not admitted these offences. There is no remorse shown or
reflected in the social enquiry report.

(v) The targeting of vulnerable persons; not in the sense of setting out to look for
vulnerable persons - but the facts of the case were that at the time that these offences
were committed, the Defendant's parents, the complainants were quite ill and quite
advanced in age. From that point of view these could be considered and were
vulnerable victims.

25 **The Mitigating Factors**

26 (i) The Defendant is of previous good character.





The Social Inquiry Report ("SIR")

3 5. The social enquiry report was prepared for the attention of the court and that report spoke very
4 positively about the Defendant. It is right that this is the first time that he has appeared before the
5 court. He was previously then a man of good character. The SIR describes someone who is hard
6 working, and over the course of his working life, was a Manager in the food industry. It records
7 that he first became employed when he was approximately 13 years old. He moved on to work as
8 an Assistant Manager and then into General Management positions. The SIR details that he spent
9 approximately twenty five (25) years managing restaurants including Burger King, Wendy's,
10 Shawnee's and Hardee's.

11 6. When he left the food service industry, he was able to find positions as General Manager for
12 various retail stores in the United States including Barnes and Noble and Blockbuster and Family
13 Dollar. The Defendant is a person then who is not afraid of hard work and it is unfortunate that he
14 progressed to the actions in attempting to obtain this property from his parents, the fact that he
15 felt he had to go to these lengths in order to obtain further financial gain.

The Victim Impact Report ("VIR")

17 7. Apart from the social enquiry report and I note that there was no victim impact report prepared
18 for this hearing. I did have Mr. Anderson Sr. the complainant, before me. I was able to note his
19 demeanor and he related from the witness box the effect that these offences had on him and I do
20 take that into account as well.

Court's analysis and conclusions

22 8. Both counsel for the prosecution and defence agree that the custody threshold has been passed in
23 this case. I have considered as well the authorities which Mrs. Bodden referred this court; *R v*
24 *Lincoln*¹ and *R v Kidd*². I have also considered the authority of *R v Bouchard*³ which was a case
25 that was submitted by the prosecution.

¹ (1994) 15 Cr. App. R. (S.) 333

² [2007] EWCA Crim 1998

³ CICA 9 of 2016

- 1 9. In both *Lincoln* and *Kidd* the Crown was sentencing after guilty pleas had been entered but of
2 course in this case this is a sentence after trial. Further, as the court has noted before, even on
3 those guilty pleas for what could be called "*similar offences*", the custody threshold was passed.
4 So therefore with regard to *Lincoln* and *Kidd*, their utility on this sentence is limited.
- 5 10. I have considered *Bouchard* and I've looked at the principles as set out by the Court of Appeal
6 there, especially with regard to consecutive or concurrent sentences. I also bear in mind that
7 *Bouchard* was a matter in which the monies which were stolen and also the monies which were
8 laundered were significant, exceedingly significant. In this case we have only an attempt - it's not
9 a completed offence - and the court must consider that as well.
- 10 11. Counsel for the Defendant states that it is difficult to sentence this matter and I believe she is
11 right. The fact of the charge and conviction has led to a rift between parents and child and even
12 between siblings. The Defendant's mother died during the proceedings. Counsel for the
13 Defendant stated that the relationship between the Defendant and his father has not deteriorated
14 and is in the Defendant's view irreparable. However, the court must move to find an appropriate
15 sentence even in those circumstances.
- 16 12. The Court's primary role is one of deterrence and punishment on this sentence. Having
17 considered all of those factors, I find that the appropriate sentence in this case is one of three and-
18 a-half years' imprisonment: three and-a-half years for each of the forgeries. For the offence of
19 attempting to obtain property by deception, I impose a sentence of two and-a-half years'
20 imprisonment which will run concurrent to the sentence for the forgeries.
- 21 13. The defendant will therefore serve a sentence of **three and-a-half years' imprisonment.**

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27 **Justice Marlene Carter**
28 **Acting Judge of the Grand Court**

