

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS  
2 CRIMINAL SIDE  
3

4 INDICTMENT NO: 0108/2016  
5

6 THE QUEEN  
7

8 v.  
9

10 ANTASCIO TERRELL RANKINE  
11  
12  
13

14 **Appearances:**

Ms. Candia James for the Crown

15  
16 MRS. Laura Larner of McGrath Tonner for  
17 the Defendant

18 **Before:**

Justice Marlene Carter (Actg.)

19 **Sentence Hearing:**

14<sup>th</sup> December 2017

20  
21 **Delivery of Decision:**

11<sup>th</sup> January 2018  
22  
23

24 **HEADNOTE**

25 *Criminal Law – Possession of an Imitation Firearm – Sentence – Starting point –*  
26 *Aggravating and Mitigating Factors – Time on an electronically monitored*  
27 *curfew.*  
28



1  
2

**SENTENCE JUDGMENT**

3 1. The Defendant has entered a plea of Guilty to the offence of possession of an  
4 imitation firearm contrary to s.18(6) of the Firearms Law (“the Law”) – the second  
5 count on the indictment. The Crown offered no evidence on Count 1 of possession of  
6 an unlicensed firearm based on expert reports regarding the lethality of the weapon.

7

***SUMMARY OF FACTS***

8 2. The agreed summary of the facts states that on the 4<sup>th</sup> June 2016, at approximately 3  
9 a.m., RCIPS officers responded to a report that a man had been seen with a firearm.  
10 The police arrived in the vicinity of DHL (courier service) along Mary Street where  
11 they saw the accused. The Defendant resisted while he was being apprehended. During  
12 the process of resisting, an object resembling a firearm fell from his waistband and was  
13 recovered by the police. The accused ran off but was subsequently held and taken into  
14 custody. At one point the accused was approaching one of the officers in an aggressive  
15 manner and had to be tasered in order to prevent his continued approach. The object  
16 that was seized was examined and found to be an adapted flare gun, painted black, with  
17 the barrel replaced and containing a spent casing.



*AGGRAVATING AND MITIGATING FACTORS*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

3. Under s.18(6) of the Law, a person convicted of an offence under this section is liable on conviction to a fine of one hundred thousand dollars and to imprisonment for twenty (20) years.

4. It is accepted by the Crown and the defence that the starting point in this case should be 5 to 6 years' custody.

5. The aggravating factors present are:

- i. Offence committed against those working in the public sector, here police officers acting in the course of their duties;
- ii. Commission of offence whilst under influence of alcohol;
- iii. Offence committed at night in a public place;
- iv. Previous convictions: Six previous convictions, 2 for violent offences. I accept that these were committed when the Defendant was still quite young and that the violent offences were part of the same incident.

6. The mitigating factors are:

- i. Imitation firearm was not produced. It was seen when it fell from defendant's waistband;
- ii. The offence was not premeditated:
  - (a) The Defendant could not have predicted arrival of police.
  - (b) The intent to resist arrest can only have been formed at time of offence.



1 (c) No evidence of any intent to commit any other offence prior to this;

2 iii. No harm was caused to any person or property;

3 iv. No previous convictions for offences involving firearms/imitation firearms;

4 v. Personal mitigation:

5 (a) The defendant was previously a witness in a past murder trial. He received  
6 threats, leading to fear for safety and carrying of imitation firearm.

7 (b) The defendant may also be at risk in prison.

8 7. I find that that the mitigating factors and the aggravating factors negate each other, as it  
9 were, in that I will not increase or decrease the sentence from its starting point on  
10 either basis.

11

12

13

14

15

16

17

18



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

*AUTHORITIES*

8. I therefore take as my starting point that of five ½ years custody.
9. I have considered the authorities cited by counsel for the court’s consideration especially *R v Fabian Thompson*<sup>1</sup>, *R v Jonathan Welcome*<sup>2</sup> and *R v Justin Ramoon*<sup>3</sup>. In all of these the defendants were convicted after trial and the sentences ranged from 3 years – 6 years’ imprisonment. Defence counsel has drawn the court’s attention to *R v Fabian Thompson* as the only one of the three where the defendant did not brandish the weapon and where the starting point was set at 5 ½ years’ custody after trial.
10. I will give the Defendant the full discount for his guilty plea which was entered at the first opportunity. I will therefore reduce the 5 ½ years by 1/3 to reflect this to 3 years and 8 months’ imprisonment.



---

<sup>1</sup> Judgment of Swift J Actg: Ind. 92/16 dated 30<sup>th</sup> May 2017  
<sup>2</sup> Judgment of Dobbs J Actg: Ind. 57/16 dated 15<sup>th</sup> December 2016  
<sup>3</sup> Judgment of Hon. Chief Justice Anthony Smellie – delivered on the 22<sup>nd</sup> October 2010

*TIME ON AN ELECTRONICALLY MONITORED CURFEW*

11. Defence Counsel asks that further credit be given to the Defendant in respect of the curfew to which he was subject as part of his bail conditions. The Cayman Islands Sentencing guidelines allow for a reduction in sentence for time spent on remand subject to conditions curtailing liberty. It is accepted that an electronically monitored bracelet is to be considered in this regard. The guidelines at 12.2 set out the factors to be taken into account in deciding what, if any, credit should be given for time spent on curfew. These are:

- i. The total length of time the defendant has been subject to a curfew
- ii. The number of hours each day that curfew was imposed during the curfew Period
- iii. Whether the curfew included daytime hours or was solely a night time curfew (recognizing that being indoors at night during, for example, normal sleeping hours may be less of a curtailment of liberty than being indoors during the day).
- iv. Any breach of the conditions of the curfew.

12. The Defendant was ordered to wear an electronically monitored bracelet as a condition of his bail during the period 26<sup>th</sup> August 2017 to 5<sup>th</sup> November 2017. It is accepted by the defence and the Crown that this was a period of some 436 days.

13. The defendant was subject to a nighttime curfew between the hours of 8 p.m. to 6 a.m. The curfew did not include daytime hours.



1 14. The defendant did breach the curfew. On or about the 5<sup>th</sup> November 2017, the  
2 defendant removed the electronic monitor. The crown submits that this was a  
3 significant breach of the curfew as the monitor was forcibly removed thereby  
4 damaging the electronic tag. There has been no consideration of curfew hours since  
5 the time of that breach as there is an allegation of the commission of a separate offence  
6 during the period of the breach.

7 15. Apart from the factors considered above: In deciding how to exercise its discretion in  
8 the absence of statutory provision in the Cayman Islands, the Court will bear in mind  
9 the statutory provisions applicable in England & Wales – as set out in the *Criminal*  
10 *Justice Act* (“CJA”) 2003 as amended by the *Legal Aid Sentencing and Punishment*  
11 *of Offenders Act* (“LASPOA”) 2012 in relation to electronically-monitored curfews  
12 s.109) in relation to electronically monitored curfew.

13 16. Section 240A of the CJA states that in a case such as the instant case where the court  
14 sentences an offender to imprisonment for a term of years, where the offender was  
15 remanded on bail in the course of or in connection with proceedings for the offence  
16 and, where the offender’s bail was subject to a qualifying curfew condition and an  
17 electronic monitoring condition, the court must direct that the credit period is to count  
18 as time served by the offender as part of the sentence.

19 17. For the sake of completeness I set out the following portion of s.240A of the CJA 2003  
20 as amended:





1                   “(1) This section applies where—

2  
3                   (a) a court sentences an offender to imprisonment for a term in  
4                   respect of an offence committed on or after 4th April 2005,

5  
6                   (b) the offender was remanded on bail by a court in course of or  
7                   in connection with proceedings for the offence, or any related  
8                   offence, after the coming into force of section 21 of the  
9                   Criminal Justice and Immigration Act 2008, and

10  
11                   (c) the offender's bail was subject to a qualifying curfew condition  
12                   and an electronic monitoring condition (“the relevant  
13                   conditions”).

14  
15                   (2) Subject to subsection (4), the court must direct that the credit period is to  
16                   count as time served by the offender as part of the sentence.

17  
18                   (3) The “credit period” is the number of days represented by half of the sum  
19                   of—

20  
21                   (a) the day on which the offender's bail was first subject to  
22                   conditions that, had they applied throughout the day in  
23                   question, would have been relevant conditions, and

24  
25                   (b) the number of other days on which the offender's bail was  
26                   subject to those conditions (excluding the last day on which it  
27                   was so subject),

28  
29                   rounded up to the nearest whole number.

30  
31                   (4) Subsection (2) does not apply if and to the extent that—

32                   (a) rules made by the Secretary of State so provide, or

33                   (b) it is in the opinion of the court just in all the circumstances not  
34                   to give a direction under that subsection.”

35  
36  
37  
38                   18. It appears that in exercising its discretion, the Court must in particular take into  
39                   account whether or not the offender has, at any time whilst on bail subject to the  
40                   relevant considerations broken either or both of them. In the instant case the defendant  
41                   has breached his curfew and therefore his bail conditions.

1       19.     Counsel for the Defendant has submitted that the Court should exercise its discretion to  
2             allow half the number of days spent on curfew to count towards the Defendant's  
3             sentence. She noted the significant period for which the curfew was in place and that 8  
4             p.m. was early to be restricted to his house every night for this period.

5       20.     The issue of whether the curfew is during daytime hours or during the night is a  
6             significant one which goes to whether a court should exercise its discretion to give a  
7             credit period.

8       21.     There is no evidence presented that the Defendant was constrained in his enjoyment of  
9             his daily life except for the inconvenience of wearing the electronic tag. In any event  
10            the defendant's inconvenience is not the paramount concern of a court which exercises  
11            its discretion to grant bail where the commission of a serious offence is alleged.  
12            Defendants will do well to recall that they could await the outcome of their matters in  
13            much more restrained circumstances than the warmth of their own homes, from  
14            however early in the evening that may be.

15      22.     With regard to the issue of the Defendant having removed the electronic tag and the  
16             resultant breach of his bail condition and curfew: Counsel for the Defendant states that  
17             this was a one-off incident and that this criterion is directed at defendants who  
18             repeatedly flout the conditions of their curfew and therefore do not deserve to have the  
19             time spent on that curfew deducted from their sentence.

20      23.     I do not agree with counsel for the Defence that a defendant could unlawfully remove  
21             the electronic tag in the manner described and allegedly go to commit further offences  
22             and yet still seek to have the full credit.



1 24. Although, I do not find that there has been any substantial curtailment of the  
2 Defendant's liberty during the time that he wore the electronic tag, I do consider that  
3 the length of time that the Defendant wore the tag is significant and it is for this reason  
4 only that I am prepared to consider granting some credit for that curtailment of liberty  
5 such as it was. If the period spent with the tag had not been so significant in the  
6 circumstances of this case I may well have exercised my discretion not to grant a credit  
7 at all.

8 25. As counsel has stated there are not many cases in this jurisdiction in which this issue  
9 has been ventilated. In *Tibbetts*<sup>4</sup> however Dobbs J after considering the Cayman  
10 Guidelines and Section 240A of the CJA awarded the defendant who had been on bail  
11 for 596 days a credit of some 4 ½ months. I note that in that case there was no breach  
12 of the bail conditions. A court must exercise its own discretion in the particular  
13 circumstances of each case. In this case, where the defendant was subject to the  
14 electronic tag for 436 days, I will give a credit for 100 days spent on curfew. There  
15 will be a further reduction in the sentence of 3 months

16 26. The defendant is therefore sentenced to serve a term of imprisonment of 3 years and 5  
17 months. Time spent on remand will count toward the sentence.

18 **Dated this the 11<sup>th</sup> January 2018**



19  
20  
21 **Mme. Justice Marlene Carter**  
22 **Acting Judge of the Grand Court**



---

<sup>4</sup> *Supra*