



MARY COURT OF THE CAYMAN ISLANDS

CAUSE NO. SC

OF 2022

SHALLYN LINDSAY MACDONALD

Plaintiff

AND:

DERRIN KENNEDY EBANKS

Defendant

PLAINT

To the Defendant:

**DERRIN KENNEDY EBANKS**

c/o Her Majesty's Cayman Islands Prison Service  
Northward Prison  
24 Sheffield Drive  
PO Box 1807  
Grand Cayman, KY1-1109  
Cayman Islands

**THIS PLAINT** has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

**Within 14 days** after service of this **Plaint** on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman KY1-1106, Cayman Islands, the accompanying Acknowledgment of Service form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out full particulars of your defence in the space provided in the Acknowledgement of Service form.

**If you fail** to satisfy the claim or fail to return the Acknowledgement of Service form containing full particulars of your defence, the Plaintiff may apply for a **default Judgment** without any further notice to you.

Issued this 26<sup>th</sup> day of April 2022.

See overleaf for particulars of the Plaintiff's claim

**PARTICULARS OF CLAIM**

1. On the 6<sup>th</sup> of September 2020, the Defendant physically assaulted the Plaintiff causing her serious physical, mental, and emotional injuries. The Defendant also damaged the clothing worn by the Plaintiff that night, in addition to stealing the Plaintiff's mobile phone during the assault and causing damage to it when he discarded it (by throwing it out a car window), so that the phone no longer functioned.
2. After a five-day trial in August 2021, the Defendant was found guilty in the Grand Court of the Cayman Islands, Criminal Division (Indictment No. 78/2020), of, *inter alia*, the following charges with respect to the Plaintiff:
  - a. assault occasioning actual bodily harm; and
  - b. theft.

A copy of the sentence judgment of the Honourable Justice Richards dated 2 December 2021 with respect to the assault is attached hereto, along with a copy of the Commitment Warrant.


3. As a result of the numerous injuries suffered by the Plaintiff, she had to take a significant amount of time off work to recover, causing her to lose both sick days and once sick days were exhausted, vacation time, as well as placing strain on the Plaintiff's relationship with her employer.
4. The Plaintiff additionally incurred significant medical expenses and was under ongoing care by multiple physicians for many months.
5. The Plaintiff is normally quite physically active, playing many different sports and being involved in many different community initiatives. For a period of over 18 months, she was unable to participate in any such activities due to the serious nature of the injuries she sustained from the assault and her quality of life has been, and continues to be, significantly impacted.

AND the Plaintiff claims as follows:

	<u>Amount (KYD)</u>
1. Pain and suffering	\$9,547.96
2. Out-of-pocket medical expenses incurred as a result of the assault	\$2,037.84
3. Vitamin supplements recommended by the Plaintiff's physician during her recovery from the injuries sustained in the assault	\$350.00
4. Damage to clothing the Plaintiff was wearing the night of the assault	\$100.00
5. Cost of replacement mobile phone	\$870.00

	<u>Amount (KYD)</u>
6. Vacation time lost by the Plaintiff in 2020	\$4,256.52
7. Vacation time lost by the Plaintiff in 2021	\$2,837.68
	\$20,000.00
<b>SUBTOTAL</b>	

- 8. Interest calculated at the prescribed rate of 2.375% from 6 September 2020 to date (598 days) \$789.36
- 9. Interest to continue at the prescribed rate (as revised from time to time) until any judgment granted by this Honourable Court is paid in full.
- 10. Costs to be assessed



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Plaintiff's Signature

Plaintiff's address for service:

c/o Maples and Calder (Cayman) LLP  
 Uglan House, South Church Street  
 PO Box 309  
 Grand Cayman, KY1-1104  
 Cayman Islands

Tel: +1 345 525 0460  
 Email: smkitr4@gmail.com

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

CAUSE NO. SC

OF 2022

BETWEEN:

SHALLYN LINDSAY MACDONALD

Plaintiff

AND:

DERRIN KENNEDY EBANKS

Defendant

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**ACKNOWLEDGEMENT OF SERVICE**

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1. State Defendant's name and address:

Derrin Kennedy Ebanks

2. State whether the Defendant intends to contest the action.

Yes                       No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

Yes                       No

4. If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

Service of the Plaint is acknowledged accordingly.

\_\_\_\_\_  
Defendant's Signature

DATED this                      day of                      , 2022.

See Overleaf

**PARTICULARS OF DEFENCE**

(Here set out in numbered paragraphs the grounds upon which the Defendant says that he is not liable to)

\_\_\_\_\_  
Defendant's Signature

**REMINDER** - This form must be taken or sent to the Court Office, PO Box 495, Grand Cayman KY1-1106 Cayman Islands within 14 days of receipt otherwise a default Judgment may be entered against you.



Judicial Administration

FORM C.P.6

THE CRIMINAL PROCEDURE CODE

(Section 77 & 78)

COMMITMENT WARRANT



IN THE GRAND COURT AT GRAND CAYMAN, CAYMAN ISLANDS

CRIMINAL CASE NO. IND0078/2020

TO EACH AND EVERY CONSTABLE AND PRISON OFFICER OF THE CAYMAN ISLANDS:

Derrin Kennedy Ebanks

DEFENDANT SENTENCED AS FOLLOWS:

- Count 2 - Assault Causing ABH - 12 months' imprisonment CONCURRENT
- Count 3 - Wounding - 12 months' imprisonment CONCURRENT
- Count 5 - Damaging property - 1 month imprisonment CONCURRENT
- Count 7 - Assault occasioning ABH - 29 months' imprisonment CONSECUTIVE
- Count 8 - Theft - 1 month CONCURRENT
- Count 10 - Assault causing ABH - 5 months' imprisonment CONCURRENT
- Count 12 - Wrongful confinement - 14.4 months' imprisonment CONSECUTIVE
- Count 13 - Damaging Property - 1 month imprisonment CONCURRENT
- Case #02196/2020 - 1 month imprisonment CONCURRENT
- **Total sentence** - 43.4 months' imprisonment
- TO BE DEDUCTED:
  - TIC
  - 167 days (curfew)

YOU THE SAID CONSTABLES ARE HEREBY COMMANDED TO CONVEY THE SAID:

Derrin Kennedy Ebanks

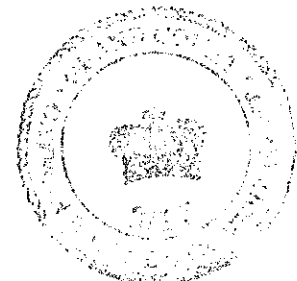
TO THE PRISON AT H.M. NORTHWARD AND HAND HIM/HER OVER TO THE OFFICER HAVING CHARGE OF THE SAID PERSON AND YOU THE SAID PRISON OFFICER ARE COMMANDED TO RECEIVE THE SAID:

Derrin Kennedy Ebanks

IN CUSTODY AND KEEP THERE FOR THE SAID TERM.

DATED 2<sup>nd</sup> December 2021

GRAND COURT JUDGE



1 THE GRAND COURT OF THE CAYMAN ISLANDS  
2 CRIMINAL SIDE

3 INDICTMENT NO. 78 of 2020

4

5 THE QUEEN

6 V.

7 DERRIN KENNEDY EBANKS

8

9

10 **Appearances:** Mr. Scott Wainwright for the Prosecution

11 Mrs. Lee Halliday-Davis of Brady Attorneys  
12 for the Defence

13 **Before:** Justice Cheryll Richards Q.C.

14

15 **Sentence Hearing:** 4<sup>th</sup> November 2021

16 **Further Written Submissions:** 9<sup>th</sup> and 11<sup>th</sup> November 2021

17 **Sentence Judgment:** 2<sup>nd</sup> December 2021

18

19

20

21 HEADNOTE

22 *Criminal Law – Assault Causing Actual Bodily Harm, Wounding,*  
23 *Damaging Property, Wrongful Confinement, Theft – Sentencing following trial –*  
24 *Principles on Sentencing.*

25

26 SENTENCE JUDGMENT

27

28

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*Sentence Judgment. R v. Ebanks (Derrin Kennedy). Ind. 78/2020. Coram Justice Cheryll Richards Q.C.*  
*Date: 2<sup>nd</sup> December 2021.*

- 1        1.        The Defendant is before the Court for sentencing in respect of nine offences involving  
2        four victims. Eight of the offences are on an Indictment before the Grand Court. One  
3        offence is a Summary Court charge. All the offences were committed on the afternoon  
4        and evening of Sunday the 6<sup>th</sup> day of September 2020 in the district of West Bay.  
5
- 6        2.        The Defendant was convicted by a jury after trial of eight offences on a 13-count  
7        Indictment in the Grand Court. These are offences committed against three women,  
8        Lucia Mannarino, Shallyn McDonald and Kimberly Woomer. The jury returned verdicts  
9        of not guilty in respect of four offences. No verdict was returned on count 4 of the  
10       Indictment it being an alternative to count 3.
- 11
- 12       3.        The Defendant pleaded guilty in the Summary Court to the offence of Assault  
13       Occasioning Actual Bodily Harm against Eric Carmona Jimenez. As the offences are all  
14       part of a series, Counsel on both sides have invited this Court to also pass sentence in  
15       respect of the offence to which the Defendant pleaded guilty in the Summary Court.
- 16
- 17       4.        In respect of the jurisdiction of the Grand Court to also pass sentence in respect of the  
18       Summary Court offence, Counsel have referred the Court to the judgment of Dame  
19       Dobbs J. (Ag) in the case of *R v Perez- Ruiz and others*<sup>1</sup>. Dame Dobbs, J reviewed s.11  
20       of the *Grand Court Act* (2015 Revision) and s.19 of the *Courts Act*<sup>2</sup> 1981 of the United  
21       Kingdom. The learned Judge concluded that the Grand Court has the power to exercise  
22       the powers of a Magistrate of the Summary Court. The rationale is that it would be in  
23       the interests of justice in respect of cases which relate to the same subject matter and

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<sup>1</sup> Grand Court Unreported 29<sup>th</sup> March 2019

<sup>2</sup> Originally named the *Supreme Court Act* 1981

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*Sentence Judgment. R v. Ebanks (Derrin Kennedy). Ind. 78/2020. Coram Justice Cheryll Richards Q.C.*  
Date: 2<sup>nd</sup> December 2021.

1 would reduce delay, save public funds and also ensure that there is consistency of  
2 sentence. The Court stated:

3 *“The relevant provisions in the UK can be found in s.19 of the Courts Act*  
4 *1981 which sets out the general jurisdiction exercisable by the High Court,*  
5 *and s.66 the Courts Act 2003 which gives a judge of the high court the*  
6 *powers of a justice of the peace who is a district judge (magistrates’*  
7 *court/Cayman Summary Court) in relation to criminal causes and matters.*

8  
9 *Section 11 of the Grand Court Law (2015) Revision states that the Grand*  
10 *court shall be a superior court of record and in addition to any jurisdiction*  
11 *exercised by the court or conferred by that and any other law in force in the*  
12 *Cayman Islands it has the like jurisdiction which is vested in or capable of*  
13 *being exercised in England by the High Court as constituted by the Senior*  
14 *Courts Act 1981 and any other Act of Parliament of the United Kingdom*  
15 *amending or replacing that Act.”*  
16

17 5. In the instant case, both Counsel are in agreement with this interpretation and have urged  
18 a conjoined approach to sentencing.

19

20 **THE OFFENCES**

21

22 6. The Defendant falls to be sentenced in relation to the following offences. In relation to  
23 victim Lucia Mannarino (LM):

24

25 **Count 2 – ASSAULT CAUSING ACTUAL BODILY HARM** contrary to s.216 of the  
26 *Penal Code* (2019 Revision). The particulars are that he, on the day in question, at  
27 Town Hall Road, West Bay, Grand Cayman assaulted her thereby causing her actual  
28 bodily harm.

29

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*Sentence Judgment. R v. Ebanks (Derrin Kennedy). Ind. 78/2020. Coram Justice Cheryll Richards Q.C.*  
*Date: 2<sup>nd</sup> December 2021.*

1                   **Count 3 - WOUNDING** contrary to s.204 of the *Penal Code* (2019 Revision). The  
2 particulars are that he, on the said day, and at the said place, unlawfully and  
3 maliciously wounded Lucia Mannarino.

4

5                   **Count 5 – DAMAGE TO PROPERTY** contrary to s.267(1)(a) of the *Penal Code* (2019  
6 Revision). The particulars are that he, on the said day and at the said place,  
7 damaged an Apple iPhone, the property of Lucia Mannarino, intending to  
8 damage such property or being reckless as to whether such property would be  
9 damaged.

10

11         7.         In relation to Shallyn McDonald (SM):

12

13                   **Count 7 - ASSAULT CAUSING ACTUAL BODILY HARM** contrary to s. 216 of the  
14 *Penal Code* (2019 Revision). The particulars are that he, on the day in question at  
15 Town Hall Road, West Bay Grand Cayman assaulted her thereby causing her actual  
16 bodily harm.

17

18                   **Count 8 - THEFT**, contrary to s.241(a) of the *Penal Code* (2019 Revision). The  
19 particulars are that he, on the said date and at the said place stole a Samsung  
20 Galaxy 58 mobile phone, the property of Shallyn McDonald.

21

22         8.         In relation to Kimberly Woomer (KW):

23

24                   **Count 10 - ASSAULT CAUSING ACTUAL BODILY HARM**, contrary to s.216 of the  
25 *Penal Code* (2019 Revision). The particulars are that he, on the said day at

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1 Genevieve Bodden Drive, West Bay, Grand Cayman, Cayman Islands, assaulted  
 2 Kimberly Woomer by grabbing her breast and thereby causing her actual bodily  
 3 harm.

4  
 5 **Count 12 - WRONGFUL CONFINEMENT**, contrary to s.222 of the *Penal Code* (2019  
 6 Revision). The particulars are that he, on the said date and at the said place,  
 7 Genevieve Bodden Drive, West Bay, Grand Cayman, Cayman Islands,  
 8 wrongfully confined Kimberly Woomer.

9  
 10 **Count 13 - DAMAGING PROPERTY**, contrary to s.267(1)(a) of the *Penal Code* (2019  
 11 Revision). The particulars are that he on the said date and at the said place,  
 12 Genevieve Bodden Drive damaged a pair of spectacles, the property of Kimberly  
 13 Woomer, intending to damage such property or being reckless as to whether such  
 14 property would be damaged.

15  
 16 9. In relation to Eric Carmona Jimenez:

17  
 18 **C #02196/2020 - ASSAULT CAUSING ACTUAL BODILY HARM**, contrary to  
 19 s.216 of the *Penal Code* (2019 Revision). The particulars are that he on the said  
 20 date at Coral Beach Restaurant, Grand Cayman unlawfully assaulted Eric  
 21 Carmona Jimenez thereby causing him actual bodily harm.

22  
 23  
 24  
 25  
 26

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*Sentence Judgment. R v. Ebanks (Derrin Kennedy). Ind. 78/2020. Coram Justice Cheryll Richards Q.C.  
 Date: 2<sup>nd</sup> December 2021.*

## 1 THE FACTS

2

3 10. The brief facts are these. The victim Lucia Mannarino had been in a relationship with  
4 the Defendant in the past. They have a two-year-old son together. At the material time,  
5 they resided at separate locations in the district of West Bay.

6

7 11. On Sunday 6<sup>th</sup> September 2020, Ms. Mannarino and her friend Shallyn McDonald had  
8 been out at brunch at Coral Beach Club. When they were leaving the Club, in the late  
9 afternoon the Defendant was seen in the parking lot. The women greeted him. From  
10 his conversation and manner he appeared to them to have been drinking. Both ladies  
11 went to the home of Ms. Mannarino. This is a two-story apartment. While Ms.  
12 Mannarino was in a bedroom upstairs putting the two-year-old child to bed, she sent  
13 a message to the Defendant inviting him to visit his son. Sometime later, about after  
14 9pm while she was downstairs in the living room area with Ms. McDonald, the  
15 Defendant arrived at the apartment. He had a container of food in his hand. He took  
16 utensils from the kitchen area which adjoins the living room, sat down and began to  
17 eat. After he sat down Ms. Mannarino asked how his day was and he responded saying  
18 that he had '*F'ed some girl in the parking lot and beat the S out of some guy, it was a*  
19 *good day*'.

20

21 12. Ms. Mannarino became upset because of his response and asked him to leave. Ms.  
22 McDonald also asked him to leave and told him he was drunk. The Defendant became  
23 angry and threw the plate of food at Ms. Mannarino. He picked her up and slammed  
24 her against the glass coffee table. The coffee table shattered and Ms. Mannarino  
25 received a wound to the back of her right arm. When she was down on the ground,

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1 the Defendant stomped on her head with his foot. He was wearing dress shoes. He  
2 took up her phone and smashed it on the tiled floor causing damage to it.

3  
4 13. Shallyn McDonald tried to intervene to stop him from hitting Ms. Mannarino. The  
5 Defendant kicked and punched her multiple times to her head causing fractures to her  
6 nose. The punches also aggravated a previous injury which she had to her head. When  
7 Ms. McDonald attempted to call 911 from her phone, the Defendant took it from her  
8 and placed it in his pocket. Later he left the apartment with it. Despite returning to the  
9 apartment a second time, he discarded the phone in the bushes in an area of West Bay.  
10 Following his arrest he took the police to that area. They retrieved the phone which  
11 was not then in working condition.

12  
13 14. With respect to the victim Kimberley Woomer, the Prosecution's case at trial was that  
14 following the Defendant's departure from the home of Ms. Mannarino he went to  
15 another part of West Bay to the home of Kimberley Woomer. He had been in a  
16 relationship with Ms. Woomer for a period of time. He pushed his way into her  
17 apartment when she opened the door, kicked her dog who ran to greet him and threw  
18 Ms. Woomer against the wall of the apartment. When she tried to get him off her he  
19 pushed her to the ground. He grabbed her spectacles and threw them across the room  
20 so that they shattered. She is not able to see without them. He threw her on the ground,  
21 punched her on the head and started strangling her. When she tried to get away, he  
22 pulled her by the ear and threw her on the bed where she was forced to remain. He  
23 grabbed her by her breast and her nipple causing bruising to that area. Through  
24 physical confinement and fear, she remained where he placed her until the early hours

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1 of the morning. She was unable to see and was unable to call for help as he also took  
2 her phone.

3  
4 15. With respect to the victim, Eric Carmona, the offence to which the Defendant pleaded  
5 guilty, the Prosecution's case is that Mr. Carmona, the Defendant and other friends  
6 had been socializing as a group at Coral Beach Restaurant at about 6pm on the day in  
7 question. There was an exchange of conversation. The Defendant grabbed the victim  
8 by his neck, was strangling him and punched him to the left side of his face. Persons  
9 intervened and stopped the assault. In the course of this trial, the Defendant said that  
10 Mr. Carmona had said something about his sister. Mr. Carmona sustained bruising to  
11 his neck and face.

12

13 **VICTIM IMPACT REPORTS**

14

15 16. The DCR has provided a Victim Impact Report ("VIR") dated 21<sup>st</sup> October 2021 in  
16 respect of Lucia Mannarino. Under Assessment/Evaluation it states:

17

18 *"Based on all of the information garnered, it would appear that Ms. Mannarino has*  
19 *been grievously impacted physically, financially, emotionally and psychologically*  
20 *as a result of Mr. Ebanks' actions. Ms. Mannarino continues to experience*  
21 *significant harm despite the offences occurring over one year ago, including but not*  
22 *limited to, her Post-Traumatic Stress Disorder (PTSD), constant feelings of stress,*  
23 *and nightmares. Ms. Mannarino was also put at a significant financial loss as a*  
24 *result of her injuries, loss of work hours and damage to her cell phone. It is of*  
25 *further concern that Ms. Mannarino is intensely fearful for her safety and that of her*  
26 *young son, and hence expressed her desire for Mr. Ebanks to be incarcerated. Ms.*  
27 *Mannarino spoke to her re-victimization during the trial as she felt that Mr. Ebanks*  
28 *and his family members intimidated her. In order to overcome the overwhelming*

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Date: 2<sup>nd</sup> December 2021.*

1                   *effects of the offences, Ms. Mannarino and her son may require long-term*  
2                   *intervention and support.”*

3

4           17. Attached to the report is a 14-page statement from Ms. Mannarino. It details the  
5           impact of the offence upon her and resulting emotional and psychological trauma. She  
6           has also suffered economic loss to include the cost for replacing her phone, medical  
7           treatment and loss of work hours. The total is \$7,200.00. She states in part:

8                   *“I am scared of Derrin. I am terrified that he will come back to hurt me again.*  
9                   *I do not believe that this will be the last time that Derrin hurts me as this is a*  
10                  *purposeful pattern of behavior and he now has been convicted of a crime. I am*  
11                  *scared that while Derrin is out on bail and waiting for sentencing he (sic) hurt*  
12                  *me. If I see Derrin in public, I immediately leave. I bought a new car and*  
13                  *moved homes so that Derrin doesn't know what I drive or where I live. I am*  
14                  *terrified that Derrin will physically hurt “M.”. I am scared of Derrin's family*  
15                  *as his dad often showed up unannounced and he had his brother (and other*  
16                  *family members) intimidate me both in and outside the Court room during trial.*

17

18                  *During this assault I received numerous injuries. I had bruises, cuts and*  
19                  *swelling all over my head. The entire left side of my face, jaw and head was*  
20                  *extremely swollen and bruised. I had a black eye and a foot print bruise on the*  
21                  *temple area of my face. The bruising and swelling lasted for 3 weeks. I had*  
22                  *deep cuts in my ears. The frenulum in my upper lip had completely ripped. My*  
23                  *jaw was in extreme pain and felt like it was broken. I was unable to speak,*  
24                  *smile, close my mouth or chew food properly for weeks. I had painful areas*  
25                  *and bruises all over my body. As a result of the head and facial injuries from*  
26                  *the assault, I developed headaches behind my eyes, had blurred vision and*  
27                  *issues with convergence. An optometrist prescribed eyeglasses in an attempt to*  
28                  *assist with these issues. I had injuries to my fingers on my right hand that were*  
29                  *so painful I was unable to use my dominant hand properly or over two months*  
30                  *and had issues at work resulting from being slammed into the coffee table and*

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1                   *now have permanent scars. I have lasting injuries to my neck, back and rotator*  
2                   *cuff. I was treated at the hospital and have had numerous various doctor*  
3                   *appointments afterwards.*

4  
5                   *My performance at work has been affected due to memory loss, issues with*  
6                   *concentration, immobility of my fingers, and the amount of time I had to take*  
7                   *off to recover, to seek medical attention and to attend legal proceedings.*

8  
9                   *The emotional and psychological trauma far outweighs the physical trauma of this*  
10                  *assault. It has had a devastating impact on my mental and emotional health. I suffer*  
11                  *from post-traumatic stress disorder (PTSD), sleeping problems, nightmares,*  
12                  *depression, anxiety, shame and anger. I am always on edge and stressed out. I have*  
13                  *trouble concentrating and zone out quite often. I wake up to any little sound I hear*  
14                  *or any car doors closing. I sleep fully dressed as I am afraid that something will*  
15                  *happen to me in the night and I don't want to be found undressed. ...".*

16  
17                  18. Ms. McDonald has provided a victim impact statement dated 6<sup>th</sup> October 2021,  
18                  consisting of 5 pages. She states in part:

19  
20                  *"At the time of the assault, I was still recovering from a concussion sustained*  
21                  *on 7 August 2020 which I sustained while wakeboarding along Seven Miles*  
22                  *Beach. I was almost fully recovered by the time of the assault on 6 September*  
23                  *2020 and was not experiencing any physical symptoms aside from the*  
24                  *occasional headache. I was almost completely back to my normal activity level.*  
25                  *During the assault on 6 September 2020 I suffered repeated head trauma from*  
26                  *the Defendant repeatedly punching me all over my head. For much of the attack*  
27                  *I was pinned on the ground by the Defendant and he would repeatedly punch*  
28                  *me in the head, causing the opposite side of my head to repeatedly hit the hard,*  
29                  *tile floor. I specifically recall my head bouncing off that tile floor with each*  
30                  *blow and thinking to myself that the Defendant was going to kill me. This*  
31                  *repeated head trauma resulted in a far more significant MTBI than my first*

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1                   *concussion and left me with significant physical deficits and symptoms for*  
2                   *many, many months. I still have not fully recovered and I am told by my*  
3                   *physician that I may continue to suffer these symptoms for the rest of my life. I*  
4                   *initially suffered with pain, headaches, blurry vision and difficulty with*  
5                   *memory, difficulty seeing, dizziness, neck pain, nausea, feeling woozy or in a*  
6                   *fog, difficulty concentrating, difficulty with memory, difficulty reading and with*  
7                   *general comprehension, fatigue, lethargy, and anxiousness. As this MTBI*  
8                   *occurred only one month after the first concussion, I was at significant risk of*  
9                   *suffering permanent brain damage should I sustain another head injury during*  
10                  *my lifetime. I am extremely lucky the Defendant did not turn me into a vegetable*  
11                  *that evening. Part of my recovery from the MTBI involved not being able to do*  
12                  *much of anything – I was advised I couldn't watch TV, I couldn't read a book,*  
13                  *I couldn't have too much screen time (either on a work computer, my own*  
14                  *computer, or my phone, any screen), anything that would tax my cognitive*  
15                  *functioning at all was off-limits, etc. The advice from my doctors at that time*  
16                  *was to simply rest and/or sleep as much as possible – this would give me the*  
17                  *best possible chance of recovery from the MTBI. I was also advised by my*  
18                  *doctors that I was not allowed to take part in any activity that would raise my*  
19                  *heart rate even a little, as anything that raised my intracranial pressure even*  
20                  *slightly could potentially kill me. Exercise is primarily how I manage my own*  
21                  *personal stress generally and not being able to exercise at all after this*  
22                  *traumatic event caused me great distress and depression. I was under the*  
23                  *weekly or biweekly care of a head injury specialist ... for the MTBI for several*  
24                  *months following the attack, in addition to my GP”.*

25  
26                  19. In addition to significant lost wages of close to \$7,000.00 there was also the cost of a  
27                  replacement phone and medical costs.

28  
29  
30

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1        20. Ms. Woomer in her victim impact statement dated 21<sup>st</sup> October 2021 consisting of 4  
 2        pages, describes the traumatic impact of the attack on herself and her dog. She states:

3  
 4                    *“In the days following the abuse, I began to detach completely from my reality.*  
 5                    *To this day, I have not returned to my normal self. Coping with what happened*  
 6                    *has become unbearable. For the past year, I hear myself screaming, “somebody*  
 7                    *help me” when I am driving down the road or trying to sleep at night. My voice*  
 8                    *was hoarse and almost nonexistent for a week from the strangulation. My*  
 9                    *breast remained bruised for weeks and my nose was swollen, but nothing hurt*  
 10                   *more than the emotional and spiritual pain and my lack of ability to come to*  
 11                   *terms with what had just happened. I took my dog to the vet and myself to the*  
 12                   *doctor, and we were told we would be okay. This must have meant physically*  
 13                   *because both of our mental states have suffered. My dog eventually returned to*  
 14                   *a less anxious dog, but I never recovered. I have this constant feeling that I*  
 15                   *cannot breathe and that I am gasping for air as if I am drowning. My doctor*  
 16                   *prescribed me Clonazepam for panic attacks and PTSD episodes, but this did*  
 17                   *not help with the painful tightness in my chest that has consumed me for over a*  
 18                   *year. I have mourned myself multiple times with no hope of returning to who I*  
 19                   *once was. Derrin has taken a piece of me that I fear will never come back. My*  
 20                   *soul has died. I am consumed with fear and have hidden in my home for over a*  
 21                   *year. My ability to hold conversations at my job with people about their health*  
 22                   *has fallen flat, and I was so scared of men my boss and coworkers would have*  
 23                   *to help them when they came into the store. My lack of safety pushed me to*  
 24                   *leave the Island in fear that he would not be sentenced long enough to let the*  
 25                   *women and men he has hurt live their lives freely. Unfortunately, the trauma,*  
 26                   *hypervigilance and fear stuck with me even when I moved back to ... Trauma*  
 27                   *does not disappear just because your location changed. Escaping the pain from*  
 28                   *trauma is nonexistent. It is always with you. In April 2021, I moved my dog off*  
 29                   *Island in order to keep her safe. After a month, I spent the money to come back*  
 30                   *to Cayman to testify in court. After quarantining for two weeks, I was told that*

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1                    *they were postponing the trial. At this point, I sold my car and left permanently*  
2                    *with no plan on coming back until Derrin is sentenced”.*

3

4            21. Mr. Eric Carmona Jimenez in his victim impact statement describes the impact upon  
5            him of the assault. He says that he had been good friends with the Defendant from  
6            2014 to 2020. He and the Defendant used to attend the same gym. He states:

7

8                    *“I started to suffer from headaches, anxiety, trouble sleeping and nightmares after*  
9                    *this assault and going to the police. When I found out Derrin was no longer on 24*  
10                   *hour house arrest only after a few weeks after the assault, I was extremely*  
11                   *disappointed with the judicial system and also scared for my safety. I decided it was*  
12                   *safest for me to take a break from the Island. I resigned from my job and moved*  
13                   *back to ..., until I feel safe enough to return. This has affected my mental health and*  
14                   *I was living in a state of fear. I have been going to therapy to help me with my*  
15                   *anxiety. This has also affected me financially because I resigned from my job as*  
16                   *..... and move countries.”*

17

#### 18    ANTECEDENT HISTORY

19

20            22. The Defendant has no previous criminal record. He has a record of seven traffic  
21            offences including one for Driving under the Influence.

22

#### 23    SOCIAL INQUIRY REPORT

24

25            23. The Department of Community Rehabilitation (DCR) has provided a Social Inquiry  
26            Report (SIR) dated 21<sup>st</sup> October 2021 in respect of the Defendant. This provides  
27            information as to his background and circumstances.

28

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- 1        24. He is 32 years old and is self-employed in the tourism industry. He has two young  
2            children, both sons. The eldest is 6 years old and is resident with his mother in Canada.  
3            The second is 2 years of age, the son of the victim Mannarino mentioned above.
- 4  
5        25. The Defendant was raised in a stable home. It is said that one of his parents was a  
6            stern disciplinarian which led to his being exposed to an authoritarian style along with  
7            opposing parental views. As a result of this the Defendant sometimes lived outside  
8            the home. The conclusion of the Probation Officer is that there was early exposure to  
9            aggression and violence which may have had serious implications for his adult life.  
10          He graduated high school and started but did not complete various tertiary education  
11          courses. He was gainfully employed at various jobs before starting his own tour boat  
12          business in 2017.
- 13  
14       26. The Officer assessed him as not being at a point where he is contemplating change  
15          and not a suitable candidate for the men's nonviolence programme.
- 16  
17       27. He was also assessed using the LS/CMI/Risk Need Assessment tool. His overall risk  
18          of re-offending was assessed as high. Of the 8 criminogenic factors used in the  
19          assessment, he scored in the very high category for pro-criminal attitude and  
20          orientation and in the high category, for anti-social patterns.
- 21  
22       28. With respect to the first, the Officer says that he displayed no remorse, denied or  
23          minimized the offences and justified his behaviour towards the victims. The Officer  
24          concludes that he appears to have underlying issues that may be contributing to his  
25          lack of victim empathy.

1       29. The Officer also states:

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*“During the interviews, it was observed that Mr. Ebanks displayed detachment and a nonchalant attitude towards the offences for which he was charged. He minimized, denied and blamed when addressing every count for which he was found guilty. He initially denied being part of any violence outside of the offence until his second interview when the Summary of Facts was read and community collateral information was obtained.*

*Based on the screening done for the Men’s Non-Violence Programme (MNVP), he denied using intimidation, isolation, coercion and threats as well as physical and emotional abuse. It had to be pointed out to him to consider the offences for which he was found guilty. Consequently, no remorse was observed. From this assessment, it was also gathered that he does not consider alcohol an issue in his offending behavior. In reference to the incident related to Miss Mannarino and her friend, he purported that it (alcohol) only “delayed” him from escaping his attackers sooner”.*

30. With respect to the second element, anti-social patterns, the Officer says that there are possibly unaddressed behavioural concerns from childhood which have presented in adulthood but that specialized assessments for anti-social patterns would need to be conducted. These are needed in order to ensure that the Defendant understands what is taking place.

31. Under the criminogenic factor, family/marital, for which the assessment was medium risk of re-offending, the Officer states that there is a background history of fights at school and issues in the home and in relationships which suggest that the offences for which he is before the Court show some escalation.

1       32. His specific risk-need factors include self-management skills and anger management  
2       deficits.

3  
4       33. Under sentencing options, the Officer says that extensive intervention is needed to  
5       address the concerns raised in the Report. Such an intervention is currently not  
6       provided by the Department. Based on his lack of insight and failure to accept  
7       responsibility, the Officer states that he is not a candidate for the psycho-educational  
8       intervention programs which are the ones provided by the DCR.

9

10    SENTENCING GUIDELINES

11

12       34. The *Cayman Islands Sentencing Guidelines* provide general principles for  
13       sentencing and specific guidelines for these offences.

14

15    ~~ASSAULT ABH - LUCIA-MANNARINO (LM)~~

16

17       35. The maximum sentence for Assault ABH is 5 years' imprisonment. The Prosecution  
18       submits that under the *Cayman Islands Sentencing Guidelines* this offence falls  
19       somewhere between category 1 and category 2.

20

21       36. The Prosecution submits that it would be difficult to argue that the level of injury, i.e.,  
22       the bruising to Ms. Mannarino's face, where the imprint of the Defendant's shoe can  
23       be clearly seen, is serious in the context of the offence and is thus one of higher Harm.  
24       However the Prosecution submits further that there are a number of additional  
25       aggravating factors which may move the offence into the higher category. These  
26       include:

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- 1                   i. The presence of the young child who may have witnessed at least a part  
2                   of the incident and from the photographs taken of him thereafter was  
3                   clearly distressed by it;
- 4                   ii. Abuse of a position of trust in that the Defendant is the father of the  
5                   child;
- 6                   iii. The timing of the offence. It took place late at night;
- 7                   iv. The location of the offence. It occurred in the victim's own home.

8

9           37. As to Culpability the Prosecution submits that this offence is one of higher Culpability  
10           on the basis of the use of a weapon equivalent, that being, a shod foot.

11

12           38. The Defence submit in response that this is a category 2 offence and that there are no  
13           features which would cause the offence to fall into a higher category. It is argued that  
14           the offence occurred in a domestic setting where the defendant was invited into the  
15           home by the message earlier sent. He did not use force to enter the home. The Defence  
16           also point out that the evidence of Ms. McDonald was that the child slept through the  
17           incident and was awakened thereafter.

18

19           39. As to culpability the Defence submit that it is accepted that the victims stated that they  
20           were kicked by the Defendant. It is argued however that the injuries are bruises which  
21           are not consistent with sustained kicking.

22

23           40. In the Court's view, this is an offence of lower Harm. The bruising injury to Ms.  
24           Mannarino cannot be said to be serious in the context of this offence.

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1 41. As to Culpability, this is at the level of higher Culpability because of the use of a  
2 weapon equivalent.

3  
4 42. It is thus a category two (2) offence. The starting point is 12 months' custody with a  
5 range of sentencing of 6 to 18 months' custody.

6  
7 43. As to the aggravating factors submitted by the Prosecution:

8  
9 a. The presence of the young child: The evidence of the two witnesses as to  
10 whether the child witnessed any part of the incident was different. One witness  
11 said that from the position in which she was, in the course of the incident, she  
12 looked up and saw the child standing at the top of the stairs. The child was also  
13 visibly distressed after the incident. It is the view of this Court that the presence  
14 of the young child constitutes an aggravating factor in this case.

15  
16 b. The location of the offence: This was the home of the victim Mannarino. This  
17 is the very place where she should feel safe and protected. The Defendant had  
18 been invited to the home to visit his child. However, having been asked to leave,  
19 because of his behaviour, the Defendant did not do so, and instead he launched  
20 an attack upon her in her own home. This Court finds that the location of the  
21 offence is an additional aggravating factor.

22  
23 c. The timing of the offence: This was sometime after 9 pm. It was after hours.  
24 This is also an aggravating factor although, in the Court's view, it is of less  
25 weight than the other factors.

1 d. Abuse of position of trust: The Defence submitted that abuse of trust is usually  
2 engaged when a person is employed in a profession or is given responsibility  
3 that allows special access to the victim and that there are no elements of this  
4 type in this offence. The submissions of the Defence are in part accepted on this  
5 aspect by this Court as “Abuse of Trust” is directly connected to the presence  
6 of the child, which is already accounted for as an aggravating factor, and the  
7 Court must be careful to avoid double counting.

8  
9 44. From the starting point of 12 months on the Assault ABH of Ms. Mannarino the  
10 sentence is increased to 15 months’ imprisonment because of the three aggravating  
11 factor (a, b and c immediately above).

12

13 **WOUNDING – LUCIA MANNARINO (LM)**

14

15 45. The maximum sentence for the offence of Wounding is 7 years’ imprisonment. The  
16 Prosecution submits that this offence falls somewhere between category 2 and 3.

17

18 46. It is conceded that it is one of lesser Harm because of the nature of the injury and one  
19 of lower Culpability because there are no higher culpability factors which are present.  
20 However it is submitted that the four aggravating factors referenced above apply  
21 equally to this offence and move it in the direction of category 2.

22

23 47. The Defence submit that it is properly a category 3 offence and that there are no  
24 aggravating factors which would serve to move this offence into a higher category.

25 Counsel submitted that the injury is a small puncture wound which did not require

1 hospitalization and there is no mention of any treatment being given concerning this  
2 injury.

3  
4 48. It is the view of this Court that for the reasons conceded by the Prosecution, this is an  
5 offence of lesser Harm and lower Culpability. It is a category 3 offence with a starting  
6 point of 12 months' custody and a sentencing range of Community Service Order to  
7 3 years' custody.

8  
9 49. From a starting point of 12 months' custody the Court takes into account the 3  
10 aggravating factors identified above, which serve to increase the sentence to one of  
11 15 months' imprisonment.

12

13 **ASSAULT ABH – SHALLYN McDONALD (SM)**

14

15 50. The Prosecution submits that the offence of Assault ABH against Shallyn McDonald  
16 is a category 1 offence.

17

18 51. It is argued that this offence resulted in greater Harm as the victim suffered a traumatic  
19 brain injury and multiple nasal fractures.

20

21 52. As to Culpability, the Prosecution point to the use of a shod foot and that on the  
22 evidence of Ms. McDonald it was prolonged or repeated in that as described by her,  
23 there were multiple kicks and punches.

24

25 53. The Court has considered the medical evidence in this case. It was in the form of  
26 agreed admissions. Ms. McDonald was examined at the George Town Hospital at

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1 23:35 hours on the 6<sup>th</sup> September 2020. She was observed to be alert, cooperative and  
2 not in painful distress. She had minimally displaced nasal fractures along with soft  
3 tissue swelling. Following her release on the 7<sup>th</sup> September 2020, she was again  
4 examined on the 29<sup>th</sup> September 2020 following a referral from her general  
5 practitioner. She was found to have a mild traumatic brain injury. Admissions 14 and  
6 15 state:

7

8 “14. Her symptoms consisted of daily headaches, blurry vision, insomnia, neck  
9 pain, dizziness, fatigue, concentration and attention loss. These symptoms  
10 are all common after an individual sustains a mild traumatic brain injury.  
11

11

12 15. Ms. McDonald was further examined at the Cayman Clinic on the 10<sup>th</sup> June  
13 2021. She continued to suffer from blurry vision, lethargy, sleep issues,  
14 anxiety and PTSD.”  
15

15

16 54. Having reviewed the medical evidence, this Court accepts the submissions of the  
17 Prosecution that the Harm, i.e., a brain injury which appears to have been of extended  
18 effect, is serious in the context of this offence.  
19

19

20 55. It is also accepted that the use of a shod foot is a weapon-equivalent and would place  
21 the offence in the category of higher Culpability.

22

23 56. This is a category one offence under the guidelines with a starting point of 3 years’  
24 custody with a sentencing range of 2 to 4 years’ custody.

25

26 57. The Prosecution made no arguments as to aggravating factors in respect of this  
27 offence.

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1    **ASSAULT ABH - KIMBERLY WOOMER (KW)**

2

3       58. In respect of the bruising of the breast of Ms. Woomer, the Prosecution do not suggest  
4       that this is serious in the context of the offence such as to amount to greater Harm. It  
5       is submitted that the injury was to an intimate part of Ms. Woomer's body which  
6       should also be considered when considering the level of harm.

7

8       59. The Culpability is said to be higher because of the repeated or prolonged nature of the  
9       assault. The evidence is that it took place over a number of hours and that the victim  
10      was subject to more than one episode of violence. In this Court's view care must be  
11      taken to distinguish between other acts of violence some of which were not accepted  
12      by the jury and the act of grabbing on to the breast of the victim. It is whether this act  
13      was of a prolonged or repeated nature which must be considered.

14

15      60. In the Court's view this offence is one of lesser Harm and lower Culpability. It is a  
16      category 3 offence with a starting point of a Community Service Order (CSO) and a  
17      sentencing range between a fine and 12 months' custody.

18

19      61. The submission of the Prosecution that there are three aggravating factors is accepted.

20      These are:

21

22           i. This was in the victim's own home;

23

          ii. It was late at night into the early hours of morning; and

24

          iii. The victim's phone was taken from her so that she was unable to report  
25       the incident.

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1       62. From the starting point, the sentence would be increased to 6 months' custody as a  
2       result of the aggravating factors.

3

4       **WRONGFUL CONFINEMENT - KIMBERLY WOOMER (KW)**

5

6       63. The maximum penalty in the Cayman Islands for the offence of Wrongful  
7       Confinement is 5 years' imprisonment.

8

9       64. There is no offence of wrongful confinement in England and Wales. In the absence of  
10       local and English guidelines the Prosecution have referred the Court to the English  
11       offence of kidnapping. In England and Wales the penalty for kidnapping is life  
12       imprisonment.

13

14       65. The Prosecution cite the case of *R v Spence and Thomas*<sup>3</sup>. That case involved the  
15       kidnapping of young girls for the purpose of transporting them to another place for  
16       prostitution arrangements. The English Court made the distinction between the more  
17       serious offences of hostage taking and ransoms which will be met with significant  
18       sentences and those at the other end of the scale such as offences in a domestic setting.

19

20       66. The Court stated:

21

22               *"... At the other end of the scale are those offences which can perhaps scarcely be*  
23               *classed as kidnapping at all. They very often arise as a sequel to family tiffs or*  
24               *lovers' disputes, and they seldom require anything more than 18 months'*  
25               *imprisonment, and sometimes a great deal less..."*  
26

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<sup>3</sup> [1983] 45 CR. App. R. (S) 143.

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1       67. This Court proposes to use a sentence of 18 months as a starting point. There are no  
2       aggravating factors which are taken into account which would serve to increase this  
3       sentence from the starting point.

4

5       **ASSAULT ABH – ERIC CARMONA JIMENEZ (ECJ)**

6

7       68. The Prosecution accepts that this is an offence of lesser Harm and lower Culpability.  
8       The starting point is a CSO with a sentencing range of sentence of a fine to 12 months'  
9       custody. This offence took place at the Coral Beach Restaurant where others were  
10      present.

11

12      **THE SUBMISSIONS OF THE DEFENCE**

13

14      69. On behalf of the Defendant, it is submitted that he has no previous convictions in a  
15      Criminal Court as distinct from the Traffic Court and should be treated as a man of  
16      good character. He owns and operates his own charter company. He comes from a  
17      close family, has good relations with his siblings and has long term friends from  
18      primary school.

19

20      70. His life is said to have changed dramatically since the incident. He has had stringent  
21      bail conditions including a curfew and monitoring and has not been permitted to enter  
22      the district of West Bay except for work purposes.

23

24      71. He is said to be remorseful and sorry for all that has happened. Counsel says that he  
25      recognizes that he has a lot of work to do. He has sought counselling of his own

1 volition and over the past 4 months, he has been attempting to work through his issues  
2 and concerns in a therapeutic setting.

3  
4 72. Counsel highlights that in relation to Ms. Mannarino, the jury in acquitting the  
5 Defendant of the more serious charge clearly found that he did not intend to cause her  
6 serious injury.

7  
8 73. Counsel said that it is accepted that the custody threshold has been passed but asks  
9 the Court to consider four matters in particular:

- 10  
11 i. The Defendant had no previous criminal convictions before these  
12 proceedings.
- 13 ii. The course of behaviour was over a relatively short period.
- 14 iii. It is clear from all accounts that the Defendant's reasoning must have  
15 been affected by alcohol. He will require further insight into how  
16 alcohol affects his behaviour which will require professional assistance.
- 17 iv. There have been no breaches of his very stringent bail conditions.

18 **DECISION**

19  
20 74. In mitigation this Court takes into account all that has been said about the Defendant in the  
21 various reports and by his Counsel. He is 32 years old, a man of previous good character.  
22 He has no previous convictions of any kind in the criminal courts. He has two young  
23 children for whom he is said to provide financial support. He has been gainfully employed  
24 for his adult life. He has had childhood issues which may have affected him in adulthood.  
25 There has been some delay between the incident and the trial. He is said by his Counsel to

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1 be remorseful for what happened and has started counselling of his own volition. Alcohol  
 2 was involved and may have affected his behaviour. The Court proposes in each case to  
 3 apply a mitigation factor of 20%. The following are the sentences:  
 4

OFFENCE	VICTIM	STARTING POINT - MONTHS	+ AGGRAVATING FACTORS	SUB-TOTAL MONTHS	MINUS MITIGATING FACTORS	TOTAL MONTHS
Assault ABH	LM	12	3	15	3	12
Wounding	LM	12	3	15	3	12
Damage to Phone	LM					1
Assault ABH	SM	36	-	36	7.2	29
Theft of phone	SM					1
Assault ABH	KW	Community Service Order	6	6	1.2	5
Wrongful Confinement	KW	18	-	18	3.6	14.4
Damage of Spectacles	KW					1
Assault ABH	ECJ	Community Service Order	-			1

5

6 **SENTENCE**

7 75. This Court has considered whether any part of these sentences may be suspended. The  
 8 *Cayman Islands Sentencing Guidelines* provide general guidance as to the aims of  
 9 sentencing, assessing the seriousness of an offence, the custody threshold and the principle  
 10 of proportionality. The Court reminds itself of this guidance in approaching this case  
 11 including that, in sentencing an offender, the Court has to balance a number of competing  
 12 interests and objectives and to tailor the punishment to the individual circumstances of  
 13 each offender, while ensuring that it is in line with the seriousness of the offence. The

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1 Court should consider which of the aims which govern the sentencing process will be best  
2 served by the sentence to be passed. The aims which are set out in the *Alternative*  
3 *Sentencing Act* 2008 include deterrence, punishment, rehabilitation and restitution.

4

5 76. The *Guidelines* also provide that a custodial sentence should not be passed unless the  
6 offence is so serious that no other sentence can be justified for the offence. Custody should  
7 be reserved for the most serious offences. Even where the custody threshold is passed,  
8 custody can still be avoided in light of personal mitigation or if there is suitable community  
9 intervention which would meet the aims of punishment and rehabilitation.

10

11 77. This Court considers these offences to be serious ones. Eight of these offences were  
12 committed against three women who can be described as vulnerable compared to the  
13 Defendant. The evidence at trial was that he bench presses some 300 pounds, is muscular  
14 and athletic. Given his size and physical strength, the impact of his assaults on the victims  
15 as detailed in their own words can only be described as being akin to acts of physical horror  
16 visited upon them.

17

18 78. In the first incident, there were two women and one managed to escape thus forcing an end  
19 to the incident. In the second, the victim was alone and was unable to escape on her own.  
20 She was subjected throughout the period of her confinement to repeated acts of violence  
21 and rendered helpless by physical restraint, fear, the loss of her spectacles and the inability  
22 to use her phone. The details of the resulting trauma to each victim including Mr. Carmona  
23 are set out in the victim impact reports and statements referenced above.

24

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1       79. The Defendant is said to be at high risk of re-offending. DCR programs are said to be  
 2       unsuitable for him because of his approach to the offences. There is nothing in his personal  
 3       circumstances which indicates that there is suitable community intervention available and  
 4       that a custodial sentence is unavoidable. The custody threshold has clearly been passed  
 5       and in the view of this Court a custodial sentence is unavoidable.

6

7       **TOTALITY OF SENTENCE**

8

9       80. Paragraph 6 of the *Cayman Islands Sentencing Guidelines* with respect to concurrent and  
 10       consecutive sentences provides as follows:

11

12

13       **“6.1 Concurrent Sentences**

14

15       *It is wrong in principle to impose sentences to run consecutively where those*  
 16       *offences, though distinct in law, arose out of a single act so that the overall*  
 17       *criminality for the offender can be represented by concurrent sentences.*

18

19       *Concurrent sentences will ordinarily be appropriate where:*

20

21       *Offences arise out of a related incident or facts.*

22

23       *There is a series of offences of the same or similar kind especially*  
 24       *when committed against the same victim.*

25

26       *Where concurrent sentence are passed, the sentence should reflect*  
 27       *the overall criminality involved. The sentence should be*  
 28       *appropriately aggravated by the presence of the associated offences*  
 29       *and thus the court may increase sentence for the principal offence*  
 30       *to reflect the gravity of conduct.*

31

32       **6.2 Consecutive Sentences**

33

34       *Consecutive sentences will ordinarily be appropriate where:*

35

36       *Offences arise out of unrelated facts or incidents.*

37

38       *Offences are of the same of similar kind but where the overall*  
 39       *criminality will not sufficiently be reflected by concurrent sentences*  
 40       *for example:*

41

42       *Where offences are committed against different victims.*

43

44       *Where sexual offences or domestic violence are committed*  
 45       *against the same individual.*

46

47       *Where the offender commits the same or similar offence*  
 48       *after being arrested for the original offence.”*

49

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1       81. In this case the offences have been committed against different victims, at different  
2       locations and on multiple occasions. While mindful of the principle of totality, this Court  
3       considers that it is appropriate that some aspect of the sentence be consecutive. The  
4       sentences are to run as follows:

- 5           • The sentences for offences as against Ms. Mannarino and Ms. McDonald are to run  
6           concurrently but consecutive to the sentence of 14.4 months for wrongful  
7           confinement of Ms. Woomer for a total of 43.4 months.

8

9       82. Time served is to be deducted.

10

11       **TIME SPENT ON CURFEW WITH MONITOR**

12

13       83. The Defendant was on bail from the Summary Court from the 11<sup>th</sup> September 2020 to  
14       November 2020 which was a period of a 24-hour curfew.

15

16       84. Between November 2020 and 18<sup>th</sup> December 2020 he was on a curfew from 6pm to 6am  
17       imposed by the Grand Court. This continued except for days when he had work when his  
18       curfew was 10pm. On the 21<sup>st</sup> April 2021, the bail was varied by the Grand Court to a  
19       curfew time of 10pm to 6am.

20

21       85. The Prosecution submits that the Defendant ought not to benefit from the time he was on  
22       a monitor because of the delay caused by the Defence. Two trial dates were vacated at the  
23       request of the Defence. The trial dates were vacated because the Defence were awaiting  
24       phone evidence from an expert overseas witness.

25

1       86. The Defence submit in response that there were delays caused by the Prosecution with  
2       respect to settling the Indictment in the Grand Court and there were adjourned hearings in  
3       the Summary Court because papers were not served.

4       87. The Court notes that the phone evidence was subsequently received by the Defence and  
5       was used in the course of the trial. There is every indication that the requests made were  
6       for genuine reasons to do with preparation of the Defence case. Against this background  
7       as well as the assertion that there may also have been delays on the part of the Prosecution,  
8       it is proposed to give such credit as appears appropriate to the circumstances of the curfew.

9  
10       88. The *Cayman Islands Sentencing Guidelines* at paragraph 12 deals with reduction in  
11       sentence for time spent on remand subject to conditions curtailing liberty. It states that the  
12       court should:  
13

14                               “... consider whether credit should be given for time spent on bail where conditions  
15                               have been imposed which curtail the liberty of the defendant. This is most likely to  
16                               be relevant where a defendant has been subjected to a curfew, especially where  
17                               compliance with that curfew can be verified through electronic monitoring”.

18  
19       89. The *Guidelines* go on to list the relevant factors to be taken into account in the exercise of  
20       discretion which include:  
21

- 22                               i. The total length of time the defendant has been subject to a curfew;  
23                               ii. The number of hours each day that curfew was imposed during the curfew  
24                               period;  
25                               iii. Whether the curfew included daytime hours or was solely a night time  
26                               curfew (recognising that being indoors at night during, for example, normal  
27

1 sleeping hours may be less of a curtailment of liberty than being indoors  
2 during the day);

3 iv. Any breach of the conditions of curfew.

4

5 90. The *Guidelines* further provide that in deciding how to exercise its discretion in the  
6 absence of statutory provisions in the Cayman Islands, the Court will bear in mind the  
7 statutory provisions in England and Wales as set out in s.240A of the *Criminal Justice Act*  
8 (*CJA*) 2003 (as amended) in relation to an electronically-monitored curfew.

9

10 91. In the case of *R v. Nicholas Tibbetts* the Grand Court stated:

11

12 “74. I take the Cayman Islands Guidelines as a starting point. There is clearly a  
13 discretion as to whether, and to what extent, credit should be given. To  
14 adopt the defence submission that the practice of the Cayman Islands is to  
15 automatically deduct half the time on curfew, would take away the  
16 discretion clearly set out in the Guidelines. Each case has to be considered  
17 on its own facts – for example the conditions of the curfew will vary  
18 considerably in cases – some being more onerous than others.”

19

20 92. In this case, the conditions of his curfew and monitoring were initially onerous. He will  
21 receive credit of one half the number of days from the 11<sup>th</sup> September 2020 to the 21<sup>st</sup>  
22 April 2021, or one half of 222 days for 111 days.

23

24 93. The conditions were less onerous when his curfew was revised to 10pm to 6am. This was  
25 mostly during the night hours. He will also receive credit of one quarter for the days  
26 between the 21<sup>st</sup> April 2021, and today, a total of 225 days, for credit of 56 days.

27

28 94. The total credit is 167 days.

29

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1    **APPLICATION FOR A PROTECTION ORDER**

2

3       95. The Prosecution applies under the *Protection from Domestic Violence Act* (2021)  
4       Revision) for a Protection Order with respect to Ms. Mannarino. The application is  
5       supported by the Affidavit of DC Elizabeth Owens.

6

7       96. The response of the Defence is that such an order is not necessary as there have been  
8       no incidents between the parties since the offences on this Indictment and no breaches  
9       of his bail conditions. The Defence argue that such an order is not justified as there  
10      has been no contact or attempt to contact the victim. Counsel indicates that the  
11      Defendant understands that there should be no contact with her. He is willing to give  
12      an undertaking to abide by four conditions:

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- i. Not to communicate/contact Lucia Mannarino, in any way, directly or indirectly save for communication through a defined person relating to the child. A defined person could be an Officer of the RCIPS, Social Worker, Medical Professional, the parents of Derrin Ebanks or any other person deemed suitable by the Court. Contact includes all methods of contact including email, social media and text.
- ii. Not to approach or knowingly be within 100 yards of Lucia Mannarino.
- iii. Not to enter [the place of work] or attend the home of Ms. Mannarino.
- iv. Not to harass or threaten Ms. Mannarino.

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1 97. Counsel submits that if the Court is minded to make a Protection Order these are the  
2 conditions which should be considered.

3  
4 98. Given the circumstances of this case the Court is satisfied that a Protection Order is  
5 necessary in order to protect the victim. An order is thus made in terms of the amended  
6 draft for a period of 3 years following the Defendant's release from Prison.

7  
8  
9

10 **Dated this the 2<sup>nd</sup> day of December 2021**

11



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13  
14  
15

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

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