



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

3 **Neutral Citation Number: [2025] CIGC (Crim) 18**

4 **INDICTMENT NO: 79 of 2025**

5
6
7 **R**

8
9 **V.**

10
11 **LUCIANNO JACKSON-MARTINEZ**
12
13
14

15 **Appearances:** **Mr. Orrett Brown, Crown Counsel, Office of the Director of Public**
16 **Prosecutions for the Prosecution**

17
18 **Mr. Dennis Brady, Brady Law for the Defence**
19

20 **Before:** **The Hon. Justice Cheryll Richards KC**
21

22 **Submissions Heard:** **18th March 2026, 21st April 2026**
23

24 **Further Defence**
25 **Submissions:** **14th May 2026**
26

27 **Further Prosecution**
28 **Submissions** **21st May 2026**
29

30 **Sentence Judgment:** **22nd May 2026**
31
32
33

34 ***Criminal Law – Sentencing, Unlawful Possession of a Firearm contrary to Section 15 (1) and (5) of the***
35 ***Firearms Act (2025 Revision), Mandatory Minimum Penalty, whether applicable where firearm possessed***
36 ***for self-defence, Drug offences, Principles on sentencing.***
37
38
39



SENTENCE JUDGMENT

1. This is a case where the primary issue joined is whether as to sentencing there are circumstances present which rise to the threshold of being exceptional in relation to either the offence or the offender such that the mandatory minimum sentence of 10 years imprisonment under the *Firearms Act* (2025 Revision) should not be applied because to apply it would be arbitrary and disproportionate.
2. The defendant is before the Court for sentencing following his guilty pleas to the three offences on the Indictment and to five offences under the *Misuse of Drugs Act* (2017 Revision).
3. The defendant is charged on Indictment 79/25 with two offences contrary to s.15 (1) and (5) of the *Firearms Act* (2025 Revision).
4. **Count 1** charges him with Unlawful Possession of a Firearm. The particulars are that he on the 9th day of May 2025 at 47 Lantern Point, Prospect Point Road, Grand Cayman had in his possession a firearm, namely a Smith & Wesson SD9 VE semi-automatic 9 mm pistol (serial number FDF 5542) which was not under and in accordance with the terms of a Firearm User's (Restricted) Licence.
5. **Count 2** charges him with Unlawful Possession of Ammunition. The particulars are that he on or about the 9th day May 2025 at 47 Lantern Point, Prospect Point Road, Grand Cayman had in his possession eleven (11) rounds of mixed ammunition which were not under and in accordance with the terms of a Firearm User's (Restricted) Licence.
6. By s.45 of the *Act*, where the offending occurred after the 22nd August 2024, the commencement date of the *Firearms (Amendment) Act, 2024* [Act 5 of 2024], the

1 sentencing regime which applies is that which is set out in s.15(5) and s.39 of the *Act*.
2 By s.15 (5) of the *Act*, the maximum penalty is a fine of one hundred thousand dollars
3 or imprisonment for a term of twenty years, or to both. By s.39, where the item is a
4 firearm, the offender is subject to a mandatory minimum sentence of 10 years on a
5 guilty plea unless the relevant court is of the opinion that there are exceptional
6 circumstances relating to the offence or to the offender which justify its not doing so;
7 and such exceptional circumstances shall be stated by the relevant court.

8
9 7. The defendant also pled guilty to the scheduled offence to the Indictment of Possession
10 of Cocaine with Intent to Supply contrary to s.3 (1) (m) of the *Misuse of Drugs Act*
11 (2017 Revision). The particulars of the offence are that he on or about the 9th day May
12 2025 at 47 Lantern Point, Prospect Point Road, Grand Cayman without lawful excuse
13 or without being authorised in that behalf, had in his possession a controlled drug,
14 namely cocaine (28 grams) with intent to supply. The maximum penalty is provided by
15 s.16 (5) and Part B of Schedule 2 of the *Misuse of Drugs Act*. It is 25 years
16 imprisonment and a fine upon conviction in the Grand Court.

17
18 8. The defendant first appeared in the Grand Court on the 25th July 2025. He was arraigned
19 on the second mention of the case on the 22nd August 2025 and pleaded guilty to the
20 two counts on the Indictment as aforesaid. A pre-sentencing report was ordered at the
21 request of defence Counsel. The Social Inquiry Report (“SIR”) which was received
22 from the Department of Community Rehabilitation (“DCR”) is dated 8th October 2025.
23 Following its receipt, the defence sought time to prepare submissions as to whether
24 there are exceptional circumstances in this case.

25
26 9. When the matter came on for sentencing submissions to be heard on the 18th March
27 2026, the defendant pleaded guilty to the scheduled offence as set out above. The
28 alternative charge of Possession of Cocaine simpliciter is subsumed.





1 10. The defendant also falls to be sentenced for four summary only offences to which he
2 entered guilty pleas in the Summary Court. They are: -

- 3
- 4 i) Charge CR 2025-01139 – 1 - Possession of Ganja with Intent to Supply
5 contrary to s.3(1) M of the **Misuse of Drugs Act** (2017 Revision). The
6 particulars are that he on the 9th day of May 2025 at #5 Mary Street, George
7 Town, Grand Cayman, Cayman Islands had in his possession a controlled
8 drug namely ganja, with intent to supply whether by him or some other
9 person to another.
- 10
- 11 ii) Charge CR 2025-01139 – 2- Possession of Ganja contrary to s.3 (1) (K) of
12 the **Misuse of Drugs Act** (2017 Revision). The particulars are that he on the
13 9th day of May 2025 at #5 Mary Street, George Town, Grand Cayman,
14 Cayman Islands without lawful excuse or without being authorised in that
15 behalf possessed a controlled drug namely ganja weighing 535.1g or 18.8
16 ounces.
- 17
- 18 iii) Charge CR 2025-01139 – 3 - Possession of Utensil used in the preparation
19 and consumption of controlled drugs contrary to s.3 (1)K of the **Misuse of**
20 **Drugs Act** (2017 Revision). The particulars are that he on the 9th day of May
21 2025 at #5 Mary Street, George Town, Grand Cayman, Cayman Islands
22 without lawful excuse or without being authorised in that behalf possessed
23 a digital scale, a utensil used in the preparation or consumption of controlled
24 drugs namely ganja.
- 25
- 26 iv) Charge CR 2025-01139 – 4 - Consumption of Ganja contrary to s.3(1) (L)
27 of the **Misuse of Drugs Act** (2017 Revision). The particulars are that he on
28 or before the 9th day of May 2025 at #5 Mary Street, George Town, Grand
29 Cayman, Cayman Islands without lawful excuse or without being
30 authorised in that behalf consumed a controlled drug named ganja.



1
2 11. The defendant first appeared in the Summary Court on these offences on the 9th
3 September 2025. He was arraigned on the same day and pleaded guilty to Charges 2
4 and 4. He pleaded guilty to the additional offences on the 15th October 2025.

5
6 12. The maximum penalty for the offences of Possession of Ganja, Charges 1 and 2 being
7 first offences, is provided by s.16(3) and Part A of Schedule 2 of the *Act*. It is a fine of
8 twenty thousand dollars and or 7 years imprisonment. The maximum penalty for
9 Charges 3 and 4 is a fine of three thousand dollars and or 3 years imprisonment.

10
11 13. Defence Counsel has requested that all outstanding sentence matters for the defendant
12 be transferred to this Court on the basis that they form part of a series of offences
13 committed in close proximity in time on the same date.

14
15 14. Both Counsel rely on the dicta of Dobbs J. (Acting) in the case of *R v. David Lobo and*
16 *Others*¹ in which the Court found that it had the power to sentence defendants charged
17 in the Summary Court by exercising the powers of a Magistrate pursuant to s.11 of the
18 *Grand Court Act* (2015 Revision).

19
20 15. It is agreed by the prosecution that given the timing and circumstances of the pleas, that
21 the defendant is entitled to the full credit of one third.

22
23 **THE FACTS – POSSESSION OF FIREARM AND AMMUNITION AND POSSESSION OF COCAINE**
24

25 16. The prosecution has provided a summary of facts which is not disputed. On the 9th May
26 2025, the police executed a search warrant under the *Firearms Act*, at Apartment 47
27 Lantern Point, 433 Prospect Point Road. The defendant resided there with his female

¹ Grand Court Unreported Judgment dated 29th March 2019

1 partner and young child. The defendant was not present at the time. His partner and
2 child were present.

3
4 17. DS Gareth Daley searched the living room of the apartment. He discovered a storage
5 bin inside the living room which was next to the sofa. He found that the bin contained
6 a blue, black and white draw string bag. Inside the bag was a white plastic parcel with
7 a white powdery substance suspected to be cocaine. There was also a plastic bag which
8 contained a large quantity of small Ziploc bags. The substance was subsequently tested
9 by forensic scientist Sasha-Marie Henry and confirmed to be cocaine hydrochloride of
10 a weight of 24.8 grams or 0.87 ounces.

11
12 18. DS Daley continued to search the draw string bag. He saw a black and grey firearm
13 containing a magazine inside it. The magazine had eleven (11) unexpended cartridges.
14 The breech was empty. The firearm, magazine and ammunition were placed in sealed
15 evidence boxes. The defendants' partner was arrested and taken to the Detention
16 Centre. On their arrival the defendant was sitting in the booking area. The defendant
17 had been arrested on Mary Street in connection with the execution of the search warrant
18 and ganja and a drug utensil was found in his possession. He had been taken to the
19 Detention Centre.

20
21 19. The defendant became visibly agitated on seeing his partner under arrest. He asked:
22 *"why una bring my baby mother here?!"* and exclaimed: *"the gun is mine!"* The
23 defendant approached the door to the booking area. He continued, *inter alia*: *"I have*
24 *the gun cus they shoot me and una na find the man who shoot me"*. The defendant's
25 reaction was recorded by the surveillance system at the Centre. He was cautioned and
26 continued to speak. A full transcript of the exchange is received in evidence as an
27 exhibit for the purpose of this hearing.



1 20. PC Connor-Rodriguez took a buccal swab from the defendant. SOCO Reid swabbed
2 the firearm for DNA on the 9th May 2025. He swabbed the grip, slide, trigger, trigger
3 guard, sights and the magazine release button of the firearm as well as the body of the
4 firearm, the magazine and the ammunition for DNA material. All the swabs taken were
5 submitted to the forensic scientist, Mr. Christian Taylor, at the Cayman Islands Forensic
6 Science Laboratory. Mr. Taylor discovered a DNA mixture on the swab of the body of
7 the firearm. On examination, he concluded that the defendant, another named person
8 and at least two others could not be excluded as contributors to the mixture. The
9 likelihood ratio was expressed in these terms: -

10
11 “a. The DNA results observed are estimated to be 32 million times more likely if DNA
12 Mixture 2 originates from Luciano Jackson Martinez and three unknown people,
13 than if it originates from four unknown people, unrelated to him; and

14
15 b. The DNA results observed are estimated to be 6.0 trillion times more likely if DNA
16 Mixture 2 originates from Luciano Jackson Martinez, the named person and two
17 unknown people, than if it originates from four unknown people, unrelated to
18 them.”

19
20 21. On the 10th May 2025, PC Anthony Stewart of the Firearm Response Unit of the Police
21 Service examined the firearm, magazine and ammunition. He described the pistol as
22 of black polymer frame with nickel finished slide without visible signs of damage or
23 abuse and the magazine as a sixteen round capacity magazine which appeared to be in
24 very good condition showing no sign of damage or abuse. The ammunition appeared
25 to be eleven (11) rounds of mixed 9mm calibre ammunition including one hollow point
26 round.



1 22. PC Stewart used the pistol to fire two of the rounds from the recovered ammunition.
2 He fired additional rounds from the police stock with it. The firearm discharged the
3 ammunition without any issue. He concluded that the firearm, magazine and
4 ammunition had all the characteristics and performance of a fully functioning firearm.
5

6 23. Forensic Firearm Examiner Leesa Mullings examined the firearm and ammunition on
7 the 20th May 2025. Miss Mullings concluded that: -
8

- 9 a. The pistol was in good working condition and capable of
10 discharging deadly bullets from its barrel by firing 9mm luger
11 calibre cartridges on semi-automatic action;
12 b. The magazine was in good working condition and was designed for
13 use in the pistol and similar make firearms;
14 c. The unexpended cartridges were ammunition for use in the pistol
15 and weapons of similar calibre; and
16 d. The firearm, magazine and ammunition fall within the *Firearms Act*
17 (2025 Revision).
18

19 24. The defendant is not the registered holder of a license for firearms or ammunition in
20 the Cayman Islands.
21

22 25. The certificates as to the cocaine found, ten photographs of the sofa, storage container,
23 firearm, ammunition and cocaine have been produced as evidence for the purpose of
24 this hearing.
25

26 THE FACTS – POSSESSION OF GANJA AND OTHER OFFENCES 27

28 26. The prosecution has provided a summary of facts with respect to the other offences
29 which is not disputed. It is set out below.





- 1
- 2 27. On the 9th May, 2025, the police stopped the defendant as he was driving a blue Honda
- 3 Fit motor car along Mary Street, in George Town. They did so because they were
- 4 executing the search warrant at his residence.
- 5
- 6 28. DC Adrian Thomas and DC Dwayne Simpson were part of a police team that arrived
- 7 on the scene. DC Thomas smelled ganja emanating from the motor car as he
- 8 approached it. He searched the motor car and found a back pack on the rear seat. In the
- 9 back pack were three (3) jars containing ganja and a quantity of Ziploc bags. DC
- 10 Thomas asked the defendant to account for the back pack and its contents. The
- 11 defendant responded: *"This is my bag, everything in that car is mine."* DC Thomas
- 12 arrested the defendant on suspicion of Possession of Ganja and Possession with Intent
- 13 to Supply Ganja.
- 14
- 15 29. DC Simpson searched the centre console of the motor car. He recovered a pro scale, a
- 16 CI\$25.00 note and a wallet containing the defendant's driver's licence. The scale
- 17 contained ganja residue. DC Simpson searched the back of the front passenger seats
- 18 and found a bag containing ganja in it.
- 19
- 20 30. The defendant was interviewed on the 9th May 2025. The defendant stated that:
- 21 a. He rented the motor car;
- 22 b. He was the driver of the motor car when it was stopped;
- 23 c. All the contents in the motor car belonged to him;
- 24 d. There was weed inside the car;
- 25 e. The weed was for personal use;
- 26 f. He last consumed ganja on the 9th May, 2025;
- 27 g. He smoked three times daily;
- 28 h. The scale belonged to him;
- 29 i. He used the scale to weigh the amount of ganja he consumed daily;
- 30 j. The black back pack recovered from the car belonged to him;



- k. The weed inside the back pack was his property;
- l. The ganja was not for sale; and
- m. He had never sold ganja before.

31. The items were submitted to the forensic scientist who confirmed that the jars and bags contained ganja. The ganja weighed 535.1 grams or 18.875 ounces (1.172 lbs). The forensic scientist also found traces of ganja on the scale.

32. The defendant's phone was seized when he was arrested. The digital forensic analyst recovered images of vegetable matter resembling ganja from the phone. The images included:

- a. The defendant's left arm on a steering wheel;
- b. Vegetable matter resembling ganja in the palms of hands;
- c. Vegetable matter resembling ganja in a mason jar;
- d. Vegetable matter resembling ganja in a plastic bag on a digital scale; and
- e. Vegetable matter resembling ganja in a vacuum sealed bag on a digital scale.

33. The certificates as to the drugs found, seven photographs of the items recovered from the car and ten photographs of images recovered from the phone have been produced as evidence for the purpose of this hearing.

ANTECEDENT HISTORY

34. The defendant has one minor conviction in 2017 for being drunk and disorderly. The Court does not propose to take this into account on sentencing.



THE SOCIAL INQUIRY REPORT

35. The SIR provides detailed information on the defendant. The Court has read the SIR in its entirety and takes into account everything stated therein in favour of the defendant.
36. The defendant is twenty-nine years old. He is described as being from a stable family background where his home life fostered his development. He also has the support of his family and the opportunity to work alongside them in their businesses.
37. He is the father of two children who are both very young. He shares a close bond with his children. Although his relationship with his own father has been strained at times, he has a good relationship with both his parents and his siblings. He is the oldest of eleven children and supports and cares for his siblings.
38. The defendant describes his childhood as a good one and as growing up in a disciplined and structured home environment. He completed high school without incident and reports having done well. Thereafter he was employed to a company for three years up to 2017 and since then has mainly worked in family businesses except for two short term job opportunities.
39. He reported that he has no known physical or mental health issues but that he was a victim of a shooting in February 2024 and has become paranoid as a result and has difficulty sleeping. He admits to having a problem with drug misuse and to using illicit drugs on a daily basis.
40. The defendant's uncle describes the defendant as a caring and loving person who is hard working at his jobs. The defendant is described by his mother as a sensitive individual who cares for the less fortunate. She states that the defendant has expressed feeling abandoned by the justice system which he feels has not done enough to protect him after the shooting in 2024.



- 1 41. A person has reportedly made threats to the defendant. His mother went to the police
2 in February 2024 about the defendant receiving threats. The defendant was thereafter
3 shot. A social media post reported that the defendant was the intended target of the
4 shooting at the Ed Bush Stadium in West Bay.
- 5
- 6 42. The defendant detailed a history of threats to the Probation Officer. He reported that he
7 had received threats before and after the shooting which took place at the Stadium in
8 February 2024.
- 9
- 10 43. He said that he was threatened by a person that they would come to his house to shoot
11 it up. He described a previous incident in 2015 involving an altercation where he and
12 others were chased by a person with a gun and attempts were made to intimidate him
13 during a court process.
- 14
- 15 44. He spoke of another incident in 2016 where he felt threatened while waiting in a
16 parking lot at a Bar. He stated that he has been receiving threats from the individual
17 since 2015 but did not report them because he wanted to distance himself from the
18 situation and anyone associated with the individual. He believes that he was being
19 threatened because of associating with others with whom the individual was no longer
20 friends.
- 21
- 22 45. He explained his cocaine use by stating that since being shot he has been using the drug
23 for paranoia and pain in his right leg as it keeps him relaxed. The defendant said that
24 he felt it necessary to have a gun in order to protect himself and his child especially
25 after receiving threats, being shot and not feeling safe. He referred to a social media
26 post which claimed that he and his child would be shot. He stated that he does not think
27 that he had a choice in the matter as the police did not do their job by finding the shooter.
28 He said that especially in light of the threats that he received he did not come out of his
29 house for days after being shot and slept through the days and stayed up at nights. He
30 has avoided going to places with his family and to family gatherings because he did not



1 want them to be in danger. He expressed feeling “bad” about the offences and regret
2 that it has reached this point.

3
4 46. The Probation Officer states that the defendant shared experiences after he was shot
5 which suggest symptoms similar to post traumatic stress disorder and that he was
6 referred to the clinical team at the Prison because of this. The defendant is said to be
7 of the view that the Court has not treated him fairly as he is the victim of a mass
8 shooting. He reported his threats to the police, and he is still upset that the shooter has
9 not been caught.

10
11 47. The defendant was assessed as being at medium risk of overall reoffending. He has no
12 criminogenic factors in the very high or high categories.

13
14 48. The Officer notes that the defendant does not appear to have a pattern of generalised
15 trouble. There is no indication of early and diverse antisocial behaviour. He also does
16 not appear to have an issue with admitting that the nature of his offences requires some
17 intervention to prevent future offending particularly as it relates to his drug use. The
18 Officer expresses concern for the defendant as he appears to have acted out of a
19 traumatic event which according to him left him fearful and paranoid.

20
21 **THE 2002 STATEMENT ON TARIFFS AND GUIDELINES FOR SENTENCING FOR CERTAIN OFFENCES**

22
23 49. There are no offence specific Guidelines for firearm offences in the Cayman Islands.
24 In the *2002 Statement on Tariffs and Guidelines for Sentencing for Certain Offences*,
25 the then Chief Justice stated:

26
27 *“As regards to firearm offences contrary to the Firearms Law, the Legislation is*
28 *quite clear that the possession or use of any unlicensed lethal barreled firearm is*
29 *an extremely serious offence. Under the Firearms Law, the maximum penalty for*
30 *possession of an unlicensed firearm is 20 years and a fine of \$100,000.00. The tariff*

1 *for that offence unless there are very mitigating circumstances will be 10 years. If*
2 *on the other hand aggravating circumstances exist, for instance, the use of the*
3 *firearm for the commission of a serious offence, the tariff will be in keeping with*
4 *decided cases and will be significantly higher.”*
5

6 50. These **Guidelines** pre-dated the Amendment to the **Firearms Act** which imposed
7 minimum terms.



9 **THE RELEVANT QUESTIONS**

10
11 51. In the case of **R v. Avis**², the English Court of Appeal stated that the appropriate level
12 of sentence for a firearm offence will depend on all the facts and circumstances relevant
13 to the offence and the offender. It will usually be appropriate for the sentencing court
14 to ask itself a series of questions:

15 i) What sort of weapon is involved?

16 “Genuine firearms are more dangerous than imitation firearms. Loaded firearms
17 are more dangerous than unloaded firearms. Unloaded firearms for which
18 ammunition is available are more dangerous than firearms for which no
19 ammunition is available. Possession of a firearm which has no lawful use such
20 as a sawn off shot gun will be viewed even more seriously than possession of a
21 firearm which is capable of lawful use.”

22 ii) What if any use has been made of the firearm?

23 iii) With what intention, if any, did the defendant possess or use the firearm?

24 iv) What is the defendant’s record?

25 “The seriousness of any firearms offence is inevitably increased if the offender
26 has an established record of committing firearm offences or crimes of
27 violence.”
28

² 1998 1 Cr. App. R. 420

1 52. In this case the weapon is a genuine firearm in working order. It was loaded with eleven
2 rounds of ammunition. There is no evidence that any use was made of the firearm.

3
4 53. There is evidence from the defendant that he possessed the firearm with the intention
5 to defend himself. The defendant has no previous convictions for any such offence.

6
7 **EXCEPTIONAL CIRCUMSTANCES – THE LEGAL APPROACH**
8

9 54. On the central issue joined in this case of whether there are exceptional circumstances
10 relating to the offence or the offender which justify the court not imposing the
11 mandatory minimum sentence, defence Counsel has referred the Court to the cases of
12 *Chavarria-Atily v. R.*³ and *R v. Zakir Rehman and Gary Wood*⁴.

13
14 55. In the case of *Chavarria-Atily v. R.* the appellant appealed his sentence of 2 years
15 imprisonment for the offences of Importation and Possession of an Unlicensed Firearm.
16 This sentence had been imposed by the Grand Court following a finding that the
17 circumstances were exceptional such that the then applicable mandatory minimum of
18 7 years imprisonment need not be imposed. The appellant had purchased the firearm,
19 an air rifle, from a Walmart store while in Miami. Having returned to the Island he
20 became aware that a license was needed for the weapon and took preliminary steps to
21 obtain this. Before obtaining the license he took the firearm outside his own premises
22 in order to shoot vermin. The sentencing judge found that there were exceptional
23 circumstances which included that the appellant was of good character and had taken
24 steps to register the firearm, was only shooting at vermin, co-operated with the police,
25 the nature of the firearm, being an air weapon, the fact that it was bought openly, the
26 offence was unlikely to be repeated, and a conviction would mean that his intended
27 career would be ruined.

³ [2009] CILR 118

⁴ 2006 1 Cr. App. R. (S) 77



1 56. The Cayman Islands Court of Appeal said that it is the opinion of the court that is
2 critical as to what constitutes exceptional circumstances. The Appellate Court
3 concluded that given the circumstances of the offence, including the nature of the
4 firearm, the appellant's antecedents and his plea of guilty, that the sentence of two years
5 was manifestly excessive, a sentence of 12 months on each count was substituted. The
6 Court referred with approval to the judgment of Lord Woolf C.J, in the case of **R v.**
7 **Zakir Rehman and Gary Wood.**

8
9 57. In that case the English Court of Appeal considered the meaning of a similar provision
10 in the United Kingdom **Firearms Act** 1968, s.51A as to exceptional circumstances. The
11 Court held that when considering whether circumstances are exceptional, it is not
12 appropriate to look at each circumstance separately, a holistic approach was needed.
13 There would be cases where there was one striking feature but others where the
14 combination of circumstances made the case truly exceptional. The Court stated: -

15
16 *“There would be cases where there was one single striking feature, which related*
17 *either to the offence or the offender, which caused that case to fall within the*
18 *requirement of “exceptional circumstances”. There could be other cases where no*
19 *single factor by itself would amount to an exceptional circumstance, but the*
20 *collective impact of all of the relevant circumstances truly made the case*
21 *exceptional.”*

22
23 58. The Court noted that the rationale and policy of s.51A of the **Firearms Act**, was to send
24 out a deterrent message. The message was that the mere possession of a firearm by
25 itself would be sufficiently serious to require the imposition of a minimum term
26 irrespective of the personal circumstances of the offence or of the offender unless these
27 were exceptional. The Court stated:



1 *“So far as the Court could determine the rationale of the Firearms Act 1968, s.51A,*
2 *the policy was to send out a deterrent message. The mere possession of firearms*
3 *could create dangers to the public. The possession of a firearm might result in a*
4 *firearm going into circulation. It could then come into the possession of someone*
5 *other than the particular offender, in whose hands the firearm would be a danger*
6 *to the public. Parliament had therefore said that usually a consequence of merely*
7 *being in possession of a firearm would itself be sufficiently serious to require the*
8 *imposition of a term of imprisonment of five years, irrespective of the circumstances*
9 *of the offence or the offender, unless they passed the “exceptional” threshold to*
10 *which the section referred. This made the provision capable of being arbitrary, a*
11 *possibility which was increased because offences contrary to s.5 of the Firearms*
12 *Act 1968 were absolute offences which did not require an intention on the part of*
13 *the offender to commit the offence.”*

14
15 59. The Court said that the reference in the section to the circumstances of the offender was
16 most important. Relevant circumstances would include where the offender was of very
17 advanced years or was otherwise unfit to serve a five-year sentence. When read in
18 context the circumstances would be exceptional if it would mean that to impose the
19 mandatory minimum would result in an arbitrary and disproportionate sentence.

20
21 60. The Court applied the discussed principles in the following way. In the case of the
22 appellant Rehman, he had been sentenced to the mandatory minimum in respect of a
23 replica blank firing handgun which could be altered to fire live ammunition. He was a
24 collector of models and had openly purchased the replica for display purposes. The
25 Court held that the imposition of the mandatory minimum in his case was wrong. The
26 exceptional circumstances included his background, the fact that he did not know that
27 the possession of the weapon which he had was unlawful, he had pleaded guilty at the
28 first opportunity, he was of previous good character, had co-operated throughout the
29 search and arrest and he was a valued employee at his place of employment. The Court

1 noted that the weapon was a blank firing replica, it had not been converted and no blank
2 ammunition had been found with it. It had not been fired and was found in its original
3 wrapping under the appellant's bed where he had placed it upon receiving it. The
4 appellant was not aware that it was capable of being converted. The Court said that the
5 collective circumstances made it possible to conclude that this was a case where the
6 court was not required to impose the minimum term.

7
8 61. In the case of the appellant Wood, the Court concluded that the imposition of the
9 mandatory minimum was appropriate. The appellant was also a collector. He was
10 charged in respect of a number of weapons. One of the weapons in question was a
11 single barrelled shotgun. The Court said that the appellant should have understood that
12 the weapon should not have been in his possession and he did not take action to check
13 whether it was lawful to possess it. He had also committed other offences which
14 showed carelessness with respect to firearms, and which demonstrated that he did not
15 attach sufficient significance to the strict statutory provisions. The Court said that while
16 there was a great deal to be said in Mr. Wood's favour these circumstances prevented
17 the court from treating the circumstances as exceptional.

18
19 62. In the case of *R v. Nancarrow*,⁵ the English Court of Appeal stated:

20 "Under section 51A (2) of the Firearms Act 1968, the Court must impose a
21 minimum term of five years for an adult offender convicted of such an offence
22 unless "the court is of the opinion that there are exceptional circumstances which
23 in the opinion of the court justifies not doing so."

24
25 63. The Court identified eight principles from decided cases which apply:

26 "19. The authorities in this court establish the following principles as to the
27 application of section 51A(2):
28

⁵ 2019 EWCA Crim 470





1 (1) The purpose of the mandatory minimum term is to act as a
2 deterrent (R v Zakir Rehman and Wood) [2005] EWCA Crim 2056;
3 [2006] 1 Cr App R 77 at paragraph 12.
4

5 (2) Circumstances are exceptional for the purposes of
6 subsection (2) if to impose five years' imprisonment would amount
7 to an arbitrary and disproportionate sentence (Rehman at paragraph
8 16).
9

10 (3) It is important that the courts do not undermine the intention
11 of Parliament by accepting too readily that the circumstances of a
12 particular offence or offender are exceptional. In order to justify the
13 disapplication of the five-year minimum, the circumstances of the
14 case must be truly exceptional (R v Robert Dawson [2017] EWCA
15 Crim 2244 at paragraphs 12 and 19).
16

17 (4) It is necessary to look at all the circumstances of the case
18 together, taking a holistic approach. It is not appropriate to look at
19 each circumstance separately and conclude that, taken alone, it does
20 not constitute an exceptional circumstances. There can be cases
21 where no single factor by itself will amount to exceptional
22 circumstances, but the collective impact of all the relevant
23 circumstances makes the case exceptional (Rehman at paragraph
24 11).
25

26 (5) The court should always have regard, amongst other things,
27 to the four questions set out in R v Avis [1998] 2 Cr App R (S) 178,
28 namely: (a) What sort of weapon was involved? (b) What use, if any,
29 was made of it? (c) With what intention did the defendant possess

1 it? (d) What is the defendant's record? (See, for example, R v
2 McCleary [2014] EWCA Crim 302 at paragraph 11.)

3
4 (6) The reference in the section to the circumstances of the
5 offender is important. It is relevant that an offender is unfit to serve
6 a five-year sentence or that such a sentence may have a significantly
7 adverse effect on his health (Rehman at paragraph 15; R v Shaw
8 [2011] EWCA Crim 167 at paragraphs 6-7).

9
10 (7) Each case is fact-specific and the application of the
11 principles dependent upon the particular circumstances of each
12 individual case. Limited assistance is to be gained from referring the
13 court to decisions in cases involving facts that are not materially
14 identical (see, for example, R v Stoker [2013] EWCA Crim 1431 at
15 paragraph 22).

16
17 (8) Unless the judge is clearly wrong in identifying exceptional
18 circumstances where they do not exist or clearly wrong in not
19 identifying exceptional circumstances where they do exist, this
20 Court will not readily interfere (Rehman at paragraph 14).”

21
22 **EXCEPTIONAL CIRCUMSTANCES – THE FACTS ON WHICH THE DEFENCE RELY**

23
24 64. In the instant case, the factual circumstances put forward by the defence as amounting
25 to exceptional circumstances are not materially disputed by the prosecution. What is
26 disputed is the applicable legal test and its application to the circumstances raised.



1 65. The factual circumstances are summarised from defence Counsel’s extensive oral and
2 written submissions and a chronology of events provided on the 14th May 2026. In
3 broad summary it is that the defendant has been threatened on multiple occasions, shot
4 at on more than one occasion and then actually shot and injured. Counsel invites the
5 Court to consider the combined effect of: the actual shooting and prior attempts to do
6 so; the documented threats; the fact of the defendant’s complaint to the highest ranking
7 Police Officer, the Commissioner of Police and his subordinate Insp. Laing being
8 tasked to respond to the complaint; despite which complaint/report the defendant was
9 still shot. The submission is that taken together, these factors render this case truly
10 exceptional.



11
12 66. In sequence the events are said to be as follows: -
13

- 14 i. In 2014 – the defendant was in the company of two others when, the person
15 “X” showed up in the vicinity of the gas station next to Jacques Scott, where
16 a dance was being held at the time. “X” then proceeded to shoot at them,
17 forcing the defendant and the other persons with him, to run away. Police
18 were believed to be present in the vicinity at the time of this incident.
19
- 20 ii. In 2015- around June, the defendant had left the Roof Top Club and the
21 same person “X” in a group of five or six others was then walking out of
22 the party. People from the group opened gun fire. A woman and three males
23 were shot. Two of the males “T” and “C” were friends of the defendant.
24
- 25 iii. In 2016 – While in a yard in Eastern Ave. between 9:30pm and 11pm, the
26 defendant was warned by his friend “T” to run, they are coming. The
27 defendant did so and was chased on foot by the same person “X” with a
28 gun. The defendant found a place to hide and watched as “X” chased “T”
29 and “C” and fired shots in the air. The matter was reported to the police.



1 The defendant declined to give a statement despite being requested by “T”
2 to do so. “X” sought the defendant’s assistance to dissuade other persons
3 from giving evidence against him. The defendant declined to become
4 involved and believes that this made “X” angry.

5
6 iv. In 2017: One night the defendant saw “X” by Bananas Bar and Night Club
7 around 12 midnight when the Bar was closing. When “X” left in a truck
8 while passing in the vicinity of Churchills’ Funeral Home, he put his hand
9 out the window and fired off some shots in the air, and the truck continued
10 towards West Bay Road.

11
12 v. In around April 2017 there was a shooting incident in which the defendant
13 was wrongly identified as one of the assailants who had shot at “X” at the
14 said Night Club. The identifying witness was a drug addict. The case was
15 dismissed when the witness admitted to falsifying evidence. The defendant
16 was released from custody in 2018.

17
18 vi. Threats against the defendant began thereafter and persisted because the
19 defendant was acquainted with the persons involved in the dispute with “X”.
20 From 2020, the threats became more intense, “X” sent threats to the
21 defendant and his family about killing him. There were also threats by way
22 of social media posts.

23
24 vii. On Friday the 26th January 2024, the defendant was threatened while at a
25 roti shop.

26
27 viii. On the 1st February 2024, the defendant’s mother reported the threats
28 directly to the Commissioner of Police and provided copies of the social
29 media posts. She was referred to an Inspector and a Sergeant of Police. She

1 produced a video of threats made by a person armed with a firearm at a local
2 Bar.

3
4 ix. Date unknown. The defendant was shot at several times in an area of Eastern
5 Avenue. This was reported to the police.

6
7 x. 25th February 2024, between 7:30pm and 8pm, the defendant was at a
8 football match at the Ed Bush Stadium in West Bay along with his brother
9 and father and other people. Two men armed with hand guns fired several
10 shots into the crowd. The defendant was shot to his right thigh. Six other
11 people were also shot. The defendant managed to escape from the Stadium,
12 got into his car and drove himself to hospital where he was admitted for a
13 period of time.

14
15 The prosecution has provided in the hearing bundle the medical report on
16 the defendant from the Health Services Authority. The injury was described
17 as serious and consistent with infliction by a penetrating force. The report
18 of Dr. D. Shaw-Wisdom states:

19
20 “On the 25th February 2024, at 10:13 p.m., I examined Luciano
21 Jackson-Martinez at the George Town Hospital and found that
22 (he/she) was suffering from the following injuries and /or illnesses:

23
24 The patient reported that he had sustained a gunshot wound to his
25 right thigh. He was able to walk after the injury, had no numbness
26 or tingling in the limb below the injury. He did report that he had
27 significant pain to the thigh. He also reported receiving bruises to
28 his right knee after falling while running.





Examination revealed:

Circular wounds to the right thigh

- One at the mid lateral aspect
- One at the mid posterior aspect

Clinically, there was good blood flow to the right foot, and the sensation to the foot was grossly normal.

Xray revealed no bony injury.

Ultrasound revealed no injury to the major blood vessels.

Abrasions to the front (anterior) right knee with no swelling or deformity. The right knee had full range of motion.”

xi. On the 28th February 2024, there was a social media post by a named person which said that the defendant was the target of the Stadium shooting and that he had been seen at another football game and was only saved on that occasion because his child was present.

xii. In May 2024, there were further explicit threats to the defendant which were recorded on video.

67. The prosecution provided a response to the chronology supplied on behalf of the defendant. While they were not able to confirm or verify some incidents, it is said that there are two recorded reports of threats or violence towards the defendant⁶ and confirmation of a police safeguarding operation which was undertaken in February, May and June 2024 after the Stadium shooting.

68. Defence Counsel submits that the defendant suffered enormous mental anguish and was forced to limit going into public spaces. He faced feelings of hopelessness, despair, frustration and fear of dying.

⁶ Prosecution response dated 21st May 2026, items c and d.



1 69. The defendant's view is that despite doing the right thing by reporting the threats to the
2 Police he was nevertheless shot at. The police appeared to be either unwilling or unable
3 to protect him and his family from these persons who were on a mission to kill him.
4

5 70. Counsel submits in written submissions and as highlighted, that:
6

7 “ 19. It is against the background of all these circumstances and measures being
8 adopted by the accused, in what for all intents and purposes, is a **FREE SOCIETY**,
9 the Cayman Islands, which guarantees his right to life, liberty and the pursuit of
10 happiness, that Luciano Jackson weighed up his options, and subjectively decided
11 on the one that he perceived, could at the very least, afford him a '**fighting chance**'
12 at preserving HIS life, and that of his family, and it was for that reason, and that
13 reason alone, he resorted to the DESPERATE measure, of acquiring a firearm, and
14 that for the single purpose of '**self-defence**', though not strictly along the dotted
15 lines of the usual 'legal definition' strictly speaking, but as he, it is respectfully
16 submitted, had every righteous cause to believe; his life was at risk of being taken
17 by an assassin's bullet.
18

19 20. The reality of this dilemma, cannot be overstated or downplayed, where a citizen
20 of this country wakes up each day, with the realisation that **THIS DAY** could be
21 his **LAST DAY**, because he had already exhausted the legal lawful facilities, of
22 reporting to Police; the very visible and real threats on his life; and that of his
23 family. The Police officers only response of significance to these report was that,
24 infrequently, and as if going through the motions for the sake of the record, they
25 checked on Luciano a few times, at his residence after he had been SHOT, and these
26 appeared to be just general welfare checks, rather than a fulsome response to the
27 earlier reports, and certainly they had NOT been on record, as arresting anyone nor
28 prosecuted anyone; for shooting Jackson Martinez. There was even an instance

1 where the security camera at his home had been sabotaged and tampered with, and
2 this even was also reported to the Police.”
3

- 4 71. Counsel said that the threats against the defendant led to his employment not being
5 renewed with a local Authority due to the fears of his co-workers at having to work
6 with him. Even his work in his family business was difficult because he would be
7 required to be in the public sphere.
8

9 **PURPOSE FOR POSSESSION- DEFENCE OF SELF /OTHERS**
10

- 11 72. Counsel for the prosecution submits that there are no exceptional circumstances
12 relating to the offence or the offender in this case and that the defendant's claim that he
13 kept the firearm and ammunition for his own protection is not an exceptional
14 circumstance.
15

- 16 73. Counsel relies on the cases of *Regina v Neal Blackhall*⁷ and *R v Smith (Shaun*
17 *Daniel)*⁸. Both of these are cases which considered the specific circumstances of
18 having a firearm for self-protection.
19

- 20 74. Defence Counsel in response places significant reliance on the case of *R. v. Fegan*⁹. In
21 that case the English Appellate Court held that a firearm may be possessed for a lawful
22 object such as protecting the possessor or his family even though possessed without a
23 certificate. Counsel noted the Court’s statement in the judgment that to ground such a
24 claim the threatened danger must be reasonably and genuinely anticipated, must appear
25 reasonably imminent and must be of a nature which could not reasonably be met by
26 more pacific means.
27



⁷ [2005] EWCA Crim 1128

⁸ [2007] EWCA Crim 1434.

⁹ [1972] N. I. L. R. 80



1 75. Counsel said that the offer made by the police of relocating the defendant for a short
2 period was no more than a band aid solution and was a violation of the defendant's
3 basic human right to reside in the country of his birth. Counsel said in written
4 submissions that: -

5
6 “The suggestion that he should go into exile, and abandon his family, because the
7 Police was not committed enough to find and prosecute the person or persons who
8 were intent on killing him, and put them in jail, was more of an insult and short
9 term fix, being offered, when the people could be traced and arrested by the Police;
10 but this never happened and there was no confidence that it was EVER going to
11 happen, when such a suggestion was coming from the HIGHEST RANKING
12 member of the Police service.”

13
14 76. Counsel said the claim of self-defence in this case is borne out by the fact that the
15 defendant was not found with the firearm on the street. It was in his house. Given the
16 past history it was reasonable for him to anticipate further strikes. The threat to him
17 was imminent and real.

18
19 77. Counsel draws attention to the following statement by the Court in the case of *In the*
20 *Matter of a Reference by the Attorney General No. 2 of 1983*¹⁰ and highlights the parts
21 underlined:

22
23 “...the question of reasonableness of excuse for possession of an offensive weapon
24 must be considered in relation to the “immediately prevailing circumstances”. It
25 may be a reasonable excuse that the carrier [possessor] is in anticipation of
26 imminent attack and is carrying the weapon for his own personal defence...In our
27 judgment a defendant is not left in the paradoxical position of being able to justify
28 acts carried out in self defence but not acts immediately preparatory to it. There is

¹⁰ Court of Appeal No. 3034/R/83 - Transcript dated 3rd February 1983

1 no warrant for the submission on behalf of the Attorney General that acts of self
2 defence will only avail a defendant when they have been done spontaneously. There
3 is no question of a person in danger of attack "writing his own immunity" for
4 violent future acts of his. He is not confined for his remedy to calling the police or
5 boarding up his premises...he may still arm himself for his own protection if the
6 exigency arises, although in so doing he may commit other offences. The defence
7 of lawful object is available to a defendant against whom a charge ...has been
8 preferred, if he can satisfy the jury on balance of probabilities that his object was
9 to protect himself or his family or his property against imminent apprehended attack
10 and to do so by means which he believed were no more than reasonably necessary
11 to meet the force used [or in contemplation as evidenced by his being shot and the
12 accompanying circumstances] by the attackers"... (see paras A-H on Pages 9-10)".
13

14 78. For clarity the full paragraph reads:

15 "He may still arm himself for his own protection, if the exigency arises, although
16 in so doing he may commit other offences. *That he may be guilty of other offences*
17 *will avoid the risk of anarchy contemplated by the Reference, it is also to be noted*
18 *that although a person may make a petrol bomb with a lawful object, nevertheless,*
19 *if he remains in possession of it after the threat has passed which made the object*
20 *lawful, it may cease to be so. It will only be very rarely that circumstances will exist*
21 *where the manufacture or possession of petrol bombs can be for a lawful object."*
22

23 79. Counsel submits that in the instant case the defendant had the firearm for a lawful object
24 and that exceptional circumstances are present such that the imposition of a mandatory
25 sentence in this case would be arbitrary and disproportionate.
26

27 80. It is of note that the issue on appeal in the case of **Fegan** related to Count 2 of the
28 Indictment, whether the pistol and ammunition were possessed for a lawful object
29 pursuant to section 4 of the **Explosives Substances Act** 1883. The Court said that it is



possible that a firearm unlawfully held, meaning, held without a certificate could at the same time be possessed for a lawful object. There were thus two limbs to the section. The Trial Judge had failed to direct the jury as to the second limb.

81. In the instant case, the offence is possession of a firearm without a license or certificate. The issue is not whether the defendant possessed the firearm for a lawful object, being protection from imminent danger if this can be said to be a lawful object, it is whether the circumstances of the possession as asserted by the defendant amount to exceptional circumstances within the context of possession of an unlicensed firearm.

DISCUSSION

82. This Court accepts the earnest, detailed and impassioned plea of defence Counsel as to the reasons for the possession of the firearm. It is accepted that the defendant was shot in February 2024 in public at the Stadium in West Bay. Counsel has provided a video recording of this. It is accepted that there is a history of disputes between the defendant and "X" and the associates of "X" and threats from "X" and his associates to the defendant.

83. Defence Counsel urges that this case goes beyond threats, that the defendant was shot and but for his flight from the Stadium he may have been killed.

84. The issues which defence Counsel raises are unfortunately not new in the context of the mandatory minimum sentence with respect to sentences for possession of unlawful firearms, neither are they unique. There is clear guidance from the Cayman Islands Court of Appeal and the English Court of Appeal not only as to the general test set out above in *Rehman and Wood* but as to the specific circumstance of possession of a firearm for self or family protection.



1 85. From my reading of the cases possession of a firearm for self-protection cannot amount
2 to an exceptional circumstance in relation to the offence. Proven trauma, mental health
3 issues, or incapacity which may impact an offender's ability to serve a sentence of
4 incarceration or make it more difficult for him to do so may amount to exceptional
5 circumstances in relation to the offender.

6
7 86. In the case of *R v Andy Errol Barnes*¹¹, a case on which defence Counsel relies the
8 Grand Court (McDonald-Bishop J. (Acting)) found that there were exceptional
9 circumstances evident from the SIR and psychiatric report on the defendant to include
10 the psychological trauma and post-traumatic stress disorder following the killing of his
11 young son. The learned Judge said this: -

12
13 “38. I am prepared to accept, as an unusual circumstance, that the defendant is
14 gravely affected by the death of his child, for which he has not yet received justice,
15 and having to be in prison with the person he believes is responsible. That situation
16 must be particularly distressing. Moreover, the loss of that child, his detachment
17 from his other children, coupled with his unstable mental condition, would have led
18 to more difficulty on his part in coping with incarceration when compared with the
19 'typical' prisoner at HMP Northward.”

20
21 87. In the case of *Blackall*, the English Appellate Court considered an appeal against the
22 imposition of a mandatory minimum sentence of 5 years for possession of a prohibited
23 firearm and as to whether there were exceptional circumstances.

24
25 88. The circumstances were that on the 11th February 1995, the appellant was shot and
26 wounded by an unknown assailant. He was rendered a paraplegic from the waist down.
27 He suffered from a high degree of disability which affected his daily life. Although the
28 matter was reported to the police and investigated, no one was ever caught. Following

¹¹ Ind 59 of 2016 Grand Court unreported Judgment dated 15th July 2021



1 the attack, the appellant kept a revolver in his house to protect himself from future
2 attack.

3
4 89. In July 2004 he was the subject of another attack, this time by a man who came to his
5 front door and put a gun to his head. The loaded revolver was found at his home in
6 September 2004.

7
8 90. The Appellate Court agreed with the trial judge that there were no exceptional
9 circumstances relating to the offence itself and stated that: -

10 “The fact that the appellant was keeping the gun for his own protection cannot be
11 an exceptional circumstance.”
12

13 91. The Court went on to say that: -

14 “There are many occasions when a defendant can properly indicate to a court that
15 that is the reason why he has a firearm, but the aim of the legislation and the aim of
16 the minimum sentence is to deter people from keeping firearms in their possession
17 whatever the justification may be. In our judgment, on the facts of the case, there
18 were no exceptional circumstances.”
19

20 92. The Court accepted that there were exceptional circumstances in relation to the offender
21 in that he was a paraplegic with many consequential physical disabilities. A sentence
22 of imprisonment would be much more difficult for him. This was the approach taken
23 by McDonald-Bishop J. in the case of *R v Barnes*.
24

25 93. In the cited case of *Smith*, the appellant had been sentenced to the minimum term of 5
26 years imprisonment for a revolver found concealed in his kitchen. He said that he had
27 it for his own protection. He did not have bullets for the gun. The circumstances
28 included that: -

29 “The appellant had married into a family of notorious gangsters in the Merseyside
30 area. When his marriage broke down his life was threatened by members of his

1 wife's family. His home in the Warrington area was visited and a sawn-off shotgun
2 discharged in the hallway. He thereafter received a written notice of "threat to
3 endanger life" from the Cheshire Constabulary, indicating that the police had
4 intelligence and information which showed that the defendant's life was in real
5 danger. The letter concluded by saying that the responsibility for the appellant's
6 overall safety was his own.

7
8 The defendant was advised by the police to wear a bullet proof vest on all occasions
9 that he left his house. He was shown by the police the best escape routes from his
10 house should he be attacked. He was followed home each evening by the
11 Merseyside police to the Cheshire police boundary and there afterwards the
12 Cheshire police telephoned him to make sure he had arrived home safely.

13
14 Faced with this situation, the appellant, for his own protection, had purchased and
15 armed himself with an air cartridge revolver but he did not acquire any ammunition
16 for this weapon. The ammunition found at his house had nothing to do with the air
17 cartridge revolver.

18
19 When passing sentence the judge accepted that a rival family were determined to
20 attack the appellant using firearms. He said that he approached with sympathy the
21 appellant's plea that he possessed the gun for his own protection. The judge
22 recognised that the appellant could not move house at the drop of a hat and that the
23 police could not always be at his door in a matter of seconds. He went on to say:

24
25 "The reality is this. If the courts were to sanction this sort of activity, then
26 it would be seen to condone the never-ending spiral of tit for tat possession
27 of firearms."





1 The judge then referred to *R v Blackall* [2005] EWCA Crim 1128, where this Court,
2 whilst holding that the appellant's paraplegia was an exceptional circumstance in
3 relation to the offender, agreed with the sentencing judge that possession of a gun
4 to ward off armed attacks was not an exceptional circumstance in relation to the
5 offence."

6
7 94. The appellant's Counsel argued that the sentencing judge was wrong not to find
8 exceptional circumstances, that the threat of an armed attack was a very real one which
9 had been corroborated by the evidence of the police and that further more the appellant
10 was not in possession of any ammunition for the firearm, the purpose was to ward off
11 an attack and there was no danger of the firearm being used.

12
13 95. The Appellate Court dismissed the appeal stating: -
14

15 "We are unpersuaded by these submissions. As this Court observed in *Blackall*, the
16 aim of the applicable legislation is to deter people from keeping firearms in their
17 possession, whatever the justification for such possession might be. We agree with
18 Judge Lewis that, if the court were to find here exceptional circumstances, it would
19 be seen to be condoning the possession of firearms to meet gun violence with a like
20 response, or the threat of a like response by brandishing an unarmed weapon. The
21 possession of firearms poses a major threat to the security of society. Offences
22 involving the use or threat of use of guns are worryingly on the increase. It would,
23 in the judgment of this Court, be wholly contrary to the purpose of the Firearms
24 Act if possession of a firearm, even without ammunition, for the purpose of warding
25 off an armed attack, were to be held to constitute exceptional circumstances."

26
27 96. In addition to the case of *Barnes*, there are local cases which provide assistance on this
28 specific issue. One is the case of *R v Justin Ebanks*¹². This case was brought to the

¹² [2016] (2) CILR 132



1 attention of Counsel by the Court and Counsel were afforded an opportunity to make
2 submissions thereon. In that case Quin J. considered the case of *Smith* among others
3 and held that: -

4 “(1) Self defence did not constitute an “exceptional circumstance” for the purposes
5 of sentencing for possession of an unlicensed firearm. The possession of a firearm,
6 whether for self defence or the defence of others, could not amount to exceptional
7 circumstances relating to the offence or to the offender justifying a sentence lower
8 than the statutory minimum. If the court were to decide otherwise, such a decision
9 would inevitably threaten the security of society in the Cayman Islands.”

10
11 97. In the course of the judgment Quin J. stated: -

12
13 “15 There is a clear body of case law, developed in England and Wales, which sets
14 out the principle that the possession of a prohibited firearm for the purpose of self
15 defence cannot amount to exceptional circumstances—no matter how serious or
16 significant the perceived threat may be. A clear statement of the principle and
17 reasons underpinning it are found in the final paragraph in the judgment of the
18 Court of Appeal of England and Wales in *R. v. Smith* (8). The judgment of Mr.
19 Justice Field (now a judge of the Cayman Islands Court of Appeal) stated ([2007]
20 EWCA Crim 1434, at para. 12):

21 “The possession of firearms poses a major threat to the security of society. Offences
22 involving the use or threat of use of guns are worryingly on the increase. It would,
23 in the judgment of this Court, be wholly contrary to the purpose of the Firearms Act
24 if possession of a firearm, even without ammunition, for the purpose of warding off
25 an armed attack, were to be held to constitute exceptional circumstances.”

26 16 There has been a marked increase in serious gun crimes in the Cayman Islands
27 over the past seven years, which has led to the loss of the lives of many young
28 Caymanians and, further, has led to many businesses being subject to very serious
29 armed robberies in which unlicensed firearms were employed. It would not be an



1 understatement to say that guns have become a curse here in the Cayman Islands—
2 leading to so much untold grief and anguish.

3 17 For the avoidance of any doubt I make the following statement. In the Cayman
4 Islands, the possession of an unlicensed firearm for the purpose of self defence or
5 the defence of others cannot amount to exceptional circumstances “relating to the
6 offence or to the offender”—to result in a sentence lower than the statutory
7 minimum years of imprisonment. If the courts were to decide otherwise, such a
8 decision would inevitably lead to further breakdown in law and order. The
9 possession of illegal firearms is a major threat to the security of society in the
10 Cayman Islands and can never be tolerated.

11
12 18 What is absolutely vital is for the community to assist the police in identifying,
13 apprehending and bringing to justice persons who are in possession of, or have in
14 their custody or control, unlicensed firearms or indeed any information in relation
15 to unlicensed firearms and their locations.”

16
17 98. Counsel for the prosecution has also referred the Court to the Cayman Islands Court of
18 Appeal decision in the case of *Michael Conrad Ebanks v R*. The Appellate Court
19 referenced the case of *Nancarrow* and the principles and then stated: -

20
21 “An additional matter not mentioned in the above passage is that the fact
22 that an unlicensed firearm is possessed for the purpose of self defence
23 cannot of itself amount to exceptional circumstances for the purpose of
24 section 39, see Justin Alvin Ebanks (supra) per Quin J approving R v Shaun
25 Smith [2007] EWCA Crim 1434 in England and Wales.”

26
27 99. In both of the local cases of *Justin Alvin Ebanks* and *Michael Conrad Ebanks* the
28 exceptional circumstances found related to the assistance which had been rendered to
29 the authorities by the appellants and any effect upon the appellants of this.

1 100. I have referenced these cases in some detail. In the face of the very clear and
2 unequivocal line of authority detailed above, this Court must conclude that the
3 circumstances of the offence in the instant case do not amount to exceptional
4 circumstances.

5
6 101. The particular circumstances of this case do not appear to be unique as urged by defence
7 Counsel. In **Blackall**, the appellant was shot and rendered a paraplegic. In both **Blackall**
8 and **Smith** the threats were ongoing over a period of time. There can be no proper legal
9 basis to find that the circumstances of the offence in this case are exceptional. Indeed,
10 the Appellate Courts in England and Wales and in the Cayman Islands are robust in
11 asserting that care must be taken not to sanction what would in effect be the use of gun
12 violence to meet gun violence.

13
14 102. The defendant in this case made a deliberate choice to arm himself with an unlicensed
15 firearm.

16
17 103. Consideration has been given to whether there are exceptional circumstances in relation
18 to the offender. In the instant case no issue is raised as to difficulty for the defendant
19 with respect to serving a sentence. This Court has not been asked by defence Counsel,
20 prosecuting Counsel or the Probation Officers to obtain any psychiatric or
21 psychological reports. Additionally, even if the Court were to consider this of its own
22 motion, there is no material before the Court to suggest the necessity for one.

23
24 104. There is mention in the SIR of possible indications of post-traumatic stress disorder
25 such that the defendant has been referred to counselling.





1 105. Defence Counsel in further submissions¹³ said this: -

2
3 “12. D asserts that he would wake up at nights, having nightmares and there are
4 several other instances where threats and violence, were levelled at him and to
5 lessen his PTSD situation, he would make concerted efforts to forget them; and so
6 now finds it difficult to recall all of what he experienced. He has been forced to,
7 while now in prison, access the services of a Counselor, as he would find that he
8 could not go to sleep in the nights; after being up all day and this condition has
9 persisted from then till now.”

10
11 106. This Courts accepts that the defendant has suffered trauma as a result of the threats and
12 in the aftermath of the shooting incident and would even go so far as to accept that it is
13 likely that he is suffering from post-traumatic stress disorder.

14
15 107. However, there is nothing to suggest that this rises to the level of making it more
16 difficult for him to serve a sentence of imprisonment. Indeed, defence Counsel’s
17 submission suggests that he is now receiving the help that he needs.

18
19 108. In the Court’s view looking at all the circumstances holistically, the conclusion is that
20 there is nothing in these circumstances taken as a whole which may be regarded as
21 exceptional either in relation to the offender or to the offence. Neither is there any single
22 striking feature which would justify such a finding. The Court has given consideration
23 to whether the imposition of the minimum sentence would be disproportionate or
24 arbitrary in light of all the circumstances of this case and has concluded that it would
25 not.

26
27
28

¹³ 14th May 2026



1 **THE SENTENCE**

2
3 **FIREARM**
4

5 109. The starting point of 10 years from the *Statement of Tariffs and Guidelines* is therefore
6 applied. The prosecution submits that the potentially aggravating factors are that the
7 firearm was not securely stored and was readily accessible. It was in a home in which
8 there was a baby. In the Court's view, these are adequately covered by the mandatory
9 minimum sentence and there is no increase by reason of these factors.

10
11 110. Thus, in respect of Count 1, the defendant is sentenced to the minimum sentence of 10
12 years imprisonment as prescribed by law.

13
14 **SENTENCE – AMMUNITION**
15

16 111. With respect to the ammunition, from a starting point of 24 months, with 6 months for
17 mitigating circumstances and one third discount for guilty plea the sentence is 12
18 months imprisonment.

19
20 **SENTENCE - DRUG OFFENCES**
21

22 112. In respect of the drug offences, the prosecution refers to the cases of *Wayne Carlos*
23 *Myles v R*¹⁴ and *G. Smith v R*¹⁵.

24
25 113. The 2002 *Statement of Tariff and Guidelines* with respect to cocaine trafficking states
26 in part:
27

¹⁴ CICA 11/2021, 13/2021 and 14/2021 Unreported judgment dated 18th July 2022

¹⁵ [2012] CILR Note 2



1 “At the other end of the scale of gravity, that is to say, trafficking in hard drugs in
2 any quantity as defined in the Misuse of Drugs Law, the maximum penalty
3 prescribed for offences involving 2 ounces or more is 20 years for the first offence
4 and 30 years for a second or subsequent offence with an unlimited fine in each case.
5 That of course is the maximum sentence for the worse possible offence by the worst
6 possible offender.

7 The tariff for a first such offence, involving less than 2 ounces of cocaine or less
8 than 4 grams of cocaine base without mitigating circumstances, will be 8 years.

9 For offences involving 2 ounces or more or 4 grams or more of cocaine base without
10 mitigating circumstances the tariff will be 10 to 12 years. 15 years or more will be
11 imposed where such an offence involves substantial importation or dealing in any
12 way either in powder or crack cocaine. We would define 'substantial importation or
13 dealing' as any transaction involving several ounces of kilo quantities.”
14

15 114. It is submitted by Counsel for the prosecution that applying the guidance from the Chief
16 Justice’s ***Statement on Tariffs and Guidelines***, the tariff in respect of the cocaine found
17 which is less than two ounces is 8 years. The Court accepts this submission. From a
18 starting point of 8 years or 96 months consideration is given to the submission that the
19 potentially aggravating factors are that the cocaine was not securely stored and was in
20 an apartment in which a baby resided.

21
22 115. The sentence is aggravated by 3 months to one of 99 months by reason of these factors.
23

24 116. In mitigation the Court takes into account everything said in favour of the defendant.
25 He has no previous convictions and is of good character. He is remorseful. He is the
26 father of two young children and incarceration will mean that he will be absent from
27 their lives. He has had significant personal trauma due to threats and is the victim of a
28 shooting. The sentence is reduced by 18 months to one of 81 months by reason of these
29 factors.
30



1 117. The defendant is given the full one third credit for his guilty plea for a final sentence
2 of 54 months imprisonment.

3
4 118. For the offence of Possession of Ganja with Intent to Supply, the weight of the ganja is
5 18.875 ounces or 1.172 lbs. Applying the test set out in *Comrie v R*¹⁶, but noting the
6 weight of the drugs in this case and using the lower starting point of 36 months, no
7 aggravating factors are urged upon the Court.

8
9 119. In mitigation account is taken of all the factors detailed above. These serve to reduce
10 the sentence by 6 months to 30 months imprisonment. The defendant is given the full
11 one third credit for his guilty pleas for a final sentence of 20 months imprisonment.

12
13 120. The charge of Possession of Ganja is subsumed. No separate penalty is imposed.

14
15 121. On the charges of Possession of Drug Utensil and Consumption of Ganja, in each case
16 starting points of 6 months imprisonment are adopted. Considering mitigation and
17 credit for guilty pleas, the final sentence is 12 weeks imprisonment.

18
19 122. All the sentences are to run concurrently, arising as they do from the same set of facts.

20
21 123. The defendant has been in custody from the 9th May 2025. All the time served should
22 be deducted from his sentence.

23
24 124. While the defendant is in custody, the defendant is to continue to receive treatment not
25 only for his addictions but any issues in relation to post traumatic stress disorder.

26
27
28

¹⁶ [2012] (1) CILR Note 3

FORFEITURE

125. As requested by the prosecution, forfeiture orders are made in respect of the firearm and ammunition, the cocaine, ganja and scale. These are all forfeited to the Crown to be destroyed.

Dated this the 22nd May 2026



The Hon. Justice Cheryll Richards KC
Judge of the Grand Court

