

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

4 IND. NO: 0020/2018
5

6 THE QUEEN
7

8 V
9

- 10
11 1. MARCUS ALEXANDER
12 2. KATHY ANN FORBES
13 3. CARLOS ROBINSON
14 4. PHEADRA McDONALD
15 5. DIANE DEY-RANKINE
16 6. ~~SLM~~
17 7. SANTO CASTRO CASTILLO
18 8. ~~MPM~~
19 9. MARIEL MALENO SURIEL
20 10. ~~KMP~~
21 11. CAROLIN NIXON LOPEZ
22 12. ANGELA SUYAPA RODRIGUEZ DAVID



23
24
25 **Appearances:**

26 Mr. Patrick Moran, DPP with Mr. Greg
27 Walcolm for the Crown

28 Mr. Jonathon Hughes for Marcus Alexander

29 Ms. Amelia Fosuhene of Brady Attorneys for
30 Kathy Ann Forbes

31 Mr. Crister Brady of Brady Attorneys for
32 Carolos Robinson

33 Mrs. Prathna Bodden of Samson Law for
34 Pheadra McDonald

35 Mr. Dennis Brady of Brady Attorneys for
36 Diane Dey-Rankine

37 Ms. Keva Reid for Santo Castro Castillo
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1 Mr. Oliver Grimwood of Barton Attorneys for
2 Mariel Suriel

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4 Ms. Amelia Fosuhene of Brady Attorneys for
5 Carolin Nixon Lopez

6
7 Mr. Crister Brady of Brady Attorneys for
8 Angela Suyapa David
9

10 **Before:** Justice Roger Chapple (Actg.)

11 **Heard:** 12th and 13th May 2020

12
13 **Judgment delivered:** 30th July 2020
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17 **HEADNOTE**

18 *Criminal Law –Anti-Corruption Law (2014 Revision) – Offence of Conspiracy to*
19 *commit fraud on the government – s.11 and s.52 of the Anti-Corruption Law (2014*
20 *Revision) – Sentence..*
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23

24 **SENTENCE JUDGMENT**
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1. These nine defendants now fall to be sentenced for offences contrary to the *Anti-Corruption Law* (2014 Revision).

2. On 11th May 2018, Defendant #9, Ms. Suriel, pleaded guilty to 4 offences of conspiracy to commit fraud on the government (Counts 16, 17, 21 and 23). All other defendants pleaded not guilty to the counts of the indictment that concerned them.

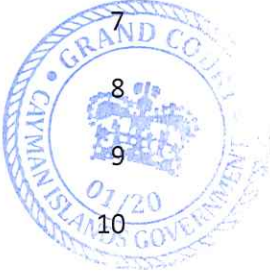
3. At the direction of the court, in the exercise of its case management powers, the original 12-defendant, 32-count indictment was severed into more manageable proportions. In the event, there were two effective trials.

4. Trial #1: Ms. Suriel gave evidence for the prosecution. Mr. Alexander, Ms. Forbes, Mr. Robinson, Ms. McDonald, Ms. Dey-Rankine and Mr. Castillo were convicted by a jury of various offences following that trial, concluding on 26th February 2019.

5. Trial #2: On the 31st October 2019, Ms. Dey-Rankine, Ms. Nixon-Lopez and Ms. Rodriguez-David were all convicted following a jury trial upon an indictment containing a single count of conspiracy to commit fraud on the government (count 22 of the original indictment).

6. Justice St-John Stevens, Acting Judge of the Grand Court, presided over the first trial. I conducted the second trial. Whilst it was not possible for the same judge to hear both trials, all agree that the interests of justice require all that defendants who were convicted or pleaded guilty, be sentenced by the same tribunal. That task has fallen to me.

7. At my request, Mr. Moran for the prosecution, helpfully opened the facts of the first trial in considerable detail, taking me through the key exhibits. I have read the papers in the first trial, concentrating particularly on the contents of the jury bundle. I have also been



1 assisted by Mr. Moran's detailed opening note in the first trial, but have borne in mind,
2 as urged particularly by Ms. Fosuhene, appearing on behalf of Ms. Forbes (and Ms.
3 Nixon-Lopez) that not all that the prosecution hoped to prove was in the end established.

4
5 8. The trials were concerned with events taking place in 2015 and 2016. At that time Mr.
6 Alexander, Ms. Forbes, Mr. Robinson, Ms. McDonald and Ms. Dey-Rankine were
7 employed by the Cayman Islands Department of Immigration (DOI) as immigration
8 officers. Some were senior immigration officers. Most had been working for the DOI
9 for many years. They all, self-evidently, held positions of trust and responsibility. Their
10 duty, essentially, was to police and protect the borders of the Cayman Islands, to ensure
11 that those properly entitled were permitted entry to these islands and to ensure that those
12 who had no such entitlement were not. That is the broad role and function of all
13 immigration officers. They were, as is properly conceded, law enforcement officers.

14
15 9. There were many persons living abroad who, hoping to make a better life for themselves
16 and provide for their families, wanted to come to these islands to live and work. That
17 prospect was particularly appealing for nationals of other nearby less prosperous
18 countries. This case is concerned with nationals of the Dominican Republic, Cuba and
19 Honduras.

20
21 10. One of the pre-requisites for entry to the Cayman Islands for employment is a work
22 permit. These are issued by the DOI. For those whose first language is not English, an
23 applicant must pass an English language test, again administered by the DOI, before a
24 work permit can be issued. The test is conducted either immediately on arrival at the
25 airport or within a day or so of arrival. The purpose of the test, as the name implies, is
26 to ensure that a prospective worker has the ability to speak, read and write English.
27

1 11. A high degree of trust was placed in – and a high degree of integrity expected from –
2 those carrying out the tests, inasmuch as those carrying out the tests were not supervised,
3 neither were the tests audio or video recorded. Generally, only the immigration officer
4 and the candidate were present while the test was carried out. For the most part, the test
5 paper was completed by the officer, who also marked the paper, determining whether
6 the candidate passed or failed.

7
8 12. Each of the immigration officers in the dock, as juries have determined, acted corruptly,
9 either themselves accepting bribes, or playing their part in such an arrangement, to
10 ensure that candidates who were otherwise unlikely to pass the test, did so successfully
11 and thus were issued with a work permit and allowed entry to the Cayman Islands. In
12 short, in return for payment, immigration officers were willing to do the precise opposite
13 of that which their duty required and that which they were employed, at public expense,
14 to do. They knowingly, deliberately and for payment, permitted entry into this country,
15 those who should have been refused entry.

16
17 13. These corrupt immigration officers did not act alone. Also in the dock are those
18 described in the course of these proceedings as facilitators or middle-men and middle-
19 women. Mr. Robinson, although an immigration officer, was not of sufficient seniority
20 to conduct tests and is more properly described as a facilitator. The facilitators were the
21 links in the chain between the would-be immigrants and immigration officers who were
22 prepared to break the rules.

23
24 14. Telephone evidence figured prominently in both trials and, as is almost always the case
25 with this type of evidence, proved illuminating as to what was going on, how the
26 conspiracy operated, the roles and activities of the defendants.

27

- 1 15. The WhatsApp exchanges paint a clear picture. At the centre of the conspiracy reflected
2 in count 33 of the indictment (count one of the first trial indictment) were Mr. Alexander,
3 Mr. Robinson and Mr. Castillo – the latter accurately described by Mr. Moran, on behalf
4 of the prosecution as “*an extremely active facilitator.*”
- 5
6 16. Mr. Alexander was the testing officer in 10 of the approximately 15 suspect tests
7 examined in detail in the first trial.
- 8
9 17. Ms. Forbes was involved with 6 such tests. She was the testing officer in one case and
10 assisted in making arrangements for a corrupt immigration officer, usually Mr.
11 Alexander, to administer other tests.
- 12
13 18. Mr. Robinson was effectively the on-site facilitator at the DOI, providing a link between
14 a willing immigration officer, another facilitator (most prolifically Mr. Castillo) and a
15 would-be immigrant worker. Mr. Robinson figures in 7 of the tests examined in the first
16 trial.
- 17
18 19. Mr. Castillo (Ms. McDonald’s partner), brokered many of the deals between the testing
19 officer and candidate, negotiating the price and arranging payment.
- 20
21 20. The remaining defendants in the first trial played lesser but nonetheless significant roles,
22 which I will examine later in this judgment.
- 23
24 21. Ms. Suriel is in a very different position having pleaded guilty at an early stage of the
25 proceedings and having given evidence for the prosecution in the course of the first trial.



1 22. The emphasis of the second trial, involving Ms. Dey-Rankine (an immigration officer),
2 Ms. Rodriguez-David and Ms. Lopez (the facilitators), was rather different. The
3 conspiracy involved just one test, but the court had the advantage of hearing directly
4 from the victim, Ms. Reyes-Diaz. When I say victim, I choose that word deliberately. I
5 have the advantage of a detailed victim impact statement and I saw for myself how Ms.
6 Reyes-Diaz was treated, her hopes of a better life raised and then dashed. She was
7 cynically manipulated, relieved of what was, for her, a great deal of money, and then
8 tossed aside. Whilst she was the only test candidate from whom the court heard, there is
9 no reason to suppose that others in a similar position did not suffer in similar ways.

10 23. I have been considerably assisted by written sentencing submissions from Mr. Moran,
11 who prosecuted the first trial, Mr. Walcolm, who prosecuted the second trial, and from
12 all defence attorneys. I have also been referred to a number of authorities. There are no
13 offence-specific guidelines in this jurisdiction for bribery/corruption offences. I have
14 helpfully been referred to the England and Wales Sentencing Council's Definitive
15 Guideline for Fraud, Bribery and Money Laundering offences, and particularly to the
16 guidance for bribery offences. In this jurisdiction these guidelines are of persuasive
17 authority.
18

19 24. At an earlier stage in these proceedings, I heard legal argument as to the court's
20 sentencing powers in respect of the offence of conspiracy to commit fraud on the
21 government, contrary to the *Anti-Corruption Law* (2014 revision) - the prosecution
22 contending that the maximum sentence is 10 years' imprisonment, the defence arguing
23 that it is two years' imprisonment.
24
25





1 25. I gave a fully reasoned judgment having considered those submissions. This judgment
2 should be read together with that judgment, circulated to all parties in April this year.
3 The maximum sentence is, as I then ruled, 10 years' imprisonment.

4
5 26. The maximum sentence in England and Wales for bribery offences, involving
6 criminality similar to that with which this court is now concerned, is also 10 years'
7 imprisonment, making consideration of those guidelines in this jurisdiction
8 straightforward. The prosecution submits that count 1, for the prime movers at least, is
9 an offence of high culpability within the meaning of those guidelines since the
10 conspiracy involved an abuse of a position of significant power, trust or responsibility
11 (the immigration officers) and the anti-corruption of law enforcement officers (the
12 facilitators).

13
14 27. Additionally, for those convicted in the first trial, the offending continued over a
15 sustained period. It was, the prosecution continues, category 2 harm because the
16 conspiracy involved "*significant undermining of the proper function of local or national*
17 *government, business or public services.*" If that categorization is to be considered
18 correct, those guidelines suggest a starting point of 5 years, with a range of 3 to 6 years'
19 imprisonment.

20
21 28. Varying defence attorneys sought to persuade the court towards a lower categorization
22 of the offending behaviour. Ms. Fosuhene's argument that the England and Wales
23 guidelines offered no assistance since there were "*structural differences*" between
24 government agencies in England and Wales on the one hand, and the Cayman Islands
25 on the other, was difficult to follow. Owen Roberts International airport could not, she
26 stressed, properly be compared to Heathrow Airport. Whilst that may be true (and, I am
27 bound to say, she was alone in drawing that comparison), corruption is the same dark

1 force wherever in the world it occurs, and needs to be dealt with firmly. In the event, I
2 have found those guidelines of assistance, but I have also been assisted by case law, both
3 in this jurisdiction and in England and Wales.

4
5 29. I was referred to the Cayman Islands cases of *R v Patricia Webster*¹ and *R v Elvis*
6 *Ebanks*².

7
8 30. In *Webster*, (a decision of Justice Quin) a civilian police employee obtained information
9 from a police database on two occasions and passed it on to others. Some of the
10 information was in fact publicly available. Her actions were not intended to further any
11 criminal purpose and were described by the court as naive. Despite that, a suspended
12 sentence of nine months' imprisonment was imposed, demonstrating the serious view
13 taken by these courts of any offence of corruption.

14
15 31. The case of *Ebanks* (also a decision of Justice Quin) is of rather more assistance since
16 it involved a corrupt law enforcement officer soliciting and accepting bribes and thus
17 has parallels with the immigration officers convicted of conspiracy. The defendant, a
18 serving police officer, suggested to a suspect that he could avoid prosecution by paying
19 \$500. The sentence in that case was one of three years' imprisonment. I remind myself
20 that the maximum sentence for the offence with which Quin, J was dealing was 14 years,
21 rather than, as here, 10 years.

22
23 32. For the sake of completeness, I should add that there are no authorities or guidelines,
24 either in the Cayman Islands or in England and Wales that assist in respect of the
25 substantive offences contrary to s.20 of the *Anti-Corruption Law*, for which some

¹ [2013] (2) CILR 72 (Indictment 85 of 11)

² (Indictment 105 of 2012, CICA 15 of 2014)

1 defendants fall to be sentenced. The maximum sentence for such offences is two years'
2 imprisonment and/or a fine of \$10,000.

3
4 33. Fortunately, it is, relatively speaking, rare for this court to be called upon to deal with
5 corruption. The sharp distinction between the cases to which I have been referred and
6 this case, is that here, one is dealing with corruption which had taken a hold, systemic
7 corruption within a government department, rather than isolated individual actions as in
8 *Webster* and *Ebanks*. The main conspiracy covers a 10-month period. That is a
9 substantially aggravating feature of this case, demanding, in my judgment, a higher
10 starting point than *Webster*.

11
12 34. Several England and Wales sentencing authorities dealing with corruption (see for
13 example *Innospec Ltd*³) draw attention to the remarks of the then Secretary General of
14 the United Nations in his Foreword to the *2004 United Nations Convention Against*
15 *Corruption*. Those remarks seem to me to be apposite here:

16
17 *“Corruption is an insidious plague that has a wide range of corrosive effects on*
18 *societies. It undermines democracy and the rule of law, leads to violations of human*
19 *rights, distorts markets, erodes the quality of life and allows organized crime,*
20 *terrorism and other threats to human security to flourish.”*

21
22
23 In *R v Messent*⁴, Judge, L.J, as he then was, commented that *“the language is graphic;*
24 *it is clear and unequivocal. We adopt it without hesitation.”*



³ [2010] Crim LR 665

⁴ [2011] 2 Cr App R (S) 93

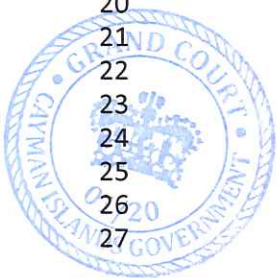
1 35. This case is a clear example of the insidious nature of corruption. Several attorneys
2 submitted as a mitigating factor that their client was not an indispensable component of
3 the conspiracy. The obverse of that coin is that it goes to illustrate how corruption had
4 taken hold in the immigration department. If, for example, a particular corrupt
5 immigration officer were not available, another could readily be provided to take his or
6 her place and conduct an English language test to order.

7
8 36. From the pleas tendered, and the verdicts in the two trials, it follows that five corrupt
9 immigration officers were operating. In Ms. Suriel's written basis of plea, which the
10 court accepts as an accurate reflection of the situation as it was in 2015/2016, she
11 explains that Mr. Castillo "*was telling everyone that he could help people who are*
12 *applying for work permits to pass their English tests if they needed.*" It may be that some
13 immigration officers lower down the scale of culpability were swept along by the culture
14 of corruption that had been allowed to take hold. That demonstrates all too clearly the
15 corrosive effect of corruption and one of the reasons why it must be dealt with firmly.

16
17 37. If ever there was a case for taking a step back and looking at the overall position, this is
18 it. It bears repeating that here, immigration officers, for reward, were facilitating the very
19 thing they were employed by to prevent. As Quin J observed in Ebanks:

20
21 *"The defendant's conduct not only undermines the good name and reputation of the*
22 *Royal Cayman Islands Police Service but also actually damages the good name of*
23 *the Cayman Islands. The courts in this country cannot tolerate any form of bribery*
24 *or corruption."*
25

26
27 Quin, J's words of course apply equally to the Immigration Department. As Mr. Moran
28 rightly observed in the course of submissions, at least three countries (Dominican
29 Republic, Cuba and Honduras) were given the impression that it was possible to buy



one's way into the Cayman Islands. Quin, J drew attention to the observations of Swinton Thomas LJ in the case of our *R v Keyte*⁵:

"Police officers are given considerable powers and privileges which are necessary for the performance of their duties. If they dishonestly abuse their position and do so for profit, not only must a prison sentence follow, but it must of necessity in our view be a severe one."

38. No lesser standards are expected of immigration officers. In cases such as this, I am in no doubt that there is a clear need to send a deterrent message and to mark the public's disapproval of an abuse of power on the part of those placed in authority and working at public expense. The public have every right to expect the highest standards from immigration officers. Sentences should reflect the detrimental effect the actions of these immigration officers (encouraged by their co-defendants) inevitably have upon public confidence.

39. Before turning to the cases of the defendants individually, it is convenient to deal with some general matters urged in mitigation by all defendants:

i. Good character:

All defendants could claim the distinction and advantage of a good character prior to their involvement in these offences. Some defendants had been employed by the immigration department for many years. I have been provided with a number of character references concerning some of the defendants, which I have studied with care. Most defendants have the support of loving families. The consequences of conviction and the loss of

⁵ [1998] 2 Cr App R (S) 165

1 their good character for these defendants and for their families have and will
2 continue to be devastating. Although the immigration officers have been
3 paid while suspended from employment, they have or will now lose that
4 employment. I bear in mind the likely financial hardship that will follow and
5 the reduced prospects of obtaining other employment. I give such credit as
6 I can for all those matters.

7
8 ii. Social Inquiry Reports (SIRs):

9
10 I am grateful to the Department of Community Rehabilitation (DCR) for
11 providing full and detailed SIRs in respect of all defendants, the contents of
12 which I have taken into account.

13
14 iii. Delay:

15
16 All attorneys have properly drawn attention to the long delay in this case
17 between arrest and final disposal. The offences for which I now have to
18 pass sentence took place 4 – 5 years ago, in 2015 and 2016. The Anti-
19 Corruption Commission began their investigation in 2016 following
20 complaint from the DOI. The defendants were arrested and interviewed in
21 2017 and charged in March 2018. As appears above, Ms. Suriel tendered
22 pleas which were acceptable to the prosecution on 15th May 2018. All other
23 defendants pleaded not guilty to the counts that variously concerned them,
24 as did other defendants who were found not guilty by a jury. Justice St. John-
25 Stevens conducted a number of case management conferences before the
26 first trial got underway in January 2019. The first trial lasted approximately
27 six weeks, concluding on the 26th February 2019. The second trial, as again



1 appears above, concluded on the 31st October 2019. As is well known to
2 those who practice in this jurisdiction, the logistics of accommodating
3 lengthy trials is fraught with difficulty, given limited judicial resources and
4 courtrooms, coupled with the limited availability of attorneys due to their
5 other commitments. That said, I do not underestimate the strain under which
6 these defendants have been living - the uncertainty of these proceedings
7 hanging over them for a very long time. Their movements have been
8 restricted and the quality of their lives diminished whilst on bail.

9
10 The painstaking investigation of the corrupt practices rippling out from the
11 immigration department inevitably took a long time.

12
13 The period was considerably lengthened by the attitude taken by most
14 defendants when interviewed – which was to deny any and all allegations of
15 wrongdoing and, thereafter, refuse to answer further questions. Whilst it is
16 true, as has been urged, that a defendant should not be penalized for pleading
17 not guilty, I quote Judge L.J, who in *R v Messent* said:

18 *“It is hardly open to a defendant in a case like this, whose immediate*
19 *response to enquiries was to direct attention away from himself, to*
20 *complain at a subsequent delay in the process of bringing the case*
21 *to trial and to justice”*
22



23 Had these defendants approached the matter in the same way as Ms. Surriel,
24 these proceedings would have been concluded some years ago.

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"We are hearing this Reference at the end of April 2020, when the nation remains in lock-down as a result of the Covid-19 emergency. The impact of that emergency on prisons is well-known. We are being invited in this Reference to order a man to prison nine weeks after he was given a suspended sentence, when he has complied with his curfew and has engaged successfully with the Probation Service. The current conditions in prisons represent a factor which can properly be taken into account in deciding whether to suspend a sentence. In accordance with established principles, any court will take into account the likely impact of a custodial sentence upon an offender and, where appropriate, upon others as well. Judges and magistrates can, therefore, and in our judgment should, keep in mind that the impact of a custodial sentence is likely to be heavier during the current emergency than it would otherwise be. Those in custody are, for example, confined to their cells for much longer periods than would otherwise be the case - currently, 23 hours a day. They are unable to receive visits. Both they and their families are likely to be anxious about the risk of the transmission of Covid-19.



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Applying ordinary principles, where a court is satisfied that a custodial sentence must be imposed, the likely impact of that sentence continues to be relevant to the further decisions as to its necessary length and whether it can be suspended.”

In the Cayman Islands, Lockdown restrictions are now being eased, and infection rates are mercifully low. However, I recognize that these defendants will have continuing anxieties.

I have reduced the length of some sentences to take account of these features, particularly the delay, and in other cases modified the type of sentence from that which I would otherwise have passed.

40. I now consider each defendant in turn. The prime movers in the conspiracy - the subject matter of the first trial – were clearly Mr. Alexander, Mr. Robinson and Mr. Castillo. I propose then to deal with them first.

ANALYSIS OF SENTENCES FOR DEFENDANTS #1, #3, #7 (MARCUS ALEXANDER, CARLOS ROBINSON, SANTO CASTRO CASTILLO)

41. Mr. Alexander (Defendant #1): He is now 46 years of age, started his employment with the DOI in 1992 and was promoted to the rank of senior immigration officer in 2007. He told the author of the SIR that he “*felt proud to represent his country.*” The five character references which accompany the SIR describe him as dedicated and hard-working, a devoted father, husband and provider. Like most of these defendants, he emphasized to the author of the SIR that he maintained his innocence, from which I simply note a continuing absence of contrition for his actions. Mr. Hughes, on his behalf told me that (i) Mr. Alexander suffers from an underlying cardio-vascular problem and that (ii) HMPS Northward could not, as a result, adequately care for him. No evidence was



1 produced to support either proposition. As to that, a court is, as a matter of general
2 principle, entitled to assume that the prison service is able to provide the necessary care
3 for those sentenced by the courts, including those who have special needs, whether by
4 reason of medical conditions or otherwise – unless it is informed to the contrary. Mr.
5 Moran submitted when opening the case, that Mr. Alexander was central to the
6 conspiracy from the beginning. I am satisfied that this is an accurate summary of his
7 involvement. He carried out the majority of the tests examined in the course of the first
8 trial and was Mr. Robinson’s first port of call. His culpability is high, particularly given
9 that he was a senior immigration officer and presumably expected to set an example to
10 others. He was an active participant throughout the conspiracy, acting corruptly for
11 financial reward. Despite his good character, the delay and all the other matters urged
12 in mitigation, a substantial sentence of imprisonment is as necessary as it is inevitable
13 and unavoidable.

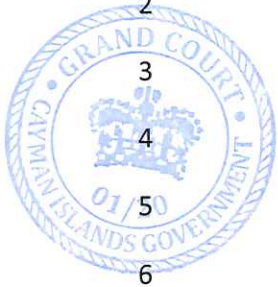
14
15 42. Mr. Robinson (Defendant #3): He is also 46 years of age, and he has worked for the DOI
16 for 10 years. Prior to that, he worked for Cable and Wireless for 17 years. He is married
17 with six children ranging in age from 1 to 24 years. His wife describes him as “an
18 amazing husband and father.” As already noted, Mr. Robinson was not of sufficient
19 seniority to carry out English language tests. Rather, his role in the conspiracy was to
20 act as the broker and, on occasions, fee negotiator – Mr. Castillo’s first port of call. He
21 was the main link between Mr. Castillo and corrupt immigration officers – that is, more
22 often than not, Mr. Alexander. Mr. Robinson was involved in seven of the tests featuring
23 in the first trial. Again, a sentence of imprisonment is inevitable in his case.



1 43. Mr. Castillo (Defendant #7): The same applies in Mr. Castillo's case. I have already
2 explained his role as the main facilitator. He made arrangements on behalf of prospective
3 applicants for work permits, usually with Mr. Robinson, for a corrupt immigration
4 officer to administer the test. The telephone, and particularly the WhatsApp, messages
5 in his case, demonstrate his enthusiastic participation in 13 of the 15 tests considered by
6 the jury. It was urged on his behalf that his motives in acting as he did were altruistic –
7 wanting only to help those from poorer countries to a better life. It is difficult to square
8 that proposition with some of his more insistent requests for money in the WhatsApp
9 messages. He did, it is accepted, receive a share of the "arrangement fee" – usually \$50
10 - \$100 of the \$500 - \$600 fee. Whatever his motives, he was, I am satisfied, well aware
11 of the criminality of the enterprise in which he was heavily involved. It could hardly be
12 otherwise.

13
14 SENTENCES –DEFENDANTS #1, #3, #7 (MARCUS ALEXANDER, CARLOS ROBINSON, SANTO
15 CASTRO CASTILLO)
16

17 44. In all the circumstances, I conclude that the appropriate starting point for the prime
18 movers in the main conspiracy is a sentence in the order of 5 - 6 years' imprisonment,
19 depending upon individual culpability. In fixing that starting point, I have been assisted
20 both by the Sentencing Council guidelines and by case law. For the prime movers, this
21 is a Category 2A offence. As mentioned above, but it bears repeating, the substantial
22 difference between the case of *Elvis Ebanks* and the other cases cited to me is that here,
23 corruption had begun its spread, involving a number of law enforcement officers in the
24 same department in a conspiracy, rather than isolated actions of individual officers. I
25 have reduced the sentences to take account of mitigating factors – both those personal to
26 a particular defendant and more general matters, particularly, the length of time the
27 defendants have been waiting for a final resolution of this case.



1 45. Mr. Alexander (Defendant #1): The least sentence I can pass upon Mr. Alexander for his
2 part in the conspiracy – that is, **Count 33** of the original amended indictment (conspiracy
3 to commit fraud on the government) – is **four (4) years’ imprisonment**. He was also
4 convicted of failing to report the solicitation of an advantage – **Count 30** of the original
5 indictment – in respect of which there will be a sentence of **four (4) months’**
6 **imprisonment, to run concurrently.**

7
8 46. Mr. Robinson (Defendant #3): The least sentence I can pass upon Mr. Robinson is a term
9 of **three (3) years’ imprisonment** in respect of **Count 33**. In respect of **Count 29**,
10 failing to report the solicitation of a reward, there will be a **concurrent sentence of four**
11 **(4) months’ imprisonment.**

12
13 47. Mr. Castillo (Defendant #7): Although Mr. Castillo was not an immigration officer, an
14 aggravating feature of his case is that he was prepared, time and again, to bribe law
15 enforcement officers, offering inducements for them to act corruptly. Particularly given
16 his prominence in the conspiracy and his persistence, the appropriate sentence in his case
17 is **three (3) years’ imprisonment in respect of Count 33**. In his case, I make a
18 recommendation for his deportation once he has served that sentence.

19
20 **ANALYSIS & SENTENCES FOR MS. KATHY ANN FORBES (DEFENDANT #2)**

21
22 48. I confess having found her case and the determination of the right sentence particularly
23 troubling. Her involvement in this conspiracy as disclosed by the evidence is clear. She
24 was the testing officer in only one test, but involved in the arrangements for a number
25 of others. I decline to follow Ms. Fosuhene’s suggestion that I should ignore any
26 candidate and/or English language test in which Miss McDonald (Defendant #4) also
27 figured, in view of her acquittal of the conspiracy. That would be to ignore the nature

1 of a conspiracy and, contrary to her submissions, this was not pleaded as a closed
2 conspiracy.

3
4 49. In addition to carrying out one of the tests herself, she was discussing others in
5 WhatsApp messages, particularly with Mr. Alexander, as to what was to be charged
6 for services provided. It is difficult, on the face of it, to fathom what possessed Ms.
7 Forbes to act as she clearly did. Unlike at least some of her co-defendants, she was not,
8 or should not have been, motivated by the prospect of financial gain. As with all
9 defendants, it can properly be said that her actions were out of character. She has been
10 happily married for 17 years with two daughters and a son. She and her husband are and
11 were financially comfortable. She is described by Ms. Winsome Style, her past
12 supervisor, as reliable, dependable, honest with a good work ethic. Ms. Style ventures
13 the view that Miss Forbes “just got caught up in a situation.” Not without some
14 hesitation, I am prepared to accept that this may have been the situation. Of course, she
15 should have refused to become involved. As a senior immigration officer, she should
16 have known a lot better, but once corruption starts to infect the workplace, it can sweep
17 others along.

18
19 50. It is obvious from all that I have heard and read that Ms. Forbes’ arrest, trial and
20 conviction, together with the loss of her good name have taken a heavy toll upon her.
21 She suffers from anxiety, panic attacks and insomnia. I have reminded myself of the
22 contents of a letter to me from her daughter Donique, dated 6 May 2020. The matters
23 she describes in that letter have considerably added to the stress. I note also the last full
24 paragraph of Ms. Donique’s letter and conclude that the long wait for a final resolution
25 of this case has weighed particularly heavily with her mother.



1
2 51. All these factors permit me in her case to suspend the sentence of imprisonment I must
3 inevitably pass upon her. No sentence less than imprisonment would mark the gravity of
4 her offending or send the appropriate deterrent message, given her active involvement
5 in corrupt activities as a senior immigration officer.

6
7 52. For Kathy Ann Forbes: The sentence I pass in respect of **Count 33 is two (2) years'**
8 **imprisonment, suspended for two years.** In respect of **Count 27**, failing to report the
9 solicitation of a reward, there will be a **concurrent sentence of four (4) months'**
10 **imprisonment.** I do not see the need to add a requirement for unpaid work or a curfew
11 as suggested in the SIR.
12

13 **ANALYSIS & SENTENCES FOR MS. PHEADRA McDONALD (DEFENDANT #4)**

14
15 53. She was found not guilty by the jury of the conspiracy count but was convicted of a
16 single count of failing to report the solicitation of a reward (count 28).
17

18 54. Her knowledge of an improper payment stems from a number of telephone calls with
19 Ms. Forbes and an exchange of WhatsApp messages with Mr. Castillo⁷. Her duty of
20 course was to report his actions. She has worked for the DOI for 24 years and was
21 promoted to the rank of senior immigration officer in 2007.

22
23 55. The very comprehensive and helpful SIR in her case makes for sad reading. Miss
24 McDonald has had a difficult life in many ways and over the years shown a great deal
25 of resilience and determination. She is a single mother, for many years bringing up her

⁷ (T2 lines 44–45)

1 son and two daughters. In one of two character references, a close friend, Ms. Zimiri
2 Rochez describes her as a “*unique individual. She is honest, very direct, caring, loving*
3 *and loyal. Where she excels the most is motherhood – she was made to be a mother. She*
4 *loves her three children unconditionally; they are everything - in truth she lives for*
5 *them.*”

6
7 56. Miss McDonald suffers from a number of medical conditions, details of which appear
8 in the SIR. She has had to undergo some form of surgery every year since 2015. Ms.
9 Duncan who wrote the second character reference, also spoke to the author of the SIR.
10 She described Miss McDonald’s relationship with Mr. Castillo as toxic. For good or ill,
11 they were (and as I understand it still are for the moment) in a relationship, which I
12 appreciate made matters all the more difficult for Miss McDonald when she became
13 aware of his activities. Ms. Duncan summarises her views in this way: “*she’s a nice*
14 *person who has been through a lot in her life..... She really doesn’t deserve the deal she*
15 *is getting right now and deserves a break.*” Those views strike a chord with me. I do not
16 feel in all the circumstances the need to punish Miss McDonald further.

17
18 57. However, I am far from persuaded, as Mrs. Bodden urges, that an absolute discharge
19 would be justified or appropriate in this case. Miss McDonald, in respect of **Count 28**,
20 will be **conditionally discharged for a period of two (2) years**.

21
22 **ANALYSIS & SENTENCES FOR MS. MARIEL SURIEL (DEFENDANT #9)**

23
24 58. Ms. Suriel falls to be dealt with following her pleas of guilty to counts 16, 17, 21 and 23
25 of the indictment - four allegations of conspiracy to commit fraud on the government. In
26 reality they are but examples of the overarching conspiracy the subject matter of the first
27 trial.

1 59. Unlike her co-defendants, Miss Suriel made full admissions in the course of her
2 interviews in January and August 2017. She pleaded guilty on 11 May 2018 which, it is
3 accepted, was the first reasonable opportunity upon which she could do so. Thereafter,
4 she agreed to assist the Anti-Corruption Commission and the prosecution, making a
5 witness statement on 21 May 2018. She gave evidence for the prosecution, at the first
6 trial in accordance with that witness statement. Mr. Moran describes the impact of her
7 evidence at trial as “important and significant but not pivotal” a description with which
8 Mr. Grimwood on her behalf does not disagree. By her actions she has provided clear
9 and significant evidence of her regret and remorse for this offence.

10 60. As appears from her written basis of plea, accepted by the prosecution and by the court,
11 she introduced four candidates for the English language test to Mr. Castillo, all of whom
12 were members of her extended family in the Dominican Republic. It is common ground
13 that she did not do so for financial gain, but rather to help those candidates to a better
14 life. Nevertheless, she accepts that she understood well enough that she was part of an
15 agreement to circumvent this country’s immigration procedures involving corrupt
16 immigration officers, albeit that her awareness and understanding of the scale of the
17 operation and the level of corruption involved was limited.

18 61. I have properly been referred to paragraph 11 of the Cayman Islands Sentencing
19 Guidelines (October 2015) and to the leading authority of *R v Blackburn*⁸. Miss Suriel
20 has, I am satisfied, done all she can to make amends for her criminal behaviour and, it
21 bears repeating, has demonstrated real contrition.

22
23
24

⁸ 2007 EWCA 2290



62. Further, in her case, the substantial delay is a more powerful factor than in the case of her co-defendants. It is no fault of hers that she has been left waiting well over two years to know her sentence, since she pleaded guilty in May 2018. She is clearly entitled to a substantial discount from the sentence I would otherwise have passed to take all those powerful mitigating factors into account. Judge, LJ in *Blackburn* warned against a mathematical approach to the amount of discount. When appropriate, the court should underline the message that those who assist the administration of justice and the prosecution of serious crime will receive a substantial reduction in sentence. In respect of Counts 16, 17, 21 and 23 Ms. Surriel is **conditionally discharged for a period of two years.**

ANALYSIS & SENTENCES FOR MS. DEY-RANKINE, MS. NIXON-LOPEZ, MS. RODRIGUEZ-DAVID (DEFENDANTS #5, #11, #12)

63. The second trial involved these three remaining defendants. It involved only one English language test. I make it clear that Ms. Rodriguez-David and Ms. Nixon-Lopez are being sentenced upon the basis that this was the limit and extent of their criminality.

64. In relation to Ms. Dey-Rankine, I sentence her on the basis that she acted corruptly only in relation to Ms. Reyes-Diaz, although she was aware of more widespread corrupt practice at the DOI, as is evidenced by her conviction on count 32, in the first trial. That said, I bear firmly in mind that she was found not guilty by a jury of the wider conspiracy. I also bear in mind that she is unique amongst the defendants in that she has had to endure two jury trials in the Grand Court.





1 65. It was Ms. Rodriguez-David (Defendant #12) who had first contact with Ms. Reyes-
2 Diaz, the victim in this case. She tried and failed to obtain a permit for Ms. Reyes-Diaz
3 to work in the Cayman Islands and so enlisted the help of Ms. Nixon-Lopez. Whilst there
4 is little direct contact, on the evidence before the jury, between Ms. Nixon-Lopez and
5 Ms. Reyes-Diaz, it is clear that Ms. Rodriguez-David was effectively the go-between,
6 acting, as it might be, on her instructions.

7
8 66. Ms. Nixon-Lopez submitted a fraudulent application for a work permit and arranged for
9 a corrupt immigration officer to conduct the English language test. Ms. Reyes-Diaz was
10 told to tell immigration staff on arrival that she felt ill, so as to delay her English language
11 test for sufficient time to ensure that a corrupt immigration officer was in place.

12
13 67. As has rightly been said, there is no evidence of any direct contact between Ms.
14 Rodriguez-David and Ms. Nixon-Lopez on the one hand and Ms. Dey-Rankine on the
15 other, but that only demonstrates that the wheels of this machine were well oiled.

16
17 68. Ms. Dey-Rankine administered the test – corruptly as the jury determined, having
18 accepted Ms. Reyes-Diaz’s evidence during trial. Ms. Dey-Rankine’s role was limited
19 but crucial. I approach matters on the basis that her services were enlisted at short notice
20 and, having fulfilled her role by passing Ms. Reyes-Diaz when she otherwise would have
21 failed, took no further part in things save, one assumes, to collect the agreed fee for a
22 corrupt immigration officer’s services – on the evidence in this case, \$600.

23
24 69. Ms. Reyes-Diaz’s treatment at the hands primarily of Ms. Nixon-Lopez went from bad
25 to worse. More financial demands were made of her after she had already paid over
26 something in the order of US\$1200. When those demands were not met Ms. Nixon-



1 Lopez cancelled her work permit, and abandoned Ms. Reyes-Diaz, leaving her to fend
2 for herself - with her right to remain in the Cayman Islands now at an end.

3
4 70. It is not surprising that she described her time in this country as “the worst time I have
5 ever experienced in my life.” Both knew that Ms. Reyes-Diaz was of very modest means
6 – the sums she paid to them were, by her standards, substantial, exhausting all her
7 savings and requiring her to borrow from family members.

8
9 71. I have again been assisted by very full SIRs. I had the advantage of seeing these three
10 defendants during the trial, which continued over a period of weeks, and hearing two of
11 them giving evidence. Ms. Rodriguez-David did not give evidence.

12
13 72. Ms. Dey-Rankine has been employed by the DOI since 1996, and has served as an
14 assistant senior supervisor since 2007. For many years, she was a loyal and trustworthy
15 public servant. She had, in more recent years, become disenchanted with the regime at
16 the DOI after a change of leadership.

17
18 73. As I have already made clear, she was not involved in the main conspiracy but I think
19 became infected by the growing corruption taking hold. On this occasion, she let herself
20 down badly. That is a great shame, given all the positive evidence I have of her character
21 generally and her many activities in the community. She is now the main carer for her
22 mother, whose infirmity is such that she has had to move from her family home to her
23 mother’s home so as to better care for her.

24
25 74. Given her corrupt practices as a public servant and a law-enforcement officer, there must
26 be in her case a sentence of imprisonment but such is the mitigation, both generally and
27 specific to her circumstances, that I can suspend that sentence.

- 1 75. Sentence for Ms. Dey-Rankine: In relation to **Count 22**, the sentence I pass is one of **12**
2 **months' imprisonment, suspended for 2 years.** Upon **Count 32**, failing to report the
3 solicitation of an advantage, there will be a concurrent sentence of **4 months'**
4 **imprisonment, again suspended for 2 years.**
- 5
- 6 76. There will also be suspended sentences of imprisonment in respect of Ms. Nixon-Lopez
7 and Ms. Rodriguez-David – as with Ms. Dey-Rankine, no lesser sentences would
8 properly mark the gravity of their offending. Not only were they involved in an
9 arrangement which encouraged and endorsed criminal behaviour by a law-enforcement
10 officer; they also treated Ms. Reyes-Diaz shamefully.
- 11
- 12 77. Albeit Ms. Rodriguez-David was the first point of contact with Ms. Reyes-Diaz, things
13 took a darker turn once Ms. Nixon-Lopez became involved – and it was she, I am
14 satisfied, who knew how to arrange for a corrupt officer to be fielded to carry out the
15 English language test, she who took Ms. Reyes-Diaz to the airport for the test, collected
16 her after the test and relieved Ms. Reyes-Diaz of another \$600 she could ill afford.
- 17
- 18 78. Ms. Rodriguez-David now accepts her wrongdoing and expressed remorse for her
19 actions in the SIR. For her, the trial appears to have been a salutary lesson.
- 20
- 21 79. The sentence I pass upon Ms. Nixon-Lopez on **Count 22** is one of **12 months'**
22 **imprisonment suspended for 2 years.**
- 23
- 24 80. The sentence I pass upon Ms. Rodriguez-David on **Count 22** is one of **6 months'**
25 **imprisonment, suspended for 2 years.**
- 26





1 81. As I have indicated at earlier hearings, this court is anxious to ensure that Ms. Reyes-
2 Diaz receives at least some compensation for the various financial losses she has suffered
3 as a result of the defendants' conduct. Ms. Rodriguez-David, it is clear, does not have
4 the financial wherewithal to meet any compensation order but, I am satisfied that both
5 Ms. Dey-Rankine and Ms. Nixon-Lopez are in a better position.

6
7 82. I make a compensation order in favour of Ms. Reyes-Diaz in the total sum of C\$1000.
8 **Ms. Dey-Rankine and Ms. Nixon-Lopez will each pay \$500.** I recognize that this falls
9 far short of adequate compensation for her treatment at the hands of these defendants or
10 experience generally.

11
12 83. It remains only for me to make orders on those counts of the indictment that are
13 outstanding, which I do as follows:

<u>Count</u>	<u>Description</u>	<u>Defendants</u> <u>by #</u>	<u>Verdicts</u>	<u>Sentence/Disposal</u>
1	Consp. to c bot	#1 + #8	Lies on file	Lies on file
2	Consp. to c bot	#1 + #2	Lies on file	Lies on file
3	bot	#1	Lies on file	Lies on file
4	Consp to c fraud on govt	#1, #2, #4, #7	Lies on file	Lies on file
5	Consp to c fraud on govt	#1, #3, #7, #10	Lies on file	Lies on file
6	Consp to c fraud on govt	#1, #3, #7	Lies on file	Lies on file
7	Consp to c fraud on govt	#1 + #2	Lies on file	Lies on file
8	bot	#1 + #8	Lies on file	Lies on file
9	Consp to c fraud on govt	#1 + #8	Lies on file	Lies on file
10	Consp. to c bot	#6, #7	C offered no ev	Discharged
11	Consp. to c bot	#6, #7	C offered no ev	Discharged
12	Consp. to c bot	#6, #7	C offered no ev	Discharged
13	Consp. to c bot	#1 + #8	Lie of file	Lie on file
14	Consp to c fraud on govt	#1, #3, #4, #7	Lie on file	Lie on file
15	Consp to c fraud on govt	#1, #3, #7	Lies on file	Lies on file

16	Consp to c fraud on govt	#1, #3, #7, #9	#9: PLEADED GUILTY #1, #3, #7: Lies on file	CONDITIONALLY DISCHARGED for 2 years #1, #3, #7: Lies on file
17	Consp to c fraud on govt	#1, #3, #7, #9	#9: PLEADED GUILTY #1, #3, #7: Lies on file	CONDITIONALLY DISCHARGED for 2 years #1, #3, #7: Lies on file
18	Consp to c fraud on govt	#1, #3, #7	Lies on file	Lies on file
19	Consp to c fraud on govt	#2, #4, #7	Lies on file	Lies on file
20	Consp to c fraud on govt	#1, #3, #11	Lies on file	Lies on file
21	Consp to c fraud on govt	#5, #7, #9	#9: PLEADED GUILTY #5, #7: Lies on file	CONDITIONALLY DISCHARGED for 2 years #5, #7: Lies on file
22	Consp to c fraud on govt	#5, #11, #12	VERDICT GUILTY - all 3 defendants	FOR Defendants #5 + #11 only: Diane DEY RANKINE and Carolin NIXON LOPEZ - <u>12 months' imp</u> – suspended for 2 yrs. - + Compensation Order - each to pay CI\$500 to the benefit of Elsy Liseth Reyes-Diaz through the Court Funds Office – defendants given until 30.09.2020 to pay. FOR Defendant #12 only: Ms. Rodriguez-David - <u>6 months' imp</u> – suspended for 2 yrs.
23	Consp to c fraud on govt	#2, #4, #5, #7, #9	#9: PLEADED GUILTY #2, #4, #5, #7: Lies on file	CONDITIONALLY DISCHARGED for 2 years #2, #4, #5, #7: Lies on file
24	Consp. to c fraud on govt	#1, #10	Lies on file	Lies on file
25	bot	#1	Lies on file	Lies on file
26	bot	#1	Lies on file	Lies on file



