

THE EASTERN CARIBBEAN SUPRME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CASE NO. ANUHCR2024/1001

BETWEEN:

THE KING

-and-

BRIAN COGNET

Appearances:

Mr. Daniel Lattery for the Crown
Defendant in person

2025: May 12th

SENTENCING JUDGMENT

- [1] **BAKRE, J.:** The Defendant, Mr. Brian Cognet, on the 8th day of April 2025, pleaded guilty to one (1) count of Larceny and was subsequently convicted of same. This matter was thus set for Sentencing.
- [2] The Virtual Complainant (hereinafter referred to as the 'VC') is Ms. Dalia Dew who owns a car rental business.
- [3] The fact as presented by the prosecution is as follows: - On the 9th day of December 2022, the Defendant's mother rented the vehicle in question from the VC. On 23rd day of December 2022, the VC received information that the vehicle was damaged. She contacted the Defendant's mother and informed her that she will have to pay for the damages to the said vehicle.
- [4] The VC further told the Defendant's mother that she has a day to return the vehicle to her in good condition. Since then, she has not been able to contact the Defendant's mother as calls to her phone were unanswered.
- [5] On the 10th day of January 2023, the VC made a report of her missing vehicle to the Police and on the 28th day of April 2023, she received information from someone that the vehicle was about to be sold.

- [6] The VC later saw the vehicle, which was found at a mechanic shop with most of the parts missing and the vehicle was totally damaged.
- [7] The value of the vehicle prior to the accident was EC \$16,000.00.
- [8] In her statement, the defendant's mother explained that after she rented the vehicle from the VC in the same month of December 2022, while she was asleep, her son, the Defendant, took the keys for the vehicle and left without her permission. It was not until the following morning when she realized that he had taken the vehicle and returned it damaged. She stated that she did not give the defendant the permission to either drive or sell the vehicle.

THE LAW

- [9] The Offence of Larceny is governed by section 4 of the Larceny Act, Cap 241. It provides a maximum sentence of three (3) years imprisonment with or without hard labour.
- [10] The court is in receipt of a social inquiry report signed on the 30th April 2025 and prepared by a probation officer, Mrs. Garolyn Cornelius Hector.
- [11] The probation officers had conducted interviews with the defendant and members of his family between the 14th to the 24th day of April 2025.
- [12] At the conclusion, it is clear that the defendant was hitherto a very quiet easy going member of the society but has fallen into bad company. Clearly there was an attempt by the defendant and his friend to sell the rented car but according to him, he did not transfer the money to the car owner when the car was sold.

SENTENCING GUIDELINES

- [13] The Court is to be guided by the Sentencing Guidelines for Offences for Dishonesty, Republished as updated on January 6, 2025.
- [14] At the onset, the court is to determine the seriousness of the offence and its consequences and this will be determined by the level of culpability of the offender.
- [15] The first stage is to consider the value of the item stolen which in this regard is valued at \$16,000 and thus of significant harm to the victim. The consequences would be determined as Category 3 (medium).
- [16] The seriousness of the offence is also determined by the level of culpability of the offender. In this regard based on the fact that the defendant committed this offence with some degree of

planning by attempting to disassemble and sell the car without paying the victim, it is obvious that there was a breach of some level of trust placed on a responsible man. Thus the offence is placed on seriousness level B (medium).

- [17] The starting point for the consideration would thus be 20% of the maximum penalty of 3 years with a range of 10% to 30 %. This thus brings the starting point for this offence 7 months and 6 days.
- [18] This court would now consider the aggravating and mitigating factors for the offence and the offender.
- [19] It is clear that this offence was committed over a long period of time and the offender deprived the victim her means of livelihood over this period and there was an attempt to conceal car sale. I consider this an aggravating factor for which I consider an upward review of the sentence to 9 months imprisonment. I do not see any mitigating factor for this offence.
- [20] This offender according to reports has consistently been involved in similar offences and is very well known to the courts with respect to such dishonesty behavior. It is clear that this defendant has not in any way improved despite his earlier punishments for such dishonesty behaviors. I consider this an aggravating factor in respect of the offender and thus review the term to 10 months imprisonment.
- [21] The defendant pled guilty at the earliest opportunity and thus would be entitled to a rebate of one third of the sentence which further reduces the sentence to 6 months and 20 days.
- [22] The twenty three months spent in custody so far would also be reduced from the term of sentence.
- [23] This is a clear case where compensation would be ordered to the victim. The victim of the offence has suffered damages to her business and in the least she should be compensated as much as possible. The value of the car was put at \$16,000 but the victim has suffered from loss of revenue since the defendant took the car and stopped paying rent on the car. This court hereby order that the sum of \$18,000 shall be paid to the victim in compensation with ninety days of this order failing which the defendant shall serve a term of 24 months in prison. In default to pay the sum, this term shall run consecutively to term earlier made.

SENTENCE

- [24] Brian Cognet, for the offence larceny, you are hereby sentenced to six months and twenty days in prison, having spent twenty four months in prison as at today, you shall be released forthwith but you shall also pay the sum of \$18,000 (Eighteen Thousand dollars) to the victim within 90 days failing which you will spend a fresh 24 months in prison.

Tunde A. Bakre
High Court Judge



By the Court

Registrar