

**IN THE SENIOR COURTS OF BELIZE**

**CENTRAL SESSION- BELMOPAN**

**IN THE HIGH COURT OF JUSTICE  
(CRIMINAL DIVISION)**

**INDICTMENT NO. C852023AR**

**BETWEEN:**

**THE KING**

**and**

**EDUARDO COCOM**

**Before:**

The Honourable Madame Natalie -Creary Dixon, J

**Appearances:**

Mr. Glenfield Dennison, for the Crown

Ms Rachel Montejo, for the Accused

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2024: January 22, 2024  
February 15 & 22, 2024  
March 1, 18 & 25, 2024  
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**JUDGMENT ON SENTENCING**

- [1]** **NATALIE -CREARY DIXON, J:** . On September 23, 2023, Edwardo Cocom (“the convicted man”) was indicted for the offence of attempted murder contrary to Section 18(1) read along with Section 117 of the Criminal Code, Chapter 101 of the Substantive Laws of Belize (Revised Edition),2020 (hereinafter “the Code”). The particulars of which are that he used a broken pint bottle to stab Edi Chin in his head and chest and cut him on his arm on May 26, 2019.
- [2]** On March 1, 2024, Mr Cocom pleaded guilty to count 2, and not guilty on count 1.
- [3]** In arriving at the appropriate sentence, the Court considered the following:
1. The summary of agreed facts;
  2. The victim impact statement; and
  3. The Law

#### **Summary of Agreed Facts**

- [4]** On Sunday, May 26<sup>th</sup> 2019 around 2;30 pm on the Mopan River in Succotz Village, Edwardo Cocom intentionally and unlawfully used a deadly instrument (a broken pint bottle)and caused harm to Edi Chin. The details of the case are that the complainant was socializing with some friends when the accused approached and caused a disturbance. The accused appeared to be under the influence of alcohol. The complainant attempted to intervene and quell the disturbance, wherein the accused broke a Corona pint bottle and attempted to stab him with it. The complainant lifted his hand to ward off the attack and received a cut from the bottle. The accused then inflicted two more stab wounds to the complainant’s head and the right side of his chest. Afterwards, the accused relieved the complainant of \$300.
- [5]** On the 1st March 2024, a short plea in mitigation followed, where counsel indicated that the accused had already paid three hundred dollars bcy (\$300 bcy) in compensation, to the victim; that he has had no similar

matters before the Court, and in fact has only had one previous matter before the Court, which was dismissed; that he has shown remorse by pleading guilty at this early stage. Counsel also indicated on behalf of the accused, that he vouched not to engage in this type of behaviour again, and acknowledged that he made the wrong choice. No witnesses were called on his behalf.

### **Victim Impact Statements**

- [6]** In just a few sentences, Mr. Edi Chin described the ordeal and its impact on him. He stated that he still suffers from headaches and dizziness but that he held no ill will towards the convicted man.

### **THE LAW**

- [7]** Pursuant to Section 83(a) of the **Belize Criminal Code, Chapter 101 of the Substantive Laws of Belize (Revised Edition) 2020 (“Criminal Code”)**:

*“Every person who uses a sword, dagger, bayonet, firearm, poison or any explosive, corrosive, deadly or destructive means or instrument, shall– (a) if he does so with intent unlawfully to cause harm to a person, be liable to imprisonment for five years;”*

- [8]** The Court was assisted in determining an appropriate and just sentence by considering the case of **Teerath Persaud v R**<sup>1</sup> from the Caribbean Court of Justice. On the issue of the formulation of a just sentence, per Anderson JCCJ, who implores the Court to bear in mind:

**“... the comparison with other types of offending, taking into account the mitigating and aggravating factors that are relevant to the offence but excluding the mitigating and aggravating factors that relate to the offender.** *Instead of considering all possible aggravating and mitigating factors, only those concerned with the*

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<sup>1</sup> (2018) 93 WIR 132

*objective seriousness and characteristics of the offence are factored into calculating the starting point. Once the starting point has been so identified the principle of individualized sentencing and proportionality as reflected in the Penal System Reform Act is upheld by taking into account the aggravating and mitigating circumstances particular (or peculiar) to the offender and the appropriate adjustment upwards or downwards can thus be made to the starting point. Where appropriate there should then be a discount for a guilty plea. (My emphasis).*

- [9]** Belize does not yet have formal sentencing guidelines, as such, the Court was greatly assisted by the Eastern Caribbean Supreme Court's, "A Compendium Sentencing Guideline of The Eastern Caribbean Supreme Court, Violence Offences" 5 ("the Guidelines). The Court considers the Guidelines in its sentencing process in reliance on the dicta of the CCJ in Linton Pompey v DPP<sup>2</sup> 6 per Jamadar JCCJ:

*"[111] Thus, in so far as one may wish to look to other jurisdictions for trends in sentencing, one should first look to relatively comparable jurisdictions, such as those in this region."*

- [10]** According to the Guidelines, the first stage of the sentencing process is to consider consequences by assessing the harm caused by the offence. This should include an assessment of the evidence. After this assessment, this matter would be considered a category 3 under the Guidelines: Lesser harm with no long-term impact.
- [11]** The second stage is to consider the seriousness by assessing the culpability of the offender. Using the Guidelines, this matter would be assessed as a Level B – Lesser harm.
- [12]** In considering the first and second stages, the suggested starting point then,

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<sup>2</sup> [2020] CCJ 7 (AJ) G

according to the Guidelines would be 20% of the maximum which would be (20% of 5) 1 year. The Guidelines now require that the Court adjusts this starting point as needed, by considering the general aggravating and mitigating features of the offence and then those of the offender.

**[13]** In adjusting the starting point for the aggravating factors of the offence, the Court would be minded to add three months to the sentence of one year, for the aggravating fact that the offence was committed whilst the offender was under the influence of alcohol. Another aggravating feature of the offence for which three months would also be added, bringing the total to one year and fifteen months, is the prevalence of the offence in Belize. It is noted that voluntary intoxication culminating in the commission of a crime occurs regularly in Belize.

**[14]** The Mitigating Factors relative to the offender are that he pleaded guilty at the earliest possible opportunity. By his second Court appearance, he had retained Counsel. On his third Court appearance on March 1<sup>st</sup>, 2024, he entered a plea of guilty. It cannot honestly be said that the accused wasted the Court's time and resources in disposing of this matter. For this fact, the recommended reduction by 1/3 would be applied to the sentence, taking it down to thirteen months.

**[15]** Another mitigating feature is that the accused appeared to be genuinely remorseful as evidenced by his comportment in Court, his early guilty plea and his actions thereafter, of returning the \$300 taken from the complainant; for that, a further reduction of six months would be applied. The sentence would then be seven months.

**[16]** The Court would also consider the mitigating fact that the convicted man has no prior convictions of this nature.

**[17]** The Court is also obliged to discount the sentence to be imposed by considering the time already spent in custody.

**[18]** The Court determined that in the circumstances, a custodial sentence would

not be imposed on the convicted man, given that the mitigating factors outweigh the aggravating factors. Further, the Guidelines indicate that for a category 3, lesser harm offence, a non-custodial sentence is likely.

**[19]** The Court is in no way trivializing the gravity and seriousness of these types of offences, and will readily add that the nature of this offence is itself an aggravating factor; however, the Court is of the view that there are other sentences besides a custodial sentence, which can be justified because they are commensurate with the gravity of the offence.

**[20]** What then is an appropriate sentence for the convicted man?

**[21]** The Court considered the four classic principles of sentencing as laid out in **R v Beckford & Lewis**:

” Retribution, deterrence, prevention and rehabilitation.“ The applicable principles, in this case, would be retribution and deterrence. It is felt that a suitable fine plus compensation for the victim, will achieve these sentencing aims.

**[22]** Section 164 of the **Indictable Procedure Act** confers a discretion to fine an offender in lieu of any other manner in which the Court has power to deal with him.<sup>3</sup>

**[23]** Section 168 of the same act also provides that when a person is convicted of any crime, the court may issue either or both of the following orders:

*(a) an order for the payment of the prosecution costs, in whole or in part; and*

*(b) an order for the payment of a sum by way of compensation to any person injured in respect of their person or property by the crime in question. (My emphasis).*

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<sup>3</sup> 164. Upon the conviction of any person for a crime not punishable with death the court may, unless in any particular case it is by law otherwise provided, fine the offender in lieu of or in addition to dealing with him in any other manner in which the court has power to deal with him.

**[24]** Finally, Sections 165(1) and (2) and 169(2) of the Indictable Procedure Act permit the imposition of a term of imprisonment in default of a fine or recognisance, but stipulate that unless expressly permitted elsewhere in legislation, the length of any sentence of imprisonment in default shall not exceed 12 months<sup>4</sup>.

**[25]** In light of the above, I consider the following sentence to be appropriate in all the circumstances:

1. A fine of \$500.00, payable within two (2) months of the date of this judgment;
2. A sum of compensation of \$1,000 payable to Mr Edi Chin, within four (4) months of the date of this judgment. The injuries are serious and Mr Chin still suffers from them. The Court does not view the sum of \$300 returned to Mr Chin, as compensation; compensation is payment for damage or a wrong done; the sum returned to Mr Chin was his money that was simply returned to him, and ought not to have been taken from him in the first place<sup>5</sup>
3. No evidence was offered by the Crown on the second Count.

Delivered this **25** day of **March 2024**

**[25]** This is the Judgment of the Court.

**Natalie -Creary Dixon; J**  
High Court Judge

**By the Court Registrar**

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<sup>4</sup> 165.–(1) Subject to this section, where a fine is imposed by, or a recognisance is forfeited before, the court, an order may be made in accordance with this section– (a) allowing time for the payment of the amount of the fine or the amount due under the recognisance; (b) directing payment of the said amount by installments of such amounts and on such dates respectively as may be specified in the order; (c) fixing a term of imprisonment which the person liable to make the payment is to undergo if any sum which he is liable to pay is not duly paid or recovered

<sup>5</sup> The case of Jose Herrera was helpful. Counsel provided this case for a similar offence, in which the accused was fined \$500 and compensation in the sum of \$1000 was to be given to the complainant.