

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

3
4 IND NO: 0017/2020

5
6
7 REGINA

8
9 v.

10
11 GEOFF RYAN SCOTT
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13
14



15 **Appearances:**

Mr. Kenneth Ferguson for the Crown

16
17 Mr. James Stenning of Stenning's
18 Chambers for the Defendant
19

20 **Before:**

Justice Roger Chapple (Actg.)

21 **Heard:**

22 12th November 2020
23

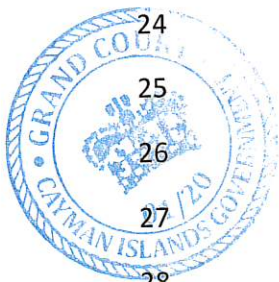
24 **HEADNOTE**

25 *Criminal Law – s.203 of the Penal Code – Guilty plea entered to inbuilt lesser*
26 *(s.204) offence – Plea not accepted by the Crown and case set for trial – Crown*
27 *later offers no evidence due to uncooperative complainant – Issue: What of the*
28 *guilty plea to the inbuilt lesser offence.*
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33 **JUDGMENT ON VALIDITY OF PLEA TO LESSER OFFENCE**

- 1 1. The indictment in this case contains a single count alleging an offence of wounding
2 with intent, contrary to s.203 of the *Penal Code* 2019 Revision.
3
- 4 2. The defendant was arraigned on that single count on 6th March 2020. According to
5 the Minute of Order, he pleaded not guilty to the offence charged, but guilty to the
6 inbuilt alternative offence of unlawful and malicious wounding, contrary to s.204 of
7 the *Penal Code*.
8
- 9 3. The prosecution asked for and was granted time to consider whether that plea was
10 acceptable or whether there was to be a trial of the more serious allegation, contrary
11 to s.203.
12
- 13 4. Eventually, on 1st May 2020, the prosecution told the court that the plea to the lesser
14 offence was not acceptable, and a trial date was fixed.
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- 16 5. Time passed. On 14th August 2020, Mr Ferguson, who prosecutes in this case, sent
17 an email to Ms. Livingston, the Grand Court Criminal Division Case Progression
18 Officer, indicating that the victim no longer supported a prosecution and wanted
19 nothing further to do with the case. Mr Ferguson explained:

20
21 *"After much effort by the Investigating Officer DC Nixon in locating the*
22 *complainant in order to obtain a further statement clarifying certain aspect of*
23 *the crown's case, the complainant has given a further statement indicating that*
24 *he has no comment to make and has no further interest in the matter. I indicated*
25 *this position to Mr. Stenning from last week Friday and served a copy of this*
26 *statement on him - along with a further statement of DC Nixon. In light of this*
27 *change in the crown's case, I will be offering no evidence against the defendant*
28 *at the case management hearing on Tuesday."*
29



1 6. At that hearing, on 21st August, Richards, J, questioned why the Crown would be
2 offering no evidence when the defendant had pleaded guilty to an offence contrary
3 to s.204. Further time passed.

4
5 7. Mr Stenning, now appearing for the Defendant, but who was not instructed at the
6 arraignment hearing, requested a transcript of the earlier hearing; it appeared then
7 not to be accepted that the defendant had pleaded guilty to anything. If it turned out
8 that he had pleaded guilty to the lesser offence, Mr Stenning indicated that there
9 would be an application for that plea to be vacated.

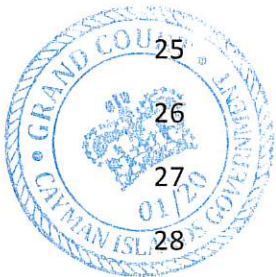
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11 8. By the time this case first came before me on 9th October, it appeared to be accepted
12 that Ms Livingston's characteristically comprehensive Minute of Order was indeed
13 an accurate record of what had taken place at arraignment.

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15 9. Like Richards, J, my first reaction was to wonder how and why the Crown could
16 offer no evidence on an offence to which there had been a guilty plea.

17
18 10. Mr Stenning's submission, that once the prosecution had rejected, as it had, the
19 proffered plea to a s.204 offence, that plea was a nullity, was not a proposition I felt
20 able to accept without further research and consideration. I adjourned the case for
21 further argument, making orders for the submission of skeleton arguments from both
22 defence and prosecution. Those skeleton arguments have now been served.

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24 11. I am grateful both to Mr Stenning and to Mr Ferguson for their industry, as a result
25 of which, I can take matters shortly. Having been referred to a number of English
26 authorities – neither prosecution nor defence have been able to find any local
27 authority on the point - it is abundantly plain that my first reaction was wrong and
28 that Mr Stenning, supported by Mr Ferguson, is correct.

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1 12. Of the authorities to which I have been referred, the most helpful are perhaps are **R**
2 **v Hazeltine**¹, **R v Al-Tamimi**² and **Nicky Lee Buttigieg v The Crown**³. I need do no
3 more than refer to part of the judgment of Pitchford, LJ in **Buttigieg**:

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5 *“The plea is one of not guilty to the indictment but it is qualified to the extent*
6 *that the defendant indicates his preparedness to submit to a conviction in the*
7 *alternative for the lesser offence. If the prosecution rejects the offer, in the*
8 *normal course the trial proceeds ... upon a single not guilty plea. There cannot*
9 *be two pleas to the same count in the indictment and no further plea is taken*
10 *when the defendant is put in charge of the jury. That being the case, it is not the*
11 *commencement of the trial before the jury which deprives the defendant’s plea*
12 *of guilty to the alternative offence of its effectiveness, but its rejection by the*
13 *prosecution. ...”*

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15
16 13. Accordingly, if it is still the wish of the Crown to offer no evidence on this
17 indictment, the Court cannot and will not stand in its way. If that is to be the position,
18 I will enter a verdict of not guilty⁴.

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20 **Dated this the 12th November 2020**

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25 **Justice Roger Chapple**
26 **Acting Judge of the Grand Court**

¹ [1967] 2QB 857

² [2011] EWCA Crim 1123

³ [2015] EWCA Crim 857

⁴ Following the delivery of this Judgment, the Crown offered no evidence on this Indictment and the Court entered a Not Guilty verdict.