

**THE QUEEN V. MICHAEL WILLIAM POOLER, RUEL CARLOS
ANTOINE WARD AND ALGERNON CARL WARD**

SENTENCING REMARKS BY HER LADYSHIP, THE HONOURABLE
MADAM JUSTICE MAUREEN CRANE-SCOTT,
JUDGE OF THE HIGH COURT

Michael William Pooler and Ruel Carlos Antoine Ward,

[1.] On Wednesday 9th April 2014, you both pleaded guilty to the First count on this Indictment, namely, the common law offence of conspiracy.

[2.] The particulars of the offence are that sometime between the 1st day of February, 1995 and the 31st day of May 2004 in the parish of St. Michael in this Island, you conspired to dishonestly obtain from Barbados Hardware Insurances Limited various sums of money totaling two million, five hundred and sixty thousand and seventy dollars (\$2,560,070.00) Barbados currency by disbursements by way of cheques drawn on the account of Barbados Hardware Insurances Limited maintained at CIBC Caribbean Limited in respect of purported insurance claims at the said Barbados Hardware Insurances Limited.

[3.] *Algernon Carl Ward,*

[4.] On Wednesday 9th April 2014, you pleaded “not guilty” to the

conspiracy charge on the 1st Count on this Indictment, but “guilty” to the 7th Count, namely theft contrary to section 3(1) of the *Theft Act, Cap 155*.

[5.] The particulars of the 7th Count are that you, between the 20th day of July, 2000 and the 21st day of July, 2000, in the parish of St. Michael in this Island, stole four thousand, six hundred and twenty-three dollars and five cents (\$4,623.05) Barbados currency, being the proceeds of CIBC Caribbean Limited cheque No. 01468 dated the 20th day of July, 2000 belonging to Barbados Hardware Insurances Limited maintained at CIBC Caribbean Limited in respect of a purported Insurance claim at the said Barbados Hardware Insurances Limited.

[6.] **Circumstances of the offences:** Following your respective pleas, the facts of the offences were outlined by the Director of Public Prosecutions, Mr. Charles Leacock QC. The facts as outlined were accepted on your behalf by your respective legal representatives and accordingly, the Court has accepted the facts for the purpose of sentencing.

[7.] In relation to the first Count, the Court was informed and accepted that at the time of the offence you, Michael Pooler, were employed as a manager at an insurance agency formerly known as Barbados Hardware Insurances Limited, now Sagicor.

[8.] The agency manager and part owner of the agency, Mr. Richard

Blanchette, held you Michael Pooler, in high esteem and placed great trust and confidence in you. So great was his trust and confidence in you, Michael Pooler, that Mr. Blachette would sign off on the numerous insurance claims which you submitted for his approval without even checking the authenticity of the claims.

[9.] The Court was told that the Blanchette's insurance agency was taken over by Sagicor General. Sometime after Sagicor took over the business, their Systems Analyst detected that claims from Barbados Hardware Insurances Limited were twice as great than those submitted by the other insurance agencies.

[10.] Internal controls were put in place and subsequent investigations revealed that a cheque from an insurer, Co-operators General Insurance had been misappropriated by you Michael Pooler to your own accounts in the sum of \$11,000.00. You eventually repaid the money and this revelation led to your dismissal from the agency.

[11.] A full investigation and audit was then launched by Sagicor and showed that approximately \$4 million dollars had in fact been misappropriated from the accounts of the insurance agency over a period of time.

[12.] The audit which was carried out revealed that the criminal conspiracy

was perpetrated by means of false claims submitted to the agency using fictitious names and fictitious national insurance numbers. Additionally, false claims were also submitted using the names and ID numbers of innocent persons who had never made any claim.

[13.] You, Michael Pooler, were the inside man who in pursuance of the unlawful conspiracy, prepared false claims which resulted in cheques being written in the names of various person, both real and fictitious. The illegally obtained cheques were then endorsed on the back and then misappropriated and diverted to accounts controlled by you, Michael Pooler and you, Ruel Ward, respectively.

[14.] In sum, as a result of this conspiracy, you Michael Pooler and you, Ruel Ward, received substantial sums of money which you were not entitled to by defrauding Barbados Hardware Insurances Limited.

[15.] In relation to you, *Algernon Carl Ward*, the learned DPP informed the Court that he was not proceeding against you in respect of the offence of conspiracy as he was not satisfied that you knew of the nature and the extent of the fraud that was involved.

[16.] In relation to the 7th Count, namely, the offence of theft, the Court was told that you, Algernon Ward, had in fact made a genuine motor insurance claim on the agency, because your car had in fact been involved in an

accident. However, you were overpaid in respect of your motor insurance claim and you ultimately received and misappropriated \$4,623.05 Barbados currency, monies to which you were not entitled under the accident claim.

[17.] **Pre-sentence Report:** Following your conviction and as required by the *Penal System Reform Act, Cap. 139*, this Court ordered the preparation of pre-sentence reports for each of you. Your respective reports were each read into evidence on Thursday, 5th June, 2014 and have since been reviewed by the Court.

[18.] **Michael Pooler:** Probation Officer Ms. Sandrene Browne prepared the Pre-sentence Report in respect of you, Michael Pooler. Your Report revealed that you reside in your childhood home at Well House St. Phillip with your father Mr. Gordon Pooler. Your mother is deceased. You are the second of five children from the marital union of your parents.

[19.] The Report states that you were well-behaved, helpful, and affectionate and shared a close relationship with your late mother. Your father was at a loss to comprehend the matter which has brought you before the law courts. He also observed that the matter weighed heavily on your mother before she passed away.

[20.] Ms. Carol Ann Ward, the mother of your daughter, described you as a quiet and reserved individual who rendered assistance to family and friends.

She also said that you share a close bond with your daughter. She remarked that she was shocked to learn of the matter engaging the Court's attention and maintained that your actions were out of character.

[21.] Your daughter, Michelle Pooler, characterized you as loyal, a great provider and an excellent and loving father. She indicated that your involvement in the matter before the Court was unexpected and not typical of your personality.

[22.] All persons who were interviewed all conveyed astonishment and bewilderment in relation to the offence and concluded that the conflict with the law was unbecoming of you.

[23.] The Report shows that you received your primary education at Shrewsbury Primary School, then the Washington High School which you completed without any certification. It also states that you are technically skilled in the fields of mechanics, electronics, air-conditioning repairs and information technology. Upon completing school you commenced employment at the age of sixteen and worked at several well established companies including Cave Shepherd & Co. Ltd, Nassco Limited and T Geddes Grant. You worked at Barbados Hardware Insurances for nine years until the agency closed in 1995.

[24.] You stated that you did not experiment with illegal substances and

seldom consumed alcoholic beverages. You also indicated that the matter before the Court has negatively impacted your health. This you attributed to the high level of stress and anxiety, sleep deprivation, acid reflux and tooth decay. Further, you stated that you have been unable to obtain formal employment and consequently utilize your technical skills in mechanics and air conditioning repairs in order to receive income.

[25.] Enquiries with the Criminal Records Office of the Royal Barbados Police Force have revealed that you have no previous convictions on record.

[26.] You have expressed remorse for your actions and for the embarrassment and disappointment you have caused to your family members and made a plea for leniency.

[27.] **Character Witnesses:** Mr. Clifford Clarke, a retired fire chief, testified on your behalf as a character witness. He stated that he knew you from childhood days. He believed that your actions in relation to the offence are out of character. He observed your sad demeanor and thought the offence was taking a toll on your physical health.

[28.] Financial advisor Mr. Rodney Davis said that he knew you for about 20 years as you both lived and grew up in the same neighborhood. He stated that he was surprised when he first heard about the matter which is now engaging the Court's attention. He indicated that you expressed regret for

the matter as well as shame and embarrassment.

[29.] **Ruel Ward:** The Pre-sentence Report prepared by Probation Officer Mrs. Gina Douglas in respect of you, Ruel Ward states that you were born to Mr. Carl Ward and Mrs. Anita Ward who were married for forty years before they separated over seventeen years ago.

[30.] Your father recalled that you were a reserved, respectful and loving child who displayed no behavioral challenges. According to him, he shared a close attachment to you and he ensured that you were exposed to strict disciplinary practices during your formative years. He also described you as hardworking and conscientious and reported that throughout your adolescent years you were associated with productive individuals.

[31.] Ms. Carol Ann Ward, your maternal sibling, described you as trustworthy, reliable, helpful and knowledgeable and stated that you had found yourself in an unfortunate position.

[32.] Mrs. Sharon Ward with whom you shared a marital union and a son disclosed that you continue to play an integral role in your son's life and contribute financially to the household. She maintained that you are a hardworking and reliable father who attends to your son's needs.

[33.] In relation to the matter presently engaging the Court's attention, she expressed the hope that you will be able to overcome your involvement in

the criminal justice system.

[34.] Your close friend Mr. Gary Serrao was of the view that it was a most unfortunate situation which you found yourself in; particularly as there was no indication that you were involved in illegal acts. He described you as caring and honest and opined that it was poor judgment which resulted in the committal of the offence now before the Court.

[35.] The Report states that you received Christian values and instruction at the St. James Methodist Church. Having received your early education at the Carrington Private School you went on to the Combermere Secondary School. Reports from the school disclosed that your conduct and deportment was satisfactory and there were no complaints in relation to your attendance or academic performance while at the institution. You received five CXC certificates and thereafter obtained seven diplomas in areas ranging from accounting to marketing.

[36.] You began working at the age of eighteen years and held several posts in various companies. At present you are a manager with Pyramid Entertainment Management Incorporation. Santia Bradshaw of the company stated that you display a high degree of integrity and that you conduct all banking transactions for the company and display impeccable leadership and marketing skills. She also opined that your actions were out of character.

[37.] You denied marijuana and alcohol consumption and informed the Probation Officer that you assist with various activities in the community and volunteer with projects.

[38.] The Report reveals that you have expressed deep remorse for your actions. It reveals that you never fully considered the extent of the consequences of your actions and that you regret the pain that your actions have caused your family.

[39.] Enquiries with the Criminal Records Office of the Royal Barbados Police Force have revealed that you have no previous convictions on record. The Report also reveals that a consideration of the social indicators and factors indicates that you are at a low risk for reoffending.

[40.] **Character Witnesses:** Mr. Wilfred Abrahams, attorney-at-law, spoke on your behalf. He stated that he met you approximately 25 years ago. It was his belief that you were entirely repentant, that you had turned your life around and that you were a productive member of society.

[41.] Your employer, Ms. Santia Bradshaw, attorney-at-law and CEO of Pyramid Entertainment Management Inc. described you as a competent, trustworthy and reliable employee. She also stated that you were remorseful for your actions and that it was her opinion that a custodial sentence would not be appropriate.

[42.] Mr. Anthony Hoyas, accountant and businessman, said that he has known you for over eight years as a personal friend. While stating that he was surprised by your involvement in the offence and that it was out of character, he was of the view that you were honest, trustworthy, hard working and a skilled management executive. According to him you have expressed great remorse and sadness over your actions and the impact they have had on your wife and son.

[43.] Algernon Ward: The Pre-sentence Report which was read into evidence in relation to you, Algernon Ward disclosed that your mother Ms. Emoy Wilson and Mr. Carl Ward were in a visiting relationship for approximately four to five years which resulted in the birth of two sons. They eventually separated but communicated regularly in the interest of their children.

[44.] Ms. Wilson reported that she was the primary caregiver but added that your father was instrumental in providing financial and moral support. She described you as quiet and helpful transporting her to physician appointments and visits to family and friends, always ensuring that she was comfortable.

[45.] She asserted that you were respectful towards her; your behavior modeled that of a dutiful son. She also stated that you associated with

persons in good standing and expressed surprise upon learning of your involvement in the committal of the offence.

[46.] Mr. Carl Ward stated that he communicated regularly with you and maintained a father and son bond to date although he does not reside in the same household. He praised your academic and professional achievements. He considered you to be articulate, thoughtful and intelligent. He disclosed that he was disappointed in your involvement in the offence.

[47.] You indicated to your Probation Officer that you were raised primarily by your mother in humble surroundings and that your father played an active role in your life. You recalled that your formative and adolescent years were pleasant and you stated that you had a keen interest in reading and school work.

[48.] According to you, you neither experimented with marijuana nor consume alcohol but that you occasionally smoke cigarettes.

[49.] You informed that you have lost friends and employment as a result of your involvement in the committal of the offence. You reported that you have no children and that you occasionally attend services at the Roman Catholic Church.

[50.] Your older brother, Ron Griffith stated that you both grew up in the same household and he recalled spending happy days with you. He

characterized you as jovial, helpful and well-behaved. He observed that you suffered a great set-back as a result of your involvement in the matter before the Court and expressed the hope that you would be able to overcome your error in judgment.

[51.] Ms. Andrea King, a consultant in the Cultural Industries Development, described you as intelligent, jovial and tolerant. She stated that she had no hesitation trusting you as it relates to her financial affairs. She too expressed shock when she learnt of your involvement in the committal of the offence.

[52.] The Report revealed that you received your primary and secondary education at the St. Patrick's Roman Catholic School and Combermere School respectively. There were no adverse reports in relation to your behavior and the information is that you were diligent in your school work. You went on to receive five CXC certificates. After leaving school, you secured employment at a commercial bank where you held various positions.

[53.] Reports are that you were offered a voluntary separation package in 2006 after the offence came to light. Since then you have completed a Masters degree in Intellectual Communications and a PhD in cultural studies and are presently self employed as an independent business consultant.

[54.] You have expressed remorse for your involvement in the committal of

the offence. You have also accepted culpability and have asked the Court for leniency. You have been assessed by your Probation Officer as a low-risk offender.

[55.] Enquiries with the Criminal Records Office of the Royal Barbados Police Force have revealed that you have no previous convictions on record.

[56.] **Character Witnesses:** Dr. Carl Watson, retired lecturer at the University of the West Indies told the Court that he has known you for about fifteen years when you were a student there. He stated that you were a good person who made a dreadful mistake. He opined that you were remorseful for your actions and the pain it caused your family. He also thought that you were unlikely to re-offend and that a custodial sentence would not serve you well.

[57.] Mrs. Bermese Marquita Butcher-Rayside who has known you for approximately fourteen years in personal and professional capacities found you to be considerate, honest thoughtful, an excellent banker and one who gave sound financial advice. Upon learning of the matter she told the Court that she was shocked and in disbelief as she always knew you to be upright in your dealings.

[58.] **Observations:** It is now for this Court to determine the appropriate sentences to be imposed upon each of you in respect of these matters having

regard to its judicial obligations under sections 35 to 41 of the *Penal System Reform Act, Cap. 139*.

[59.] I turn firstly to you, *Michael William Pooler* and *Ruel Carlos Antoine Ward*, and to the offence of common law conspiracy to which you have each pleaded “guilty”.

[60.] **Reasons for imposing Custodial Sentences - Section 35(4):** As required by section 35(4) of the *Penal System Reform Act* and after considering the facts as outlined, together with your respective Pre-sentence Reports, the Court has formed the opinion that subsection (2)(a) applies and that this offence [common law conspiracy] is so serious that only a custodial sentence should be passed in this case for reasons which now follow.

[61.] According to the **34th Edition of Archbold’s Pleading, Evidence & Practice in Criminal Cases**, the offence of common law conspiracy to defraud and in particular, conspiracy to dishonestly obtain monies by false representations to which you have pleaded guilty is indictable at common law and is punishable by fine and imprisonment.

[62.] According to **Archbold paragraph 4081**, the punishment for conspiracy at common law is a fine or imprisonment or both. Sentencing is at large and there is no limit upon either form of punishment, provided that the sentence awarded is not inordinate.

[63.] In keeping with the approach mandated under the Penal System Reform Act, the Court determined the seriousness of the offence having regard to the following facts:

- (i) The offence involved a large-scale and sophisticated conspiracy perpetrated over a number of years to dishonestly obtain and misappropriate monies from the insurance company where you, **Michael Pooler** were employed by means of the submission of false insurance claims;
- (ii) The conspiracy involved not only the submission by you, **Michael Pooler**, to the insurance agency for payment of false insurance claims using the names of fictitious claimants with fictitious national identification numbers, but also involved the use of the names and the identities of real persons, as well;
- (iii) The unlawful conspiracy was perpetrated by the repeated abuse by you, Michael Pooler, over a period of time, of the considerable trust and confidence which had been placed in you, by the agency manager, Mr. Richard Blachette who would sign off on the numerous insurance claims which you submitted for his approval without even checking the authenticity of the claims;
- (iv) During the period of the conspiracy, you both misappropriated the

illegally obtained cheques by endorsing them on the back and then misappropriating and diverting the monies to accounts controlled by both you, *Michael Pooler* and you, *Ruel Ward*;

- (v) This was no isolated incident and over a period of time, substantial sums, well in excess of the \$2,560,070.00 Barbados dollars stated in the Indictment were dishonestly obtained and misappropriated.

[64] Michael Pooler, in his mitigation on your behalf, your Defence Counsel, Mr. Desmond Sands, drew attention to your hitherto clean criminal records and to the genuine remorse which you have expressed for your involvement in the offence.

[65] He highlighted your early guilty plea and the positive aspects of your character disclosed in the Probation Report and urged the Court to be lenient with you and to impose a non-custodial sentence which would give you a second chance and allow you to place your life back on a positive track.

[66] *Ruel Ward*, during the course of his mitigation on your behalf, your Defence Counsel, Mr. Keith Simmons, Q.C. also urged the Court to be lenient in the imposition of a sentence. He referred to the positive aspects of your character as outlined in your very favourable Pre-Sentence Report and the opinion of your Probation Officer, who considered you to pose a low risk of re-offending. He also drew attention to the sentiments expressed by the character witnesses who testified on your behalf.

[67] He submitted that if the Court were minded to impose a custodial sentence that it be suspended in accordance with section 6 of the *Penal System Reform Act*.

[68] Mr. Simmons, Q.C. urged the Court to take into account as mitigating factors, your hitherto clean criminal record; the fact that you had acknowledged your wrongdoing and returned to Barbados from overseas “*to face the music*”; your guilty plea and the fact that you had made restitution in an amount of some two and a quarter million dollars.

[69] In response, Director of Public Prosecutions, Mr. Leacock, Q.C. submitted that the real aggravating factor in relation to the conspiracy offence related to the abuse by you, Michael Pooler, of the position of trust and confidence placed in you as the manager in charge of the Barbados Hardware Insurance agency where you were once employed.

[70] The Director helpfully cited an extract from **Archbold** and drew the Court’s attention to the Penal System Reform Act and the Court of Appeal decision in the appeals of Denzil Grant, Edwin Greene and Orville Forde in which sentences of 3 years and 18 months respectively, were imposed in a case involving a conspiracy to pervert the course of justice.

[71] Bearing in mind the need to maintain public confidence in the administration of justice, the Court considered that in the case of you, Michael Pooler, 6 years was an appropriate starting point for determination of your sentence in this case, having

regard, in particular, to the integral role which you played in the unlawful conspiracy.

[72] In the case of you, **Ruel Ward**, the Court considered that 4 years was an appropriate starting point for determination of your sentence in this case.

[73] **Length of the Custodial Sentences- Section 36:** Having considered the gravity of the offence and established the respective starting points for determining your sentences, the Court kept firmly in mind the general judicial guidelines set forth in section 41(2) of the Act, which require, *inter alia*, that the gravity of the punishment must be commensurate with the gravity of the offence.

[74] The Court next turned to section 36 of the *Penal System Reform Act* and considered the issue of proportionality with a view to determining what length of sentence would be appropriate to do justice in this case in relation to each of you.

[75] Focusing next on you as the offenders, the Court then took into account the following factors which, in the view of the Court, have reduced the seriousness of the conspiracy offence and reflect a level of personal mitigation of you as the offenders.

[76] In the case of you, **Michael Pooler**, the Court has taken into account as mitigating factors, your hitherto clean criminal record; your guilty plea and the fact that you did not waste the Court's time in defending what was an obvious case of common law conspiracy.

[77] The Court has further taken into account the strong plea in mitigation made on your behalf by Defence Counsel Mr. Sands together with the evidence of your character witnesses and the remorse which you have expressed for your involvement in the criminal conspiracy and the negative impact it has had on your life and the toll which has taken on your physical health.

[78] In the case of you, **Ruel Ward**, the Court has taken into account as mitigating factors personal to you as the offender, your guilty plea; your very favourable Pre-Sentence Report; the sentiments expressed by your character witnesses and the obvious fact that as your Defence Counsel, Mr. Simmons, pointed out in his mitigation, you are a young man of considerable talent who still has a lot to offer to this society.

[79] **Order of the Court: Michael William Pooler**, you are hereby sentenced to a term of imprisonment of **3 years**.

[80] Your sentence shall, however, be suspended for a period of 3 years from today, which shall be the “operational period” for purposes of section 6 of the *Penal System Reform Act*. In imposing a suspended sentence in your case the Court has also taken into account the fact that that you are being sentenced in 2014 which is some 10 years following your initial charge in 2004 for this matter and the fact that you have been on bail all this time.

[81] **Michael William Pooler**, the sentence which this Court has just passed is a suspended sentence. In accordance with *section 6(6)* of the *Penal System Reform Act*, I am required to explain to you that, should you commit a subsequent offence during the

“operational period” of 3 years which this Court has imposed, you will be liable to be brought back to Court and to be dealt with in accordance with *section 7* of the Act.

[82] This is the Order of the Court.

[83] **Order of the Court:** *Ruel Carlos Antoine Ward*, you are hereby sentenced to a term of imprisonment of **18 months**. This is the order of the Court

[84] Your sentence shall, however, be suspended for a period of 2 years from today, which shall be the “operational period” for purposes of section 6 of the *Penal System Reform Act*. In imposing a suspended sentence in your case the Court has also taken into account the fact that that you are being sentenced in 2014 which is some 10 years following your initial charge in 2004 for this matter and the fact that you have been on bail all this time.

[85] *Ruel Carlos Antoine Ward*, the sentence which this Court has just passed is a suspended sentence. In accordance with *section 6(6)* of the *Penal System Reform Act*, I am required to explain to you that, should you commit a subsequent offence during the “operational period” of 2 years which this Court has imposed, you will be liable to be brought back to Court and to be dealt with in accordance with *section 7* of the Act.

[86] This is the Order of the Court.

[87] I turn now to you, *Algernon Carl Ward*, and to the offence of theft charged under the 7th Count of this Indictment to which you have pleaded “guilty”.

[88] **Reasons for imposing Custodial Sentences - Section 35(4):** As required by section 35(4) of the *Penal System Reform Act* and after considering the facts as outlined, together with your respective Pre-sentence Reports, the Court has formed

the opinion that subsection (2)(a) applies and that this offence [theft] is so serious that only a custodial sentence should be passed in this case for reasons which now follow.

[89] According to section 3(1) of the *Theft Act, Cap. 155* of the laws of Barbados: a person who dishonestly appropriates property belonging to another with the intention of permanently depriving the other of that property is guilty of theft and liable on conviction on indictment to imprisonment for a maximum of 10 years.

[90] In keeping with the approach mandated under the *Penal System Reform Act*, the Court determined the seriousness of the offence having regard to the following facts:

- i.) The offence involved the overpayment to you by Barbados Hardware Insurance Limited of monies due in respect of a genuine motor insurance claim which you had submitted;
- ii.) You dishonestly kept and misappropriated the sum of \$4,623.05 being the amount of the overpayment to which you were not entitled under the claim.

[89] During the course of his mitigation on your behalf, your Defence Counsel, Mr. Keith Simmons, Q.C. pointed out that the circumstances of the offence were such as to be almost laughable inasmuch as you had ironically submitted a genuine claim to the company and had received an overpayment to which you were not

entitled and had unwisely retained kept the money.

[91] Your Defence Counsel Mr. Simmons, pointed to the fact that your foolhardy and unlawful decision to appropriate the \$4,623.05 overpayment has cost you dearly.

[92] Mr. Simmons informed the Court that your ill-advised decision to keep the amount of the insurance overpayment had resulted in the loss of your job as a Bank Manager.

[93] Mr. Simmons informed the Court that like at least one of the other persons on this Indictment, you too lost your house, car and other possessions which you sold to assist in paying back the larger sums of money taken from Barbados Hardware Insurance Limited.

[94] He urged the Court to be lenient with you and to look favourably at your very positive Pre-Sentence report and to the character evidence given by your character witnesses, Mr. Carl Watson and Mrs. Marquita Rayside.

[95] After giving due consideration to the seriousness of the offence and bearing in mind the need to maintain public confidence in the administration of justice, the Court considered that 4 years was an appropriate starting point for determination of your sentence in respect of the theft offence to which you have pleaded “guilty”.

[96] **Length of the Custodial Sentences- Section 36:** Having considered the gravity of the offence and established the starting point for determining your

sentence, the Court kept firmly in mind the general judicial guidelines set forth in section 41(2) of the Act, which require, *inter alia*, that the gravity of the punishment must be commensurate with the gravity of the offence.

[97] The Court next turned to section 36 of the *Penal System Reform Act* and considered the issue of proportionality with a view to determining what length of sentence would be appropriate to do justice in this case in relation to each of you.

[98] Focusing next on you as the offender, the Court then took into account the following factors which, in the view of the Court, have reduced the seriousness of the theft offence and reflect a level of personal mitigation of you as the offender.

[99] *Algernon Carl Ward*, the Court has taken into account as mitigating factors, your hitherto clean criminal record; your guilty plea and the fact that you did not waste the Court's time in defending what was an obvious case of theft.

[100] The Court has further taken into account the strong plea in mitigation made on your behalf by Defence Counsel Mr. Simmons, Q.C. together with the evidence of your character witnesses and the remorse which you have expressed for your involvement in the offence and the negative impact which your foolhardy decision to keep the amount of the overpayment has taken on your life and your employment prospects.

[101] **Order of the Court:** *Algernon Carl Ward*, you are hereby sentenced to a term of imprisonment of **1 year**.

[102] Your sentence shall, however, be suspended for a period of 2 years from today, which shall be the “operational period” for purposes of section 6 of the *Penal System Reform Act*. In imposing a suspended sentence in your case the Court has also taken into account the fact that that you are being sentenced in 2014, which is some 10 years following your initial charge in 2004 for this matter and the fact that you have been on bail all this time.

[103] *Algernon Carl Ward*, the sentence which this Court has just passed is a suspended sentence. In accordance with *section 6(6)* of the *Penal System Reform Act*, I am required to explain to you that, should you commit a subsequent offence during the “operational period” of 2 years which this Court has imposed, you will be liable to be brought back to Court and to be dealt with in accordance with *section 7* of the Act.

[104] This is the Order of the Court.

Maureen Crane-Scott
Judge of the High Court
2014-10-10