

**AK HJ ADEY NAZLI BIN PG HJ ISMAIL**

**AND**

**PUBLIC PROSECUTOR**

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**Court of Appeal of Brunei Darussalam  
(Criminal Motion No. 22 of 2023)**

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Before: Steven Chong CJ, Seagroatt and Woolley JJ A.

**Date of Hearing: Tuesday, 11<sup>th</sup> June 2023**

**Date of Judgment: Tuesday, 18<sup>th</sup> June 2023**

Appellant is unrepresented

DPP Hajah Siti Mu'izzah binti Haji Sabli of Public Prosecutor for Respondent

## **JUDGMENT**

**Seagroatt, JA.:**

This appellant appeared before Judge Masni on the 18<sup>th</sup> June 2022 in respect of eight offences committed between October 2021 and May 2022.

When the charges were put to him he initially pleaded guilty to all of them but the judge decided not to accept those in relation to the wounding with a knife on the 30<sup>th</sup> May 2022, and setting fire to a house on the 31<sup>st</sup> May. The reason for the non-acceptance of his pleas to those two offences were firstly that he denied the weapon was a knife, and secondly he did not intend to cause a fire in the house.

The other pleas of guilty related to the consumption of "Ice" or "Syabu" (Methylamphetamine), assaulting a man with a metal pipe, and four charges relating to the use of a motor vehicle on the 11<sup>th</sup> October 2021

The first two charges were put to him again on a later date and his pleas of guilty were then accepted.

The first charge resulted from a pointless confrontation with the driver of a car which passed him, the applicant taking exception to what he believed to be the driver staring at him. They met up a little later when the driver was out of his car and there was a confrontation and

punches were exchanged. At some stage the applicant took what appeared to be a knife – perhaps a piece of metal fashioned into a blade - and attacked the victim causing several wounds. Photographs of these were produced. To the lower court but not to this court.

The next day friends of the wounded victim went to the applicant's house to inquire about the incident on the day before. The applicant thereupon armed himself with a machete and meat cleaver and went to hide. For some reason – he said he was stressed - he used his lighter to set fire to the sofa, eventually causing fire damage extensively to the first floor living room. The Fire Services were called and the fire was extinguished.

The 4<sup>th</sup> charge also concerned the behaviour of the defendant in relation to another motorist. He contrived a “road rage” incident when he drove provocatively and caused another motorist to whom he had driven closely, perhaps “tail gating”, to stop, because no doubt, of the curious behaviour. The applicant got out of his car and wielding a metal rod and advanced threateningly upon the other motorist who wisely stayed in his car. The applicant then drove away. The motorist reported the incident and the police aided by the dash cam footage in the complainant's car, tracked the applicant down.

The next four charges arise out of another motoring incident contrived by him. He reversed his car into another vehicle and then tried to blame the other motorist who called the police. The defendant left the scene without providing the requisite information, before the police arrived. Eventually he was tracked down. He was clearly guilty of careless driving, he did not possess a valid driver's licence, his vehicle was untaxed and he had no insurance cover.

This applicant is a danger to road users. He resorts readily to violence, he takes a destructive drug which is known to affect the body and the mind. He is a threat to people he comes into contact with and creates situations in which he is quite unpredictable.

The sentences imposed were:

1. For causing hurt (wounding with a sharp implement) 2 years imprisonment and 2 strokes;
2. For causing mischief by fire; 3 years and 6 strokes;
3. Consuming a Class A drug, 3 years imprisonment;
4. For assault with a metal bar 2 months;
5. Careless driving, fined \$600 with 3 weeks imprisonment in default;
6. Driving without valid licence, fined \$600 with 3 weeks in default;
7. Driving a vehicle without road tax, fined \$300 with one week in default;
8. Driving without insurance fined \$750 with 4 weeks imprisonment in default and disqualified for 12 months.

These sentences were imposed on the 28<sup>th</sup> July 2022. His application for leave to appeal is dated 7<sup>th</sup> August 2023 so he is 11 months late. We will as usual in these circumstances consider the merits of the appeal.

He has previous convictions for theft and in relation to the Misuse of Drugs Act.

He first appeared before a court in November 2000 for offences concerned with drugs.

Ten years later he was fined for offences of theft, with a total of 8 months imprisonment in default in 2014, and in 2015 he served terms of imprisonment totalling 4 years. These offences were almost all concerned with theft of property with the occasional offence in respect of drug use.

The judge imposed a total sentence of 6 years 2 months imprisonment, 6 strokes and fines totaling \$2,250 with the varying terms of imprisonment set out above. She gave credit for his pleas of guilty.

He unfortunately suffers from a number of medical conditions which no doubt will be monitored and treated whilst he is in custody. His father is wheelchair bound but he has a number of siblings who can devote attention to their ailing father. This appellant's offences show complete disregard for others. The public needs protection from his activities.

These sentences are appropriate and unappealable. Having considered that there is no merit in the appeal, his application for leave, being substantially out of time, is refused.

**Steven Chong, CJ.**

**Seagroatt, J.A.**

**Woolley, J.A**