

Sentencing Remarks - The defendant, Derek Charles Kelly, was sentenced to 18 months' imprisonment suspended for three years for unlawful and malicious wounding of his wife, with forfeiture of the weapon and a compensation order of £1,000. The Court considered the offence serious but, exceptionally, suspended the sentence due to mitigating factors.

[2025]GRC089

ROYAL COURT

FULL COURT

24 October 2025

Before: Catherine Maureen Fooks, Judge of the Royal Court

**and Jurats: Claire Helen Le Pelley, David James Mortimer,
Stuart Michael Crisp, Tina Jane Le Poidevin, Simon Ernest Bodkin, Ian Michael Brown,
and Susan Elizabeth Gallienne.**

THE LAW OFFICERS OF THE CROWN

- v -

DEREK CHARLES KELLY

Advocate P F Cobb appeared for the Crown

Advocate C J Green appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

Mr Kelly, you appear for sentence on an Indictment containing one Count of unlawful and malicious wounding, which is a customary law offence with no maximum penalty, but this Court generally approaches sentencing for this offence as though the maximum sentence were 5 years' imprisonment.

On the evening of 14 April 2025, you were at home with your wife of nearly 20 years watching TV. You were both drinking alcohol. An argument broke out and the Prosecution accept that you believed that your wife had thrown a knife at you. You then recklessly threw knives towards the floor in front of her, one of which hit her on the lower part of the leg which bled profusely. You called the Emergency Services who found your wife slumped, semi-conscious, cold to the touch and barely responsive to their questions. They noted the large quantity of the blood on the floor in your home (we have the photographs). Your wife was taken to hospital where medics noted a 2 cm x 5 cm laceration which required 6 stitches. All layers of the skin were broken. The wound was later described as a crescent shaped wound consistent with a bladed article cutting downwards or from above. Your wife was

estimated to have lost 300 ml of blood. A large kitchen knife was recovered on which human blood could be seen. You have accepted that the injury and the photographs are shocking.

At interview, you largely exercised your right to silence on the key issues. You were shocked when shown a photograph of the injury and you did, at that point, deny throwing any knives. Your wife has provided a Victim Impact Statement in which she describes the after-effects of what you did to her. Her sleep is affected, she has flash-backs, palpitations and nightmares. She remains shocked that this has happened after you had spent so long together. The scar and the blood stains are a constant reminder and knives on the television make her anxious. Her personality has changed and she is signed off work with trauma. You have accepted the content of her Victim Impact Statement.

You are a 69 year old local man, 68 at the time of offending. You are retired. You have no relevant previous convictions. You have been on conditional bail throughout most of the proceedings.

Sentencing Considerations

The practice of this Court has been to treat unlawful wounding as the equivalent of an offence in England under section 20 of The Offences Against the Person Act, 1861 which has a maximum penalty of 5 years' imprisonment. Whilst this Court finds the English Sentencing Guidelines of assistance, especially on the topic of aggravating and mitigating factors, it must always be remembered that Guernsey is a separate jurisdiction and we have to sentence on Guernsey considerations. The Island community wants to keep Guernsey as a place where crimes such as the one you have committed are rare.

We note that you have pleaded guilty on the basis that you acted recklessly in throwing the knife and we sentence you on that basis, even though we struggle to see how the injury can have been caused in the manner you describe. Even on your account, the consequences are very serious and could have been even more serious. This is a serious matter.

We set the initial starting point before aggravating and mitigating factors at 2½ years. There are aggravating and mitigating factors in your case –

- the use of a weapon, a dangerous large kitchen knife;
- the extent of the injury and scarring;
- the fact that the offence occurred in the domestic context in the victim's own home; and
- the fact that you were under the influence of alcohol.

Balanced against that, we must take into account that the offence was committed on the basis of recklessness and not intent or pre-meditation. We therefore set the revised starting point before consideration of plea and personal mitigation at 3 years.

Mitigation

Plea

We afford you full credit for your guilty plea.

Personal Mitigation

The Court has considered carefully the Social Enquiry Report prepared in respect of you. We note that you dispute the accuracy of certain comments and assessments in the report which you say have arisen because you were responding to the original Prosecution facts and not your basis of plea. We are not convinced that this accounts for all the negative comments within that report, which jar with your letter and your mitigation but we must give you the benefit of the doubt.

We have also listened to the helpful submissions of your Advocate. We have carefully considered the letters filed on your behalf. We comment that the medical records produced are less helpful than the usual Doctor's letter containing up to date and relevant information, but we have been able to glean sufficient from what has been provided and said.

We are treating you as a person of previous good character which is very much to your credit, particularly at your age.

We note that, until you had to give up work for health reasons, you have been a hard worker. We note what is said about your health problems. We note the support that you are fortunate to have from your step-daughter. She and her friend describe you as "*kind, thoughtful and a man of integrity*". We note the terms of your letter and your address to us in which you express your sincere remorse. In your discussions with the writers of the Social Enquiry Report you denied any domestic violence. You further denied any problematic alcohol use, but in your letter you accept that alcohol was a significant and damaging factor in your marriage and you say that you are committed to making changes. Indeed you have made a significant change in that you have not consumed alcohol for 6 months. That is something which we take into account.

The report writer's view is that you pose a risk of ongoing harm to your wife through violence. Your Advocate made the point that you say the marriage is over which is something you told us yourself and that you are now instructing Advocates with a view to being divorced. It is said that you have no intention of contacting your wife again.

You are assessed as having a medium likelihood of general reoffending which we take into account. You do not meet the criteria for MAPPA registration unless you receive a sentence of more than 12 months.

Sentence

The offence that you have committed clearly crosses the custody threshold. We take into account the general sentencing principles: punishment, deterrence, rehabilitation and protection of the public. Your Advocate has urged us to suspend any immediate custodial sentence on the basis that the act by you was a reckless one, not deliberate, was a one-off, that you have no previous convictions, that you are not a young man and that you are not a well man. Your Advocate highlighted the impact of immediate custody on you which he said would be significant. He made the point that you have lost a lot by virtue of your offending in terms of your marriage, your home, your peace of mind and your reputation. We have considered this matter anxiously. The offence is a serious one, but, in all the circumstances, we have decided that we are able to suspend the sentence.

Mr Kelly, you have caused your wife a very serious injury with a large knife. The effects for her will be life-long. You could not have complained had you gone to Prison today, but we have decided, unusually, that the sentence can be suspended. Taking into account all that has been said and written and applying the appropriate discounts and principles, the sentence will be one of 18 months' custody, suspended for 3 years.

This means that you will not have to serve the Suspended Sentence unless, during the next 3 years, you are convicted of an offence punishable with imprisonment. If you are convicted of such an offence you will be liable to serve all or part of the sentence. A Suspended Sentence is not a let-off. It will hang over your head for that period of time and those will be the consequences so please do not forget that.

Forfeiture

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law 2006, which was not opposed, for the forfeiture of the lawfully seized kitchen knife valued at approximately £10 - £20, which relates to the offence, is also granted, the Court having considered the likely effects on you of forfeiture.

Compensation

The issue of compensation was raised in mitigation and you have offered compensation to your wife in the sum of £1,000 and we consider it appropriate to make an Order in favour of her in that sum under the Compensation Law 1990 and we order that that sum should be payable within 7 days.

So I summarise that the total sentence is:

- **18 months' imprisonment suspended for 3 years;**
- **Forfeiture of the knife;**
- **Compensation in the sum of £1,000.**

Catherine Maureen Fooks

Judge of the Royal Court

24 October 2025