In The Supreme Court of Bermuda

CRIMINAL JURISDICTION

Case No. 41 of 2025
Case No. 2 of 2026

BETWEEN:

THE KING

-and-

CRAIG M. COLWELL

Before: **The Hon. Mr. Justice Juan P. Wolffe, Puisne Judge**

Appearances: Ms. Paula Tyndale for the Prosecution
Mr. Jerome Lynch KC for the Defendant

Date(s) of Hearing: 15th May 2026
Date of Sentence: 13th July 2026
Date of Reasons: 29th July 2026

SENTENCE

False Accounting – Theft – Possession of a controlled drug – Suspended sentence

WOLFFE J.

1. On the 27th March 2026 the Defendant pleaded guilty to four (4) counts of False Accounting contrary to section 351(a) of the Criminal Code ("Criminal Code")(Counts 6, 9, 12, and 15); one (1) count of Theft contrary to sections 331 and 337(1) of the Criminal Code (Count 7);

and three (3) counts of Possession of a Controlled Drug contrary to section 6(2) of the Misuse of Drugs Act 1972 (the "MDA")(Counts 8, 11, and 14).

2. On the 10th July 2026 I sentenced the Defendant to: 15 months imprisonment for each of the false accounting offences; 15 months imprisonment for the theft offence; and, 9 months' imprisonment for the possession of a controlled drug offences. All sentences are to run concurrently. Further, for each of the sentences for the false accounting offences I suspended 6 months of the 15-month period of imprisonment. While it was my intention to do so when I imposed the said sentences I neglected to indicate for what period of time the suspended sentence should be in place. I therefore now order that the suspended sentences shall be for one (1) year. So, effectively the Defendant is to serve a total of 9 months imprisonment.

3. Set out below are the reasons for my sentences.

Summary of the Evidence

4. At the material times when the offences were committed the Defendant was a licensed pharmacist who was employed as the Assistant Chief Pharmacist and the Pharmacy Manager at the Woodbourne Chemist located at Woodbourne Chemist in Pembroke Parish ("the pharmacy")(its parent company is Phoenix Stores Ltd. ("Phoenix")). He was employed there for twenty-seven (27) years.

5. On the 31st May 2025, a date on which the Defendant was not working, the on-duty pharmacist conducted a routine inspection of the Narcotics Register. Pursuant to the Misuse of Drugs Regulations 1973 (the "Regulations") every licensed pharmacy is required to keep a Narcotics Register for each specified drug listed in Schedules 2 and 3 of the Regulations. In chronological sequence, the particulars of every quantity of drug that is received and dispensed at the pharmacy should be recorded. During the inspection of the register the on-duty pharmacist noticed an irregularity in the dispensing of the controlled drug Oxycodone/Acetaminophen, an opiate, and the manner in which it was recorded in the register. Most tellingly, the register showed that a prescription in the name of the Defendant

had been dispensed to the Defendant. This discovery led to the pharmacist carrying out further checks of the register where she observed that (i) there was no patient profile for the Defendant in the recording system which corresponded to the said prescription, and (ii) there was a patient profile in the name of a "Craig Olwell" which suggested that the Defendant's name had been deliberately misspelled for some reason. The pharmacist's observations also revealed that on the day the prescription was dispensed the Defendant was the only pharmacist on duty.

6. The above findings precipitated further checks of the hard copy versions of the register, the physical stock of drugs held in the safe, and the electronic dispensing records which were maintained by the pharmacy for the period 2010 to 2025. From this, further checks were confined to the period 4th January 2021 to 31st May 2025 and these checks revealed that:

- 404 transactions were attributed to the Defendant and pointed to the manipulation of records, false accounting, and theft of controlled drugs.

- A large quantity of drugs was registered as being dispensed out of the register including Oxycodone/Acetaminophen, and OxyNorm (a brand name of Oxycodone).

- A total inventory of 8,587 tablets of various drugs was lost between January 2021 and May 2025, and this represented a financial loss to the pharmacy of an estimated cost of $12,479.19.

- Approximately 148 patient records at the pharmacy were identified as being affected by the manipulation of the recorded prescriptions. Further, the Defendant misused patient's names on prescription labels 47 times and on some occasions patient's names were used at least twice.

- The total number of patient's names that were misused on prescription labels by the Defendant was 179.

- Approximately 86 entries had the names of medical doctors appearing on prescriptions which were suspected to have been altered in the pharmacy system i.e. the prescriptions had not been written by the doctors whose names appeared on them as the prescribing doctor.

- The Defendant used at least thirteen (13) methodologies to facilitate the thefts of narcotic drugs and to obscure this fact in pharmacy's records. Such as: no prescription was on file to support the supply of medication; prescription was put on hold after the supply was booked out of register; prescription was written for different drug; prescription was not genuine; quantity in the register was more than what was written on the prescription; prescription was used for further refills; drug was transferred to another associated pharmacy but never arrived at that pharmacy; invoices/drug transfers were not booked into the register or were entered incorrectly; no prescription to support the supply and the drug was put on hold; prescription was written for a different drug and the drug was put on hold; no prescription was on file but the drug was changed to a narcotic; drug was booked out of the register correctly but the quantity of the drug was changed in the patient file; and, no prescription to support the supply of the drug and the drug was not booked out of the register.

7. As a result of police investigations, the Defendant was arrested on the 12th June 2025 and on the same date a search was carried out at his residence. From the Defendant's residence, police seized used blister packets of the drugs OxyContin and OxyNorm, both of which belonged to the pharmacy.

8. On the 7th November 2025 the Defendant was charged with a number of offences.

Decision

9. Section 351(1) of the Criminal Code provides that the maximum sentence liable for the offence of false accounting on indictment is a fine of $100,000 or imprisonment for ten (10) years, or both.

10. In respect of the theft offence, section 337(1) of the Criminal Code states that the maximum sentence to which an offender is liable on indictment is a fine of $100,000 or imprisonment for ten (10) years, or both.

11. In respect of the possession of a controlled drug offence, the MDA stipulates that the maximum sentence to which a first-time offender is liable on indictment is a fine, imprisonment for five (5) years, or both.

12. Ms. Tyndale submitted that in the circumstances of this case that the Defendant should serve the following immediate terms of imprisonment:

- 15 to 18 months imprisonment for each of the false accounting offences
- 15 to 18 months imprisonment for the theft offence
- 3 to 6 months imprisonment for the possession of a controlled drug offences

All sentences to run concurrently.

13. In this regard, Ms. Tyndale urged the Court to consider the following:

- Sections 53 to 55 of the Criminal Code which set out the fundamental purpose and principles of sentencing.

- That by virtue of the high maximum sentences, it is the Legislature's desire to have the offences charged treated seriously.

- The authority of ***The Queen v. Dierdre Woolgar [2020] Bda LR 56*** in which I, as sentence judge in that case, referred to the Legislature's "unequivocal position" that false accounting offences should be treated with "a considerable degree of harshness".

- The Defendant's actions had direct and deleterious consequences on the operations of the pharmacy and on its reputation.

- The Defendant's conduct had and still has the potential of causing harm to patients and reputational harm to doctors through his falsification of prescriptions and patient records.

- The Defendant's conduct was an egregious abuse of his position of trust as a licensed pharmacist and senior employee of the pharmacy, as well as a gross breach of his professional ethics as a pharmacist.

- The Defendant used his position of seniority and extremely high degree of trust to undermine the systems and records of the pharmacy, to facilitate the theft of drugs, and to falsify records to cover up his actions and prevent detection for a protracted period spanning multiple years (January 2021 to May 2025).

- The Defendant's conduct was carried out with a high level of sophistication involving a manipulation of the pharmacy's inventory, of inventory records and statutory register obligations, and of the scheduling of pharmacy staff (to ensure that he was working alone).

- The Victim Impact Statements which speak of the operational, staff, organizational/reputational, and financial impact which the offences had on the pharmacy. In particular: an extensive reorganization of staffing and workflow to carry out audits and to identify the scope of the Defendant's conduct; distress, shock, disappointment, betrayal and concern among staff members; the reputation of the pharmacy and its parent company as compliant healthcare providers being put at risk; and, the pharmacy suffering a financial loss due to the misappropriation of inventory and also due to the costs and time associated with the investigation and the reconciliation of the discrepancies in the records which were caused by the Defendant.

- The Defendant gave no assistance to the police in the investigation of his crimes.

- The need to send a clear message to offenders and would-be offenders that a corruption of the trust reposed in them by their employers through dishonesty and fraud will be dealt with severely by the Courts.

- The Defendant's guilty plea and that he was previously a person of good character (meaning that he had no previous convictions).

14. In response, Mr. Lynch KC submitted that while he does not take issue with the tariffs put forth by Ms. Tyndale (he did not necessarily agree with the route taken by her to arrive at her suggested tariffs) he went on further to submit that it was "appropriate in the circumstances" and/or there was "good reason" for any of the periods of imprisonment to be suspended in their entireties (as per section 70K of the Criminal Code). To this, he stated that the Court should have regard to the following:

    - This is not a case where the community needs to be protected from the Defendant, but rather the Defendant needs to be protected from himself.

    - The Defendant needs not to be deterred from such conduct as he will never be able to work in a pharmacy again.

    - The Defendant does not need to be separated from society but rather he needs a "civilized society" to help him and not to punish him.

- The drug OxyContin is highly addictive, and its widespread use was perpetuated through aggressive marketing by the manufacturer for physicians to prescribe it and which downplayed its seriously addictive properties. So much so that the company behind the drug was prosecuted and ordered to pay $7.4 billion to claimants across several U.S. states (pages 58 to 64 of the Defendant's Bundle).

- The Defendant did not choose the drugs which he stole for recreation but instead became addicted to it after he attempted to self-medicate for excruciating pain which he was suffering. Initially, he was prescribed pain medication, but they did not work and so he turned to other drugs which he became addicted to.

- The offences were not motivated by personal gain as in *Woolgar* but out of desperation for a drug he had become addicted to.

- No patients were put at risk because no patient received less or more medication than what they were prescribed, and that it is fanciful to think that any medic in an emergency would inquire of the pharmacy what medication a patient was on.

- Over the 27 years that he was employed by the pharmacy the Defendant did great work, and that his colleagues found him to be kind, quiet, reserved and that working with him was a privilege. Further, that the Defendant was a thoroughly decent man, hardworking, committed and caring.

- No one helped the Defendant when it was clear that he was deteriorating physically and mentally (colleagues speak of the Defendant's appearance and demeanour changing from vibrant to depressed) and that while colleagues may have been too embarrassed to reach out, Phoenix and the head pharmacist had no such excuse.

Mr. Lynch KC qualified this submission by saying that the Defendant has taken full responsibility for his own actions and that he [Mr. Lynch KC] was not seeking to pile blame onto anyone else.

- The Defendant was suffering in silence and that his behaviour was a "cry for help".

- The Defendant's medical records indicate that he was a person suffering from various physical and mental diagnoses and treatments, such as: pain killing drugs being prescribed in 2026, 2017, and 2018; physiotherapy (during which mental issues were noticed); psychiatric intervention; and, severe depression, ADHD and phobias.

  Mr. Lynch KC also referred to a report by the Royal Pharmaceutical Society on Wellbeing (September 2023) and which showed mental health issues within the business of pharmacy.

- The Defendant seeing mental health professionals and receiving treatment from June 2025, specifically a Camily Lovell and Dr. Grant Farquhar (whose reports appear on pages 23 to 28 of the Defendant's Bundle), and, that he has taken his predicament very seriously and positively.

  Dr. Farquar reported that the Defendant presented in July 2025 with severe "Major Depressive Disorder" and that as a result of treatment the Defendant has shown substantial and sustained clinical improvement. Dr. Farquar further reported that the Defendant's *"untreated ADHD likely contributed to poor impulse control and reliance on stimulant for functional compensation"* and that *"the offending behaviour appears closely linked to substance dependence, impulsivity and impaired judgment, rather than a primary antisocial or criminal disposition"*.

  Importantly, the Defendant had tested negative for substances from July 2025.

- Character references from family, friends and former colleagues (pages 1 to 22 of the Defendant's Bundle) who describe the Defendant, *inter alia*, as: a "good man"; gentle, kind, empathetic, compassionate and supportive; dedicated and committed to his job; extremely well-liked by customers; listened to customers and offered thoughtful advice (he took exceptional care with elderly patients); a "big brother" and "professional mentor"; and, as supportive of colleagues professionally and personally.

15. The core conclusion of Mr. Lynch KC's submissions was that all of this was a "perfect storm" in that since 2016 the Defendant was suffering from physical pain but was prescribed medication that did not work. This was compounded by a separation from his wife, the loss of his father in 2019, covid, undiagnosed depression and ADHD, and which ultimately led to the Defendant trying to douse his physical and mental pain with a drug that he became addicted to. Therefore, Mr. Lynch KC says, a thoroughly decent, hardworking, respected, loved and even revered man, had slowly been consumed by pain and depression, turned inwards, and then tried to deal with the issues himself.

Sentence

16. Sections 53 and 54 of the Criminal Code provide that:

"Purpose

53 The fundamental purpose of sentencing is to promote respect for the law and to maintain a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives—

- *(a) to protect the community;*
- *(b) to reinforce community-held values by denouncing unlawful conduct;*
- *(c) to deter the offender and other persons from committing offences;*
- *(d) to separate offenders from society, where necessary;*
- *(e) to assist in rehabilitating offenders; to provide reparation for harm done to victims;*
- *(f) to promote a sense of responsibility in offenders by acknowledgement of the harm done to victims and to the community.*

Fundamental principle

54 A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender."

17. With this guidance in mind, in passing I took into consideration, *inter alia*, the following: the submissions of Counsel (including the authorities cited); the sentencing tariffs set out in the Criminal Code and the MDA; the Victim Impact Statements; the Defendant's character references; and, the mitigating and aggravating circumstances of this matter (to which I will turn to shortly).

18. In respect of the authorities, in *Woolgar* I cited the seminal authority of *R v. Barrick (1985) 7 Cr.App.R.(S) 142* in which Lord Lane CJ provides instructive guidance as to what can be taken into account when sentencing offender who have been charged with theft and fraud type offences. Lord Lane CJ wisely commented that:

> *"The type of case with which we are concerned is where a person in a position of trust, for example, an accountant, solicitor, bank employee or postman has used that privileged and trusted position to defraud his partners or clients or employers or the general public of sizeable sums of money. He will usually, as is in this case, be a person of hitherto impeccable character. It is practically certain, again in this case, that he will never offend again and, in the nature of things, he will never in his life be able to secure employment with all that that means in the shape of disgrace for himself and hardship for himself and also his family."*

and,

> *"In general a term of immediate imprisonment is inevitable, save in very exceptional circumstances or where the amount of money obtained is small. Despite the great punishment that offenders of this sort bring upon themselves, the court should nevertheless pass a sufficiently substantial term of imprisonment to mark publicly the gravity of the offence. The sum involved is obviously not the only factor to be considered, but it may in many cases provide a useful guide. Where the amounts involved cannot be described as small but are less than £10,000 or thereabouts, terms of imprisonment ranging from very short up to about 18 months are appropriate……..Cases involving sums of between £10,000 and £50,000 will merit a term of about two to three years' imprisonment. Where greater sums are involved, for example those over £100,000, then a term of three and a half years to four and a half years would be justified."*

and further,

"The following are some of the matters to which the Court will no doubt wish to pay regard in determining what the proper level of sentence should be: (i) the quality and degree of trust reposed in the offender including his rank; (ii) the period over which the money or property dishonestly taken was put; (iii) the use to which the money or property dishonesty taken was put; (iv) the effect upon the victim; (v) the impact of the offence on the public and the public confidence; (vi) the effect on fellow-employees or partners; (vii) the effect on the offender himself; (viii) his own history; (ix) those matters of mitigation special to himself such as illness; being placed under great strain by excessive responsibility or the like; where, as sometimes happens, there has been a long delay, say over two years, between his being confronted with his dishonesty by his professional body or the police and the start of his trial; finally, any help given by him to the police."

19. Lord Lane CJ went on to observe that the appellant did not give any assistance to the police, that he proceeded to trial, that the fraud took place over a year and a half, and, that the only mitigating feature was that the during the trial the appellant made some admissions to certain activities of fraud. Moreover, Lord Lane CJ concluded that it was a case whereby no suspension of the sentence was merited.

20. I therefore find the following to be mitigating features in the case-at-bar and for which the Defendant should be given credit:

The Defendant's early guilty plea: The Defendant first appeared in the Supreme Court on the 5th February 2026 to answer to the offences charged and on the 27th March 2026 he pleaded guilty to them. In doing so, the Defendant has prevented the escalation of time and costs, and, he removed the awkwardness of witnesses coming to Court to give evidence at trial (some of whom may have been his colleagues). There is therefore no reason why the Defendant should not be granted a full 30% discount on whatever sentences he receives.

The Defendant's genuine expression of regret and remorse: Having heard and seen the Defendant give his *allocutus* I find that the Defendant is sincerely apologetic for the harm caused by his actions to his colleagues, the pharmacy and Phoenix, and, that he has taken full ownership of and responsibility for what he did.

The Defendant was of good character: In addition to not having any previous convictions it is obvious from the character references that up until the time that he committed the offences that the Defendant was an asset to the pharmacy and that he was truly a good person to his colleagues and customers. What took place from January 2021 to May 2025 was clearly not a reflection of the stellar work that he put in at the pharmacy for 27 years.

The Defendant voluntarily submitted to counselling and treatment: The Defendant was arrested in June 2025 for the offences charged and from July 2025 he sought and received psychological/psychiatric treatment and drug addiction counselling. This is an honest acknowledgment by the Defendant that he had mental health and substance abuse challenges that needed to be addressed.

I am also mindful that since July 2025 the Defendant has tested negative for illicit substances and this is a factor which goes to the Defendant's credit.

21. I do not, however, consider the following as mitigating factors:

The addictive properties of OxyContin and the civil liability of the company that produced it: It is unclear as to whether Mr. Lynch KC intended for this information to be considered as a mitigating feature or that he only referred to it as explanatory background as to why the Defendant, who up until the time of the offences was a decent person, would descend so rapidly into criminality. If Mr. Lynch's intent was that this information should be seen as mitigation, then I decline to regard it as such. However, I do accept that the information provides some, albeit little, explanation as to why the Defendant committed the offences charged. I say little because as a pharmacist the Defendant would have well known about the addictive properties of the drug and yet he decided to use it anyway.

The Defendant did not steal the drugs out of personal gain: While it is true that the Defendant did not sell or financially profit from the theft of the drugs, and nor did he give the drugs to anyone else, he still received pain relief from the 8,587 tablets over a 4-year period. This pain relief constituted a gain to the Defendant.

No one helped the Defendant when it was clear that he was deteriorating physically and mentally: It was not for the head pharmacist or anyone at the pharmacy to have recognized any change in the Defendant's demeanour and appearance, and even if they did there was no way to extrapolate from those observations that the Defendant was stealing and using drugs from the pharmacy's inventory. It was for the Defendant, and no-one else, to recognize that he had a problem and that he should do something about it, especially since he would have likely known about the Royal Pharmaceutical Society's report about mental health issues in the pharmacy industry. The bottom line is that the Defendant is entirely to blame for the offences.

22. Having said that, I do agree with Mr. Lynch KC that the commission of the offences by the Defendant can be attributed to a cacophony of considerable stressors and pressures in the Defendant's life which, if they did not exist, the Defendant may not have committed the offences. In this regard, I speak of the physical pain he was suffering from, the separation from his wife, the loss of his father, covid, and his undiagnosed depression and ADHD.

23. In respect of any aggravating factors, I consider the following to be such:

The quality and degree of trust reposed in the Defendant: As the Assistant Chief Pharmacist and the Pharmacy Manager, Phoenix and the Defendant's subordinates would have placed considerable trust in the Defendant to carry out his duties in a way which extolled the high level of ethics which was expected of pharmacists and pharmacies. This is because any breaches of trust which may involve the unlawful dissemination of controlled drugs into the community could have resulted in untold devastating effects on the members of society. The commission of the offences committed by the Defendant deeply pierced this trust which his colleagues, the pharmacy, Phoenix, and his customers had in him.

The period over which the drugs were stolen and the use to which the drugs was put: From January 2021 to May 2025, a period of over 4 years, the Defendant stole and used 8,587 tablets of the pharmacy's drugs. This is not an insignificant amount of time or drugs, and it clearly shows that during the 404 fraudulent transactions carried out by the Defendant to steal the drugs that he had ample time and opportunity to cease his offending behaviour.

The impact of the offence on the public and the public confidence: Pharmacies are supposed to be the guardians of controlled drugs in Bermuda and they are charged with the responsibility of ensuring that: (a) controlled drugs are only given to those who desperately need them; (b) that controlled drugs are properly secured to Fort Knox standards so that they do not make their way onto the black market; and (c) that patient's records of prescriptions are kept with the utmost accuracy, anonymity and confidentiality. The Defendant was supposed to have represented the guard at the door but by his offences he, in one fell swoop, singlehandedly revealed to the public that any trust or confidence which they should have had in pharmacists and pharmacies to properly secure controlled drugs and to keep their medical records out of the public domain is not certain nor guaranteed. Moreover, that there are significant weaknesses and cavernous holes in the processes and procedures at the pharmacy (and maybe even at other pharmacies) which were supposedly designed to protect them.

I do however accept Mr. Lynch KC's argument that there is no evidence to suggest that any patients or doctors associated with the pharmacy were directly impacted by the Defendant's actions of falsifying prescriptions and patient records.

The impact on fellow employees and the pharmacy: It is probably because of the Defendant's stellar work as a pharmacist, and that he was a likeable person, that his fellow employees were even more shocked and betrayed by his conduct. However, it appears that the largest impact was on the pharmacy itself which would have had to: (i) expend extra monies to assist in the police investigation; (ii) identify and resolve discrepancies in the inventory records which were created by the Defendant; and (iii) undergo a major overhaul of its operational processes and procedures as they related to the securing, dispensing, and recording of controlled drugs. No doubt this would have resulted in significant financial expenditure and loss to Phoenix, as well as the reassignment and redirection of staff.

Further, it is likely that as a consequence of the Defendant's criminal conduct that the governing body of pharmacists and pharmacies would have and may still cast a discerning eye on the operations of Phoenix and the pharmacy. Therefore, it is reasonable to conclude that Phoenix and/or the pharmacy may have taken a reputational hit.

24. Another aggravating factor which I took into consideration is the level of sophistication in what the Defendant employed and deployed to commit the offences. Contrary to Mr. Lynch KC's assessment and in line with Ms. Tyndale's view, I would place the level of sophistication as high. While some of the 13 methodologies listed by Ms. Tyndale may have overlapped and/or constituted one continuous act by the Defendant, this does not distract away from the fact that what the Defendant did to facilitate the thefts of the narcotic drugs and to obscure this fact in the pharmacy's records could only have been carried out by him as the person tasked with the sole responsibility of scheduling staff, and, as someone who had an intimate knowledge of the inner frailties of the inventory recording and registering system, and of the processes and procedures of handing out prescriptions. The level of sophistication utilized by the Defendant was so high and multilayered that the Defendant was clandestinely able to steal 8,587 tablets over a 4 year period by way of 404 transactions without being detected by others (including the head pharmacist).

25. I should say that I accept Mr. Lynch KC's point that comparatively the $12,479.19 value of the tablets in this matter are far less than the amounts taken in *Woolgar* and in the case of *R v. Busby [2004] Bda LR 29*. However, this is counterbalanced by the quality and degree of trust reposed in the Defendant, the number of fraudulent transactions carried out by the Defendant, the period over which the Defendant committed the offences, and the level of sophistication employed by the Defendant to commit the offences, all of which are more

serious than the circumstances of the offences committed by the defendants in *Woolgar* and *Busby*.

26. Considering the above mitigating and aggravating factors, in large part I agree with Ms. Tyndale and Mr. Lynch KC that the appropriate range of sentences for the Defendant should be (i) 15 to 18 months imprisonment for each of the false accounting offences, and (ii) 15 to 18 months imprisonment for the theft offence. Further, that all sentences should run concurrently. However, I find that the eventual sentences should be at the lower end of the range of 15 months imprisonment when taking into account the credit that the Defendant should be granted for his guilty plea, his genuine expression of regret and remorse, his erstwhile good character, and his post offence conduct of seeking and receiving treatment/counselling. I accordingly sentenced the Defendant to 15 months imprisonment for each of the false accounting offences and for the lone theft offence.

27. In relation to the drug offences, I find them to be more serious than assessed by both Counsel. Stealing 8,567 tablets over 4 years as a trusted and licensed pharmacist, and then using the stolen drugs to self-medicate, are not circumstances which should be taken lightly. Any sentence meted out should reflect the gravity of the offences and the suggested 3 to 6 months imprisonment does not achieve this. Nor does it achieve the objectives of sections 53 and 54 of the Criminal Code. A sentence of 9 months imprisonment would meet these objectives, and so I accordingly sentenced the Defendant to such for each of the drug offences.

28. The only issue that is therefore left for me to resolve is whether the said terms of imprisonment should be suspended in whole as submitted by Mr. Lynch KC. It is well known that the Court has the discretion to suspend periods of imprisonment in whole or in part if the Court is satisfied that "it is appropriate to do so in the circumstances". Section 70K of the Criminal Code is the statutory foundation for this discretion and the authorities of *R v. Garth Bell [2016] Bda LR 104* and the more recently decided *Larry Benjamin v. R [2025] CA (Bda) 19 Crim* make it abundantly clear that the Court may suspend a period of imprisonment where there is "good reason" to do so. This discretion to suspend a period of imprisonment applies to virtually all criminal offences, no matter the height of severity.

29. In Bell specifically, Baker P provided guidance as to what may constitute "good reason" when he said:

> *"There was, in our judgment, good reason for the judge to suspend the sentence in the present case. In particular, there was little likelihood of the respondent reoffending; it was two years since the offence had been committed and he had shown himself to be leading a good and law abiding life since then and the offence itself, albeit serious, a very much one off incident."*

30. In the case-at-bar, I accept that there is little likelihood of the Defendant reoffending in the manner that he did because it is unlikely that he will work as a pharmacist again, and, that since the commission of the offence the Defendant has shown himself to be a law-abiding citizen. I would even accept Mr. Lynch KC's position that this may not be one of those cases where the community needs to be protected from the Defendant or where the Defendant needs to be separated from society. However, while these factors may underpin good reasons to suspend a portion of any sentence of imprisonment it falls noticeably short of the threshold for the entirety of the imprisonment to be suspended. To suspend the whole of the imprisonment in this matter would amount to a comprehensive rejection of sections 53 to 55 of the Criminal Code and the words of Lord Lane CJ in Barrick. Particularly, such a sentence would not: reinforce community-held values by denouncing the Defendant's egregious conduct; deter other pharmacists from committing the same offences which the Defendant committed (or worse); and, even though I accept that the Defendant has gained some insight into the precursors of his criminal conduct, a suspension of the entirety of his period of imprisonment would likely erode any sense of responsibility in him in respect of the harm which he caused to the pharmacy, his colleagues, and to Phoenix.

31. Equally important, suspending all of the imprisonment would be disproportionate to the gravity of the offence (the seriousness of which I hopefully stressed in the above paragraphs).

32. Therefore, relying on section 70K of the Criminal Code, *Bell*, and the mitigating features of this matter, I find that in the circumstances of this case that it is appropriate and there are good reasons to suspend 6 months of the 15-month periods of imprisonment for each of the false accounting and of the theft offences, and to do so for a period of one (1) year.

Conclusion

33. Taking into consideration the above paragraphs, I confirm the following sentences for the Defendant:

(a) 15 months imprisonment for each of the false accounting offences (Counts 6, 9, 12, and 15) with 6 months suspended for 1 year;

(b) 15 months imprisonment for the theft offence (Counts 7) with 6 months suspended for 1 year;

(c) 9 months imprisonment for each of the possession of a controlled drug offences (Counts 8, 11 and 14).

All sentences are to run concurrently. Effectively, the Defendant is to serve a total of 9 months' immediate imprisonment.

Dated the 29th day of July 2026

THE SEAL OF THE SUPREME COURT OF BERMUDA

The Hon. Justice Juan P. Wolffe
Judge of the Supreme Court of Bermuda