



intentionally lit, causing damage to the golf cart to the value of \$800.00. The fire was confined to the seat of the golf cart due to the intervention of two passers-by.

3. On 14 April 2022, Mr. Kumul was indicted before the Supreme Court on a single count of arson, contrary to Section 132(1) and (3) of the Criminal Code and entered an early guilty plea to this offence on 13 June 2022. In light of the general discretion set forth in Section 135(4) of the Criminal Code, this is a matter which in my view could have been more appropriately disposed of summarily.
4. Section 132(1) of the Criminal Code provides that “[a] person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property ... shall be guilty of a crime.” Section 132(3) provides that destroying or damaging property by fire or explosives shall be charged as arson.
5. Section 135(3) of the Criminal Code indicates that persons committing this offence are liable on conviction on indictment to imprisonment for a term not exceeding ten years and on summary conviction to imprisonment for a term not exceeding five years. However it is my duty to arrive at an individualized sentence which is proportionate to the circumstances of the case.
6. In addition to the limited quantum of harm in this case, there are several mitigating circumstances, in particular Mr. Kumul’s guilty plea, which saves the court time and resources. Mr. Kumul has a previous conviction for assault and resisting arrest as an 18 year old, but has since come to the attention of the court only for a minor drug offence and motor vehicle offences. I consider a custodial sentence to be disproportionate in all the circumstances.
7. Section 164 of the Indictable Procedure Act confers upon me a discretion to fine an offender *in lieu* of any other manner in which the Court has power to deal with him. Section 168 of the same act also provides that when a person is convicted of any crime, the court may issue either or both of the following orders:
  - (a) an order for the payment of the prosecution costs, in whole or in part; and
  - (b) an order for the payment of a sum by way of compensation to any person injured in respect of their person or property by the crime in question.
8. Section 169(1) of the Indictable Procedure Act further empowers me to order that, *in lieu* of or in addition to any other punishment, the offender enters into his own recognisance to be of good behaviour and to keep the peace.
9. Finally, Sections 165(1) and (2) and 169(2) of the Indictable Procedure Act permit the imposition of a term of imprisonment in default of a fine or recognisance, but stipulate that unless expressly permitted elsewhere in legislation, the length of any sentence of imprisonment in default shall not exceed 12 months.

10. In light of the above, I consider the following sentence to be appropriate in all the circumstances:

1. A fine of \$200.00, payable within two (2) months of the date of this judgment;  
and
2. A sum of compensation of \$800.00 payable to Ms. Miriam Castillo Garcia de Cordon, within two (2) months of the date of this judgment.

11. Mr. Kumul is also bound over to keep the peace and to be of good behavior, on his own recognizance. In default of the above \$200 fine or this recognizance, a custodial sentence of two (2) months imprisonment shall be imposed.

Dated this 13<sup>th</sup> day of June 2022

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Justice Susan Lamb