

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2022] SGHC 60

Criminal Case No 17 of 2022

Between

Public Prosecutor

And

Ahiruddin Al-Had bin Haji Arrifin

JUDGMENT

[Criminal Law — Offences — Offences against public servants]
[Criminal Procedure and Sentencing — Sentencing — Principles]
[Criminal Procedure and Sentencing — Mitigation]

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Public Prosecutor
v
Ahrrudin Al-Had bin Haji Arrifin

[2022] SGHC 60

General Division of the High Court — Criminal Case No 17 of 2022
Tan Siong Thye J
7 March 2022

18 March 2022

Judgment reserved.

Tan Siong Thye J:

Introduction

1 The accused launched an unprovoked and brutal attack on a Safe Distancing Enforcement Officer (“the victim”), who was performing his duties when he and his colleague saw the accused not wearing his mask. The victim suffered extensive, serious and permanent injuries from the attack.

2 The accused is a 62-year-old male Singaporean. At the material time, his ordinary place of residence was at Block 252 Hougang Avenue 3 (“Block 252”), #03-362, Singapore (“the house”). The accused faces a total of six charges. The Prosecution proceeds against the accused on three charges (“the Charges”). The remaining three charges are taken into consideration for the purposes of sentencing (“the TIC Charges”). The accused has pleaded guilty to the Charges, which read as follows:

That you, Ahirrudin Al-Had bin Haji Arrifin,

(a) on 4 May 2020, sometime between 11.46am and 12.02pm, near lamp post A9-2/8 Sungei Serangoon Park Connector, Singapore, did voluntarily cause grievous hurt by means of instruments for stabbing, namely, by using a walking stick with a 20.8cm-long blade and a kerambit knife with a blade approximately 10cm long to repeatedly stab and slash [the victim], a 38-year-old male Safe Distancing Enforcement Officer, causing him injuries to his head, chest, left arm and both hands which caused him to be unable to follow his ordinary pursuits for a space of at least 89 days, from 4 May 2020 to 31 July 2020 (both dates inclusive), and you have thereby committed an offence punishable under section 326 of the Penal Code (Cap 224, 2008 Rev Ed) (“the first charge”);

(b) on 4 May 2020, sometime between 11.46am and 12.02pm, at Sungei Serangoon Park Connector, Singapore, did have in your possession a scheduled weapon, namely, a walking stick with a concealed 20.8cm-long blade, otherwise than for a lawful purpose, and you have thereby committed an offence punishable under section 7(1)(a) of the Corrosive and Explosive Substances and Offensive Weapons Act (Cap 65, 2013 Rev Ed) (“the third charge”); and

(c) on 4 May 2020, at about 11.01am, at Block 252 Hougang Avenue 3, Singapore, did, without reasonable excuse, contravene a control order made under the COVID-19 (Temporary Measures) (Control Order) Regulations 2020 (“the Regulations”), namely, by failing to wear a mask over your nose and mouth while not in your ordinary place of residence at Block 252 Hougang Avenue 3, #03-362,

Singapore, and you have thereby contravened regulation 3A(1)(a) of the Regulations, which contravention is an offence punishable under section 34(7)(a) of the COVID-19 (Temporary Measures) Act 2020 (“the fourth charge”).

3 The Prosecution had originally charged the accused for attempted murder under s 307(1) of the Penal Code on the facts pertaining to the first charge. Subsequently, as a result of the Defence’s representation, the charge of attempted murder was reduced to the present first charge of voluntarily causing grievous hurt by dangerous weapons or means under s 326 of the Penal Code.

4 The accused admitted and consented to have the TIC Charges taken into consideration by the court for the purposes of sentencing, which read as follows:

That you, Ahirrudin Al-Had bin Haji Arrifin,

(a) on 4 May 2020, at or about 1.15pm, at the void deck of Block 210 Hougang Avenue 3, Singapore, a public place, did have in your possession offensive weapons, namely, two kerambit knives with 10cm-long blades and one knife blade without handle, measuring about 14cm in length, otherwise than with lawful authority or for a lawful purpose, and you have thereby committed an offence punishable under section 6(1) of the Corrosive and Explosive Substances and Offensive Weapons Act (Cap 65, 2013 Rev Ed) (“the second charge”);

(b) on 4 May 2020, at about 11.01am, did, without reasonable excuse, contravene a control order made under the COVID-19 (Temporary Measures) (Control Order) Regulations 2020 (“the Regulations”), namely, by leaving your ordinary place of residence in Singapore at Block 252 Hougang Avenue 3, #03-362, Singapore, not for

any of the permitted purposes under regulation 4(3) of the Regulations, and you have thereby contravened regulation 4(2) of the Regulations, which contravention is an offence punishable under section 34(7)(a) of the COVID-19 (Temporary Measures) Act 2020 (“the fifth charge”); and

(c) on 4 May 2020, at about 11.46am, at Sungei Serangoon Park Connector, Singapore, did use abusive words to [the victim], a 38-year-old male Safe Distancing Enforcement Officer and public servant, namely, by saying to him in Hokkien dialect, “*kanni nabey chao chee bye*” which means “*fuck your mother’s smelly cunt*” in English language, in relation to the execution of his duty as such public servant, and you have thereby committed an offence under section 6(1)(a) of the Protection from Harassment Act (Cap 256A, 2015 Rev Ed), punishable under section 6(3) of the same Act (“the sixth charge”).

The facts

5 The salient facts from the Statement of Facts (“SOF”) are reproduced below.

The victim and other parties

6 The victim is a 38-year-old male Singaporean. At the material time, he was concurrently performing duties as a National Parks Board (“NParks”) officer and a Safe Distancing Enforcement Officer appointed under s 35(1) of the COVID-19 (Temporary Measures) Act 2020 (Act 14 of 2020) (“the COVID-19 Act”). His role as a Safe Distancing Enforcement Officer was to enforce compliance with the COVID-19 (Temporary Measures) (Control Order) Regulations 2020 (“the COVID-19 Regulations”), as well as any other control

orders made under s 34 of the COVID-19 Act, in order to minimise the spread of COVID-19. By virtue of s 35(7) of the COVID-19 Act, Safe Distancing Enforcement Officers are treated as public servants for the purposes of the Penal Code (Cap 224, 2008 Rev Ed) when exercising their powers in the course of their duties under Part 7 of the COVID-19 Act.¹

7 The other parties involved are:²

(a) A1, a 39-year-old female Singaporean. She is an NParks officer and was also concurrently performing duties as a Safe Distancing Enforcement Officer with the victim.

(b) Chew Chye Boon (“A2”), a 58-year-old male Singaporean. He is a passer-by who witnessed the accused’s attack on the victim.

Facts relating to the Charges

8 On the morning of 4 May 2020, the accused decided to head to the Sungei Serangoon Park Connector (“the Park Connector”) to pick some pandan leaves for cooking. The “Circuit Breaker” was still in force as of 4 May 2020, and individuals were not allowed to leave their ordinary place of residence in Singapore, except for the purposes permitted under reg 4(3) of the COVID-19 Regulations.³

9 Before 11.01am that morning, the accused hid two kerambit knives under the insoles of his shoes (with one kerambit knife hidden in each shoe). The kerambit knives each had an approximately 10cm-long blade. The accused

¹ Statement of Facts (“SOF”) at para 6.

² SOF at para 7.

³ SOF at para 10.

intended to use the kerambit knives to cut the pandan leaves at the Park Connector.



Kerambit knife 1



Kerambit knife 2

10 The accused then wore his shoes with the kerambit knives hidden in them and left the house. At about 11.01am that morning, he was captured on

police camera footage walking down the staircase at level 3 of Block 252 without wearing a mask over his nose and mouth. By failing to wear a mask over his nose and mouth at all times when not in his ordinary place of residence, without any reasonable excuse, the accused contravened reg 3A(1)(a) of the COVID-19 Regulations, which contravention is an offence punishable under s 34(7)(a) of the COVID-19 Act.⁴

The events leading to the assault

11 The accused collected his bicycle from the bicycle bay at the void deck of Block 252. He had previously taped a walking stick (“the walking stick”) to his bicycle so that he could bring it along when cycling. The walking stick is nearly a metre long and has a wooden upper end. The lower end of the walking stick is a 20.8cm-long blade concealed by a wooden sheath with a black rubber stopper, which was in turn secured with tape.⁵



The walking stick with blade concealed by wooden sheath

⁴ SOF at para 12.

⁵ SOF at para 13.



The walking stick with blade unsheathed

12 As the blade of the walking stick is capable of being used for cutting or stabbing, and can be concealed therein with the wooden sheath and rubber stopper, the walking stick is a scheduled weapon listed in the Second Schedule to the Corrosive and Explosive Substances and Offensive Weapons Act (Cap 65, 2013 Rev Ed) (“the CESOWA”). The accused did not have any lawful purpose to be in possession of the walking stick. He thereby committed an offence under s 7(1)(a) of the CESOWA.⁶

13 The accused left Block 252 at about 11.04am and cycled to the Park Connector. There, he took out the kerambit knife hidden in his left shoe and cut some pandan leaves. He then put the kerambit knife back in his left shoe and placed the pandan leaves in his bicycle basket.⁷

⁶ SOF at para 14.

⁷ SOF at para 15.

14 The victim and A1 arrived at the Park Connector on an NParks buggy (“the buggy”) shortly before 11.46am. They drove through the Park Connector and put up “SafeEntry” signs along the way.⁸

15 While driving the buggy, the victim spotted the accused near lamp post A9-2/8 in the Park Connector and noticed that the accused was not wearing a mask despite being in a public place. The victim also observed that there were pandan leaves in the accused’s bicycle basket. He surmised that the accused had obtained those pandan leaves from a plot at the Park Connector.⁹

16 The victim stopped the buggy about two to three metres away from the accused. While seated in the buggy, the victim asked the accused in English why he had cut the pandan leaves and whether he had a mask. A1 conveyed the victim’s questions to the accused in Malay. The accused questioned why he needed to wear a mask. He further insisted that he was entitled to cut the pandan leaves. The victim and A1 then informed the accused that they were officers from NParks and that he was not allowed to cut the pandan leaves at the Park Connector. The accused remained insistent that he had the right to cut the pandan leaves.¹⁰

17 To diffuse the tension, the victim and A1 changed the conversation topic and asked the accused to wear a mask. The accused, however, grew more agitated. While repeating that he did not have a mask and that he did not wish to wear one, he retrieved the walking stick from his bicycle.¹¹

⁸ SOF at para 16.

⁹ SOF at para 17.

¹⁰ SOF at para 18.

¹¹ SOF at para 19.

18 The victim, acting in his capacity as a Safe Distancing Enforcement Officer, photographed the accused as evidence of the latter's failure to comply with the COVID-19 Regulations and asked for his particulars. The accused refused to provide his particulars. As the accused was uncooperative, the victim called the police at 11.46am and reported: "REFUSE WEAR MASK AND GIVE HIS PARTICULAR [sic]. CAN POLICE GIVE A CALL WHEN ARRIVED [sic]."¹²

19 While waiting for the police to arrive, the victim and A1, in the execution of their duties as Safe Distancing Enforcement Officers, explained to the accused the importance of wearing a mask. The accused responded by hurling the Hokkien vulgarities "*kanni nabey chao chee bye*", which means "*fuck your mother's smelly cunt*", at the victim.¹³

20 The victim in turn recorded a video of the accused on his mobile phone to collect evidence of the accused's abusive conduct. This angered the accused further. Without warning, the accused removed the wooden sheath on the walking stick to reveal its concealed blade before suddenly stabbing the left side of the victim's chest with the bladed end of the walking stick. The victim, who was seated in the buggy, was shocked to see the blade of the walking stick partially embedded in his chest. He grabbed the end of the walking stick and tried to pull the blade out of his chest. However, the accused entered the buggy and forcefully pushed the bladed end of the walking stick towards the victim's chest at least two more times.¹⁴

¹² SOF at para 20.

¹³ SOF at para 21.

¹⁴ SOF at para 22.

21 A1 screamed for help, alighted from the buggy and tried to pull the accused away from the victim. In the ensuing struggle, both the accused and the victim fell out of the buggy and onto the grass patch next to the road in the Park Connector. The accused dropped the walking stick as he fell from the buggy. A2 heard A1’s screaming and approached the buggy. He saw the accused struggling with the victim and recorded a video of them falling out of the buggy with his mobile phone.¹⁵

22 While the accused and the victim were on the grass patch, the accused retrieved one of the kerambit knives (“the kerambit knife”) from his shoe and attacked the victim by repeatedly slashing him with the kerambit knife. The victim tried to disarm the accused by grabbing the accused’s right hand with his left hand. The accused was holding the kerambit knife in his right hand. However, the accused continued to struggle with and attack the victim while holding on to the kerambit knife. In the course of the struggle, the accused almost severed the victim’s left thumb with the kerambit knife.¹⁶

23 As his left hand was weak and bleeding, the victim grabbed the accused’s right hand with his right hand. The accused bit the victim’s right hand in a bid to retain possession of the kerambit knife. A1 picked up the walking stick and hit the accused’s hand with the blunt wooden end of the stick several times, but the accused continued biting the victim’s right hand. The victim did not retaliate at all during the attack.¹⁷

¹⁵ SOF at para 23.

¹⁶ SOF at para 24; Prosecution’s Bundle of Documents (“PBOD”) at Tab 1.

¹⁷ SOF at para 25.

24 A2 intervened, holding the accused's left hand down with his foot while trying to pry open the accused's right hand. He was unable to do so as the accused was gripping the kerambit knife very tightly. The accused eventually stopped biting the victim and dropped the kerambit knife. Despite his injuries, the victim managed to stand up. The victim, A1 and A2 ran away from the accused, who stood up and walked towards them aggressively but did not give chase. While running away, A1 called the police at 12.02pm. The victim, A1 and A2 stopped at Tampines Expressway towards Seletar Expressway before Punggol Road, where they waited for the ambulance and the police.¹⁸

The aftermath of the assault and the arrest of the accused

25 After the assault, the accused put the wooden sheath with rubber stopper back on the walking stick and cycled home. He reached Block 252 shortly before 12.54pm and headed to the washing area at the void deck. After ensuring that there were no passers-by, he hid the walking stick in a concrete compartment that was covered with a metal lid. He returned home thereafter.¹⁹

¹⁸ SOF at para 26.

¹⁹ SOF at para 27.



Location where the accused hid the walking stick



Concrete compartment where the walking stick was hidden

26 The accused was arrested later that day at about 1.15pm, outside a 7-Eleven store at Block 210 Hougang Street 21, Singapore. Upon searching the accused's belongings, the police found a kerambit knife in each of the accused's shoes and a roughly 14cm-long knife blade (without a handle) in the accused's bicycle basket. On 5 May 2020 at about 10.45pm, the walking stick was recovered from the concrete compartment in which it had been hidden by the accused and was seized by the police.²⁰

The victim's injuries

27 The victim was conveyed and admitted to Changi General Hospital, where he was examined by Dr Tan Hiang Jin ("Dr Tan"). Dr Tan observed that the victim had sustained a left chest wall penetrating injury, a scalp laceration and multiple lacerations over his bilateral upper limbs and hands.²¹

28 Later that day on 4 May 2020, the victim was transferred to the Emergency Department of Singapore General Hospital ("SGH") where he underwent general surgery and hand surgery concurrently.²² Dr Soo Kian Tak ("Dr Soo") was one of the doctors who treated the victim at SGH. In a medical report dated 19 October 2020, Dr Soo noted that the victim had sustained the following injuries:²³

- (a) "Scalp laceration measuring 5cm in length, did not reach periosteum". Periosteum refers to a dense fibrous membrane covering the surfaces of bones.

²⁰ SOF at para 28.

²¹ SOF at para 29; PBOD at Tab 2.

²² PBOD at Tab 3.

²³ PBOD at Tab 4.

- (b) Chest injuries, which included:
 - (i) “Left chest wall laceration measuring 6cm in length, splitting pectoralis major muscle; does not reach chest wall”;
 - (ii) “Sternum puncture wound measuring 1cm, reaches down to the bone and tunnelling 3cm superficially”; and
 - (iii) “Right chest wall puncture wound measuring 1cm, tunnels 3cm into pectoralis major muscle, did not breach chest wall”.
- (c) “Left upper arm posterolateral aspect 10 x 3cm laceration”.
- (d) Hand injuries, which included:
 - (i) “Right hand dorsum of index and middle fingers proximal phalanges laceration”;
 - (ii) “Right thumb pulp and proximal phalanx lacerations”;
 - (iii) “Left hand 1st webspace deep laceration with likely injury of deep structures”; and
 - (iv) “Left hand subluxation of thumb carpo-metacarpal joint”. “Subluxation” refers to the partial dislocation of the joint.

29 The victim was hospitalised for four days between 4 May 2020 and 7 May 2020 and was discharged from SGH on 7 May 2020 with medical leave. He was given follow-up appointments with the Department of Hand and Reconstructive Microsurgery at SGH as his hand injuries were deemed to be of a more severe nature.²⁴ His hand injuries were treated by various SGH doctors,

²⁴ SOF at para 31.

including Dr Huan Khian Wan Sarah Joy²⁵ and Dr Kang Yong Chiang (“Dr Kang”). Dr Kang prepared a specialist medical report dated 24 June 2021 on the victim’s hand injuries. The salient portions of the report are reproduced below:²⁶

*There is a **large degree of violence** involved in the creation of these wounds. Despite having clean incisions on the skin by a sharp object, the right thumb deep structures especially the ones attached to the bone were serrated. This implies that a saw-like motion was applied against the bone, either by the injurious weapon, or the bone was moving against the weapon eg while struggling. It also requires a large force (or a heavy weapon) to create the wound to the left hand. In previous experiences with other patients, such wound depths in the area are typically caused by **industrial tools like electric chain saws.***

Not considering functional impairments, most of the wounds, if left untreated, can heal with dressings. The left hand wound however, with moderate contamination with dirt, and a deep wound to joint, has significant chance of a deep infection. *The implication of a deep infection should it happen, is **amputation of the left thumb.*** Patient can also be unwell with sepsis.

... These are complex injuries that require prolonged therapy and rehabilitation under specialised care. For the *first 6-8 weeks*, splinting and a degree of immobilisation was required. When the tissues have healed and the splints are removed, *another 2-3 months was required to restore motion* by rehabilitation with specialised hand therapists. As such, he was given hospitalisation medical certificate until 09/07/20, followed by light duty until 29/10/20. ...

As of assessment on 09/06/20 (13 months post-injury), his degree of recovery is excellent considering the severity of injury. This is the permanent outcome. ... The percentage disability with reference to A Guide to the Assessment of Traumatic Injuries and Occupational Disease for Work Injury Compensation (5th edition modified), is detailed below in the table, totalling 19.5%.

... The injury to the left hand and resultant weakness of the thumb does have functional impairments which are not considered in the calculation of permanent disability. The grip

²⁵ PBOD at Tab 5.

²⁶ PBOD at Tab 6.

strength (JAMAR2) of the left hand was 28kg/F (70%) compared to right hand 40kg/F. While this is [sic] degree of strength is adequate for most people, it is a clear decline from his full potential for heavy tasks. The pinch strength of the left fingers is only 1.5kg/F (30%) compared to the right fingers 4.5-5.5 kg/F. *As such, the resultant impairment in bimanual dexterity makes certain tasks difficult, such as tying shoelaces and tearing candy wrappers. These inconveniences will be **permanent**.*

[emphasis added in italics and bold italics]

30 In total, the victim was given 89 days of medical leave from 4 May 2020 to 31 July 2020 (both dates inclusive).²⁷

31 Dr George Paul (“Dr Paul”), a senior consultant forensic pathologist from the Health Sciences Authority, issued a pathologist report dated 6 July 2020. Dr Paul made the following observations on the severity of the victim’s injuries:²⁸

(a) The left chest wall laceration measuring 6cm in length (see [28(b)(i)] above) did not endanger the victim’s life because the blade of the walking stick did not breach the victim’s chest wall and enter the chest cavity. However, “the direction of the wound – towards the left border of the sternum and therefore the upper left side of the heart and the great vessels arising from it” was such that the injury could have been life-threatening.

(b) The sternum puncture wound measuring 1cm (see [28(b)(ii)] above) “was stopped by the sternum-breast bone, and [had] travelled [a] further 3cm laterally or distally, in the superficial tissues”. This wound

²⁷ PBOD at Tab 7; SOF at para 32.

²⁸ PBOD at Tab 8.

would have had the potential for entering the heart and causing death if the bone had not stopped it.

(c) The victim’s hand injuries could have resulted in massive haemorrhage and could have been life-threatening if not for prompt medical intervention.

The physical and psychiatric examination of the accused

32 The accused was separately examined by two doctors, Dr Lin Hanjie²⁹ and Dr Yak Si Mian,³⁰ on 5 May 2020 at 5.20pm and 10.00pm, respectively. The accused was noted to have: (a) abrasions on his forehead; (b) mild abrasions with bruising just lateral to his left eye; (c) small, linear abrasions on his right wrist and left hand; (d) abrasions over his right ankle; and (e) two small linear abrasions behind his right ear. His physical examination was otherwise unremarkable.³¹

33 Dr Kenneth Koh (“Dr Koh”) of the Institute of Mental Health conducted a psychiatric assessment of the accused following his arrest. Dr Koh examined the accused twice – on 8 May 2020 and 14 May 2020. Dr Koh reported the following findings:³²

(a) The accused has no mental disorder. He is not intellectually disabled or cognitively impaired.

²⁹ PBOD at Tab 10.

³⁰ PBOD at Tab 11.

³¹ SOF at para 37.

³² PBOD at Tab 12.

- (b) The accused was not of unsound mind at the time of the offences and is fit to plead.

The accused's plea of guilt

34 The accused pleaded guilty to the Charges and also admitted to the Statement of Facts without qualification. The accused's counsel confirmed that the accused understood the nature and consequences of his plea and intended to admit to the offences without qualification. Accordingly, I found the accused guilty and convicted him on the three proceeded Charges.

35 The accused also admitted and consented to the three TIC Charges being taken into consideration for the purposes of sentencing.

Submissions on sentence

The Prosecution's address on sentence

36 The Prosecution seeks an aggregate sentence of 12 to 15 years' imprisonment. The Prosecution urges the court to impose the following sentences:

S/N	Charge	Sentencing position
1	The first charge: s 326 of the Penal Code	12 to 15 years' imprisonment (consecutive)
2	The third charge: s 7(1)(a) of the CESOWA	Six to nine months' imprisonment (concurrent)

3	The fourth charge: reg 3A(1)(a) of the COVID-19 Regulations, punishable under s 34(7)(a) of the COVID-19 Act	Two to four weeks' imprisonment (consecutive)
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37 For the first charge under s 326 of the Penal Code, the Prosecution seeks a sentence of 12 to 15 years' imprisonment due to the exceptionally aggravated nature of the offence and the strong public interest.³³

38 The Prosecution raises the following aggravating factors:

- (a) The accused inflicted severe and extensive injuries on the victim.
- (b) The victim's injuries were potentially life-threatening.
- (c) The victim suffered significant psychological harm.
- (d) The accused's culpability was high as the attack was unprovoked, persistent and callous.
- (e) The accused tried to conceal the walking stick with a long blade attached after he assaulted the victim with it.

39 The Prosecution also justifies its proposed sentence on the basis that there is a strong public interest arising from the accused's assault of the victim who was performing his duties as a Safe Distancing Enforcement Officer. The Prosecution highlights that the offence occurred at the height of the COVID-19 pandemic when Singapore was relying on Safe Distancing Enforcement Officers to ensure that the public comply with the restrictions imposed in order

³³ Prosecution's Sentencing Submissions ("PSS") at para 3.

to stop the spread of the coronavirus.³⁴ The accused's attack on the victim was therefore a direct assault on the safety of Safe Distancing Enforcement Officers and their ability to carry out their duties effectively.³⁵ Significant public disquiet also resulted following media coverage of the accused's attack.³⁶ Having regard to the above, the accused's violence is deserving of a stiff deterrent sentence.

40 Second, regarding the third charge under s 7(1)(a) of the CESOWA, the Prosecution submits that a sentence of six to nine months' imprisonment is warranted,³⁷ based on the following:³⁸

(a) The accused faces another charge under s 6(1) of the CESOWA for possession of two kerambit knives. This second charge is taken into consideration for the purpose of sentencing.

(b) The accused unsheathed the walking stick exposing the long blade in a public area. This posed more danger than by having the blade concealed in the walking stick.

41 The Prosecution urges the court to impose on the accused two to four weeks' imprisonment for the fourth charge under reg 3A(1)(a) of the COVID-19 Regulations as the accused intentionally omitted to wear a mask and refused to put one on when the victim told him to.³⁹

³⁴ PSS at para 28.

³⁵ PSS at para 29.

³⁶ PSS at para 25; PBOD at Tab 16.

³⁷ PSS at para 39.

³⁸ PSS at para 41.

³⁹ PSS at para 43.

42 Finally, as for the aggregate sentence, the Prosecution submits that the first charge and the fourth charge should run consecutively under the one-transaction rule.⁴⁰ The Prosecution also argues that the mitigating weight accorded to the accused’s plea of guilt should be “balanced against the fact that the objective evidence against him was overwhelming and damning.”⁴¹

The Defence’s plea in mitigation

43 The Defence proposes a global sentence of eight to ten years’ imprisonment.

44 In the written mitigation plea, the Defence submits that the accused’s remorse and contrition are evident from his early plea of guilt.⁴² The accused alleged that he brought his knives with him for the sole purpose of cutting pandan leaves.⁴³ When confronted by the victim and A1, the accused acted on impulse without realizing the consequences of his actions.⁴⁴ This is an isolated incident⁴⁵ and he is not a recalcitrant criminal.⁴⁶ He did not receive formal education, was unable to secure a steady job and had worked as a cook and “Karang Guni Man”.⁴⁷

⁴⁰ PSS at para 44.

⁴¹ PSS at para 45.

⁴² Plea in Mitigation (“PIM”) at para 3.

⁴³ PIM at para 6.

⁴⁴ PIM at para 7.

⁴⁵ PIM at para 19.

⁴⁶ PIM at para 20.

⁴⁷ PIM at para 10.

45 As for the circumstances that led to the accused’s impulsive behaviour, the Defence highlighted that the accused was facing caregiver stress from caring for his ex-wife, who is 72 years old and in ill health.⁴⁸ The depression, anger and frustration he was experiencing from caring for his ex-wife caused him to “crack and crumble”.⁴⁹ The accused himself also suffers from poor health, namely lower back pain, and is on medication.⁵⁰

My decision

Necessity for deterrence and retribution

46 First, where a crime triggers public unease and offends the sensibilities of the general public, a deterrent sentence is necessary and appropriate to quell the public disquiet engendered by such crimes (see *Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814 (“*Law Aik Meng*”) at [25(c)]).

47 Second, the court in *Public Prosecutor v ASR* [2019] 1 SLR 941 at [128] stated that “the principle of retribution holds that the punishment imposed should reflect the degree of harm that has been occasioned by the offence and the offender’s culpability in committing it.” In *Public Prosecutor v Tan Fook Sum* [1999] 1 SLR(R) 1022 (“*Tan Fook Sum*”) at [16], Yong Pung How CJ made the following remarks about the principle of retribution:

The essence of the retributive principle, then, is that the offender must pay for what he has done. The idea is that punishment restores the just order of society which has been disrupted by his crime. It follows that *the punishment must reflect and befit the seriousness of the crime*. Each case must be considered on its merits but, in general, *if the sentence is more*

⁴⁸ PIM at para 9.

⁴⁹ PIM at para 13.

⁵⁰ PIM at para 18.

severe, reflecting the serious public disapprobation, the sentencing court will not be wrong on principle:

... the courts will not be performing their functions honestly if the seriousness of the situation is not reflected in the sentence imposed or if the sentence appears to defeat the object of the statute.

per Hashim Yeop A Sani J in PP v Loo Choon Fatt [1976] 2 MLJ 256 at 257.

[emphasis added]

48 The accused's inexcusably vicious attack on the victim caused egregious, lifelong permanent injuries to the victim. The victim was discharging his public duties as a Safe Distancing Enforcement Officer when the accused savagely and brutally attacked him with deadly weapons. At that time the victim caught the accused not wearing a mask and the accused broke the Circuit Breaker restrictions on movement. Undoubtedly, this brings serious public interest considerations to the fore. I shall elaborate further on the public interest considerations at [78]–[82] below. Thus, this case warrants a sentence incorporating the sentencing principles of deterrence and retribution.

49 I shall now set out in detail the reasons for my decision.

Section 326 of the Penal Code (the first charge)

The applicable law

50 Section 326 of the Penal Code reads as follows:

326. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is harmful to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, *shall be punished with*

imprisonment for life, or with imprisonment for a term which may extend to 15 years, and shall also be liable to caning or if he is not sentenced to imprisonment for life, liable to fine.

[emphasis added]

51 The offence of causing grievous hurt with a deadly weapon like a knife is very serious and Parliament has prescribed that the offender be punished with imprisonment for life or with mandatory imprisonment up to 15 years and shall be liable to caning. There is presently no sentencing framework for offences under s 326 of the Penal Code. There are, however, sentencing frameworks for offences under s 324 and s 325 of the Penal Code (set out in *Ng Soon Kim v Public Prosecutor* [2020] 3 SLR 1097 (“*Ng Soon Kim*”) and *Public Prosecutor v BDB* [2018] 1 SLR 127 (“*BDB*”) respectively). Recent cases concerning the sentencing of offences under s 326 of the Penal Code have, by analogy, applied the framework and considered the same factors (see, *eg*, *Public Prosecutor v Azlin bte Arujunah and another* [2020] SGHC 168 (“*Azlin*”) at [196]–[211]; *Public Prosecutor v Miya Manik* [2020] SGHC 164 (“*Miya Manik*”) at [119]–[130]).

52 Based on the above cases, the following factors are relevant to sentencing where grievous hurt has been caused by dangerous means: (a) the seriousness of the injuries; (b) the accused’s culpability; (c) the dangerous means used and the potential harm that could have resulted from the chosen means of offending; and (d) the relevant aggravating and/or mitigating factors.⁵¹ In *Shamsul bin Abdullah v Public Prosecutor* [2002] 2 SLR(R) 838, Yong Pung How CJ at [24] also affirmed that a similar list of factors is to be considered when sentencing the accused under s 326 of the Penal Code:

(a) seriousness and permanence of injuries;

⁵¹ PSS at para 8.

- (b) group action;
- (c) premeditation;
- (d) weapon used;
- (e) vulnerability of victim;
- (f) offender in position of authority;
- (g) racial motivation;
- (h) prior record of violence.

Factors relating to the level of harm and culpability

53 There are at least three key factors that justify the imposition of a long imprisonment term for the first charge:

- (a) The brutality and unprovoked nature of the accused's attack.
- (b) The dangerous and deadly weapons used and the concealment of the weapons after the attack.
- (c) The extensive, severe and permanent injuries inflicted on the victim.

(1) The accused's attack was brutal and unprovoked

54 The accused's level of culpability is high as his attack on the victim was senseless, unprovoked and brutal.⁵² The key events leading up to the accused's attack on the victim are set out in chronological order, as follows:

⁵² PSS at para 9(b).

- (a) The victim told the accused that he was not allowed to cut the pandan leaves at the Park Connector: see [16] above.
- (b) The victim requested the accused to wear a mask: see [17] above.
- (c) The victim took a photograph of the accused and asked for his particulars. When the accused refused, the victim called the police: see [18] above.
- (d) The accused started hurling vulgarities at the victim. The victim was recording a video of the accused's abusive conduct on his mobile phone just before the accused stabbed him in the left side of his chest with the bladed end of the walking stick: see [20] above.

55 From the above, it is clear that the accused's attack was completely unprovoked and vicious. It was a wholly unjustifiable response to the victim's actions, which were done in the execution of his public duties as a Safe Distancing Enforcement Officer and an officer of NParks.

56 The accused's attack was also brutal and relentless. He unsheathed his walking stick exposing the long and sharp blade and used it to stab the victim. The victim was stunned from the initial unexpected chest stabbing and he tried to pull the partially embedded blade out of his chest. The accused continued the assault on the victim and he seized on the victim's shock and incapacity to forcefully push the blade of the walking stick further into his chest two more times (see [20] above).⁵³ Essentially, the accused took advantage of the victim's defenceless situation by stabbing the victim's chest with the blade of his walking stick not just once, but at least thrice.

⁵³ SOF at para 22.

57 The brutality of the accused’s actions did not stop there. While the victim lay defenceless and injured on the grass patch, the accused capitalised on his vulnerability. The accused persisted in his attack by slashing the victim vigorously and indiscriminately with a *second* weapon – the kerambit knife (see [22] above). Even after he had nearly severed the victim’s left thumb and incapacitated the victim’s left hand, the accused remained relentless in his assault, biting the victim’s right hand when the victim attempted to disarm him with his right hand.⁵⁴ The accused’s ruthlessness is patent in how he refused to stop biting the victim’s hand even when A1 hit him with the blunt wooden end of the stick several times (see [23] above).⁵⁵ Throughout the accused’s merciless onslaught, the victim did not retaliate and he tried to fend off the assault when he was seriously injured. The accused’s attack was simply senseless, abhorrent and callous.

58 The victim’s extensive and severe injuries are also testament to the brutality with which the accused had carried out the attack. Dr Kang noted that “[t]here [was] a large degree of violence involved” in the creation of the victim’s hand injuries, and observed that the wound on the victim’s left hand had been caused by “a large force (or a heavy weapon)”.⁵⁶ As rightly pointed out by the Prosecution, the victim’s hand injuries were caused by the kerambit knife, which is not a heavy weapon.⁵⁷ One can only image the sheer force with which the accused must have slashed the victim’s hand in order to cause a wound of a depth “typically caused by industrial tools like electric chain saws”.⁵⁸ The

⁵⁴ SOF at para 24.

⁵⁵ SOF at para 25.

⁵⁶ PBOD at Tab 6, p 2.

⁵⁷ PSS at para 22.

⁵⁸ PBOD at Tab 6, p 2.

vicious and protracted nature of the attack significantly heighten the accused's culpability.⁵⁹ As a result of the accused's vicious attack the victim sustained numerous injuries to his body. It was just fortuitous that the victim did not die or sustain life threatening injuries.

- (2) The accused used two dangerous and deadly weapons to carry out the attack and concealed them thereafter

59 The Court of Appeal held in *BDB* at [67] that in deciding the sentence for an offence under s 326 of the Penal Code, the sentencing court should have regard to "the nature of the weapon and the way it was used, and how these aggravate the offender's culpability."

60 I highlight that *two* different dangerous weapons were used to carry out the attack. The first weapon was a 20.5cm-long blade concealed at the end of the accused's walking stick (see [11] above). The length of the concealed blade at the end of the walking stick essentially transformed the walking stick into a spear. Bearing in mind the length of the blade, the accused's forceful stabbing of the victim's chest with this weapon *three times* belies a cruel disregard for life. It was by a sheer miracle that the 20.5cm-long blade did not penetrate the victim's heart and kill him. The use of this exceedingly dangerous weapon is an aggravating factor that warrants a higher deterrent sentence.

61 The second weapon used by the accused is a kerambit knife with an approximately 10cm-long blade which he hid in his shoe. As seen in the pictures at [9] above, the kerambit knife has a curved and sharp edge which allows for powerful cutting strokes and, correspondingly, can inflict deep wounds. The accused's use of the kerambit knife, an indisputably dangerous and deadly

⁵⁹ PSS at para 22.

weapon, to slash indiscriminately and vigorously at the victim heightens his culpability.

62 The accused was armed with three dangerous and deadly weapons while the victim and his colleague were unarmed. He was clearly the aggressor while the innocent victim and his colleague were not aggressive or provocative in the performance of their official duties.

63 I wonder why the accused was heavily armed on that day. If he wanted only to cut pandan leaves he would just need a knife. But he brought and concealed two kerambit knives, one in each shoe. He also brought along a walking stick with a concealed long and sharp blade. Counsel for the Defence stated during oral submissions that the accused brought along the walking stick for protection. However, I fail to understand why such a long blade was necessary for his protection. Further, the accused brought along two other knives with him. Why is there a need to bring along so many dangerous weapons for his protection when his sole purpose was to cut pandan leaves?

64 Finally, after the attack, to evade justice, the accused attempted to conceal these dangerous weapons that constituted evidence of his offence. Immediately after the attack, the accused went to the washing area at the void deck of his block and hid the walking stick in a concrete compartment that was covered with a metal lid. While concealing the walking stick, the accused took care to make sure that there were no passers-by.⁶⁰ Bearing in mind that he usually kept his walking stick taped to his bicycle, it is evident that the accused's actions were an attempt to conceal the weapon used in the attack. The accused

⁶⁰ PSS at para 23; SOF at para 27.

also hid the kerambit knives back in his shoes, where they were later found by the police.

65 As Menon CJ stated in *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 (“*Vasentha*”) at [69], “...an offender’s attempt to conceal or dispose of the evidence of his offence ... in order to avoid prosecution or a heavier sentence should be treated as an aggravating factor.” By concealing the walking stick immediately after the attack, the accused sought to “avoid the full and proper consequences of his illicit actions” and “thwart law enforcement efforts” (*Vasentha* at [69]). Thus, the accused’s attempt to conceal the walking stick was an aggravating factor and his sentence is enhanced accordingly.

(3) The victim’s injuries were extensive, severe and permanent

(A) PHYSICAL INJURIES

66 Section 320 of the Penal Code provides that any hurt which causes the sufferer to be unable to follow his ordinary pursuits during the space of 20 days amounts to grievous hurt. The fact that the victim was unable to follow his ordinary pursuits for 89 days underscores the severity of his injuries.⁶¹

67 There were extensive injuries to multiple parts of the victim’s body, namely scalp, chest, arms and hands. The victim must have suffered excruciating pain from these injuries and his hand injuries were particularly severe. I reiterate that the accused almost severed the victim’s left thumb. In that regard, Dr Kang observed that the wound on the victim’s left hand was of a depth “typically caused by industrial tools such as electric chain saws”.⁶² The

⁶¹ SOF at paras 32 and 34; PSS at para 10.

⁶² PBOD at Tab 6, p 2.

victim's right thumb deep structures, especially the ones attached to the bone, had also been serrated.⁶³

68 The severity of the victim's injuries is patent in the long recovery time and the enduring, lifelong effects. The victim's hand injuries were so severe that he required prolonged therapy and rehabilitation under specialised care over approximately five months.⁶⁴ More than a year after the attack and even after extensive rehabilitation, the grip strength of his left hand is 70% of his right hand.⁶⁵ In addition, the pinch strength of his left fingers is only 30% compared to his right fingers, "making certain tasks difficult, such as tying shoelaces and tearing candy wrappers."⁶⁶ Dr Kang further noted in his report that "[t]hese inconveniences will be permanent."⁶⁷ The victim will, *for the rest of his life*, face difficulty when carrying out such basic, everyday tasks.⁶⁸

69 The victim impact statement paints an even more vivid picture of the enduring aftershocks he continues to experience from the accused's attack. The victim said that he continues to feel pain in his right middle finger when performing daily tasks such as closing the metal gate at the buggy shed at work, doing planting works or doing pull-ups.⁶⁹ As the pinching power of his left hand has been significantly reduced, the victim has to exert more strength or he would be unable to use his fingers and would require a tool like scissors.⁷⁰

⁶³ PBOD at Tab 6, p 2; PSS at para 11.

⁶⁴ PBOD at Tab 6, p 2.

⁶⁵ PBOD at Tab 6, p 2.

⁶⁶ PBOD at Tab 6, p 2.

⁶⁷ PBOD at Tab 6, p 3.

⁶⁸ PSS at para 12.

⁶⁹ PBOD at Tab 15, p 4.

⁷⁰ PBOD at Tab 15, p 4.

70 As can be seen from the above, it is evident that the victim’s life has been changed irrevocably because of the extensive and severe injuries inflicted on him by the accused. The sentence imposed must reflect these tragically profound effects on the victim.

(B) PSYCHOLOGICAL INJURIES

71 It is also clear from the victim impact statement that the victim suffered, and *continues* to suffer, psychological trauma:⁷¹

(a) The victim continues to feel frustrated due to the enduring and permanent impairment of his fingers.

(b) The victim continues to feel anxious when he sees knives, even in his own home.

(c) The victim is wary when approaching people in public and feels anxious when conducting enforcement duties.

72 A1’s experience also serves as testament to the traumatic effect of the accused’s heinous actions. A1 was examined by Dr Cindy Wong (“Dr Wong”) at Pasir Ris Polyclinic on 5 May 2020 and she was diagnosed to be suffering from superficial wounds and acute stress reaction. She was given two days of medical leave.⁷² A1 then returned to Pasir Ris Polyclinic on 8 May 2020, complaining of insomnia, flashbacks of the accused’s assault on the victim, and she had crying episodes. She was given four additional days of medical leave and medication to aid her sleep.⁷³ A1 suffered traumatic aftershocks as she

⁷¹ PBOD at Tab 15, p 3.

⁷² PBOD at Tab 9.

⁷³ PBOD at Tab 9; SOF at para 36.

witnessed the vicious attack by the accused that resulted in serious injuries to her colleague, although she did not suffer serious physical harm from the encounter.

73 As noted by the Court of Appeal in *Public Prosecutor v Kwong Kok Hing* [2008] 2 SLR(R) 684 at [28], “[p]sychological wounds, while invisible to the eye, can often be far more insidious and leave an indelible mark on a victim’s psyche long after the physical scars have faded.” There is no doubt that the victim has suffered indelible physical *and* psychological scars as a result of the accused’s attack.

(C) POTENTIAL LIFE-THREATENING INJURIES

74 In sentencing an offender convicted of an offence under s 326 of the Penal Code, the court should consider the *potential* harm that could have resulted from the dangerous means employed (*Ng Soon Kim* at [12]).

75 The potential harm in the present case was tremendous. As I observed at [60] above, the accused’s actions in repeatedly and forcefully stabbing the left side of the victim’s chest with the 20.8cm-long blade of the walking stick could very well have caused the victim’s death. According to Dr Paul, the direction of the left chest wall laceration towards the left border of the sternum and therefore the upper left side of the heart could have caused a life-threatening injury.⁷⁴ Further, had the sternum puncture wound not been stopped by the breastbone, the wound could have entered the victim’s heart and caused his death.⁷⁵ It was incredibly fortunate that this did not occur.

⁷⁴ PBOD at Tab 8.

⁷⁵ PBOD at Tab 8.

76 The victim's hand injuries could also have been life-threatening. Dr Paul noted that the victim could have suffered a massive haemorrhage if not for the prompt medical attention he received for his hand injuries.⁷⁶ The fact that the victim underwent emergency surgery and avoided suffering a massive haemorrhage does not detract from the objectively life-threatening nature of his hand injuries.⁷⁷

(4) Summary on the factors relating to the level of harm and culpability

77 I find that there are at least three key factors that justify the imposition of a long imprisonment term:

(a) The brutality and unprovoked nature of the accused's attack: The accused's attack was completely unprovoked and an appalling response to the victim's execution of his duties as a Safe Distancing Enforcement Officer. The accused was also brutal, unrelenting, clearly excessive and ruthless in his attack. He cruelly assaulted the victim even when the victim did not retaliate, was defenceless and was badly injured.

(b) The dangerous weapons used and the concealment of the weapons after the attack: The accused used two dangerous and deadly weapons to carry out the attack. His use of the weapons was excessive and vicious, showing a blatant disregard for the victim's life and limb. He also went so far as to conceal the walking stick immediately after the assault in order to evade the long arm of the law.

⁷⁶ PBOD at Tab 8.

⁷⁷ PSS at para 16.

(c) The extensive, severe and permanent injuries inflicted on the victim: The victim suffered extensive physical and psychological injury. The permanent impairment of his fingers has made basic everyday tasks difficult for him. I also considered the potential life-threatening injuries the victim could have suffered if not for the prompt medical intervention.

Public interest considerations

78 I reiterate that the accused attacked a Safe Distancing Enforcement Officer who was performing his duties at the height of the COVID-19 pandemic. Public interest considerations therefore come to the fore. The sentence ought to reflect the serious public disapprobation (*Tan Fook Sum* at [16]). This is consistent with the court’s remarks in *Law Aik Meng* at [16]:

It has been held that public interest is the court’s foremost consideration when deciding on an appropriate sentence; *Sim Gek Yong v PP* [1995] 1 SLR(R) 185. In *Angliss Singapore Pte Ltd v PP* [2006] 4 SLR(R) 653 (“*Angliss*”), I stated at [17] that public interest dictates that in balancing the equation, a sentencing judge should apply his mind to whether the sentence is necessary and justified by the public’s concern in deterring and preventing a particular type of criminal conduct. In the present case, public interest definitely figures as a vital, if not dominant consideration. ...

79 The offence occurred during the Circuit Breaker period at the height of the COVID-19 pandemic. During this period, the work of Safe Distancing Enforcement Officers to ensure compliance with the COVID-19 measures was especially crucial to stem the spread of COVID-19. However, such frontline enforcement officers were, and still remain, exceptionally susceptible to abuse and violence. Yet, they continue to place their health and personal safety at risk to enforce social distancing measures that protect the society. It is for this reason that the law has always imposed substantial sentences on offenders who exhibit

abuse or aggression towards public servants like the Safe Distancing Enforcement Officers and the police officers. Such sentences are necessary to assure public servants of “adequate protection and vindication by the law against behaviour that might compromise the effective discharge of their duties” (see *Public Prosecutor v Yeo Ek Boon Jeffrey and another matter* [2018] 3 SLR 1080 at [50]).⁷⁸

80 In this case, not only was the victim’s discharge of his duties compromised, he suffered serious injuries for doing his job. The accused’s senseless attack was directly prompted by the victim’s discharge of his duties as a Safe Distancing Enforcement Officer. Just before the attack, the victim asked the accused why he had cut the pandan leaves at the Park Connector and requested the accused to wear a mask. The accused’s response reveals a blatant disregard for the victim’s authority. He verbally abused the victim (giving rise to the sixth charge), insisted that he was entitled to cut the pandan leaves, questioned why he had to wear a mask and refused to wear one.⁷⁹

81 The accused’s violent attack on the victim struck a chord with the nation. The attack received widespread media attention⁸⁰ and many members of the public voiced their alarm at the potential dangers faced by Safe Distancing Enforcement Officers in the discharge of their duties. This case engendered significant public disquiet, including widespread unease as to the safety of Safe Distancing Enforcement Officers when performing their duties.⁸¹

⁷⁸ PSS at para 28.

⁷⁹ SOF at paras 18 to 21; PSS at para 29.

⁸⁰ PBOD at Tab 16.

⁸¹ PSS at para 29.

82 Bearing in mind the fact that the victim was carrying out his duties as a Safe Distancing Enforcement Officer, the national backdrop against which the offence was committed, the significant public disquiet that followed and the aggravating features, I am duty-bound to impose an appropriate deterrent sentence for the offence under s 326 of the Penal Code after considering the accused’s mitigation.

Mitigating factors

83 I note the presence of four mitigating factors that arguably justify a lower sentence: (a) the accused’s age and ill health; (b) his lack of similar antecedents; (c) his plea of guilt; and (d) the hardship to his family. I have to weigh them against the aggravating factors.

(1) Age and ill health

84 The Court of Appeal in *Public Prosecutor v UI* [2008] 4 SLR(R) 500 (“*UP*”) at [78] held as follows:

... in general, the *mature age of the offender does not warrant a moderation of the punishment* to be meted out ... But, where the sentence is a long term of imprisonment, the offender’s age is a relevant factor as, unless the Legislature has prescribed a life sentence for the offence, *the court should not impose a sentence that effectively amounts to a life sentence*. Such a sentence would be regarded as crushing and would breach the totality principle of sentencing. ...

[emphasis added]

85 In view of the grave aggravating features it is wrong to accord much weight to the accused’s age and ill-health although it deserves some consideration.

86 I am alerted to the accused's back pain and his use of a wheelchair. I direct the Prosecution to inform the Commissioner of Prisons to allow the accused access to medical attention as and when required.

(2) Lack of previous antecedents

87 The accused is a first-time offender. The absence of antecedents is a factor the court has to weigh against other factors, first and foremost being the public interest (see *Public Prosecutor v Quek Loo Ming* [2003] 1 SLR(R) 315 at [13]–[14]; *Sim Gek Yong v Public Prosecutor* [1995] 1 SLR(R) 185 at [9]). It would not be in the public interest to be lenient when the accused person committed a very serious offence, even though the accused person was a first-time offender (see *Purwanti Parji v Public Prosecutor* [2005] 2 SLR(R) 220 at [39]). In this case, I find that the accused's lack of antecedents is outweighed by the severity of the offence *and* the public interest in deterring violence and abuse against public servants. It would not be in the public interest to accord leniency to the accused on the ground that he is a first-time offender, given his merciless attack of the victim who was performing his official duties.

(3) Plea of guilt

88 The High Court in *Public Prosecutor v NF* [2006] 4 SLR(R) 849 held at [57] that:

... a plea of guilt does not ipso facto entitle an offender to a discount in his sentence. Whether an early plea of guilt is given any mitigating value depends on whether it is indicative of genuine remorse and a holistic overview of the continuum of relevant circumstances: *Angliss Singapore Pte Ltd v PP* [2006] 4 SLR(R) 653 at [77]. A court should also carefully examine the conduct of the offender after the commission of the offence in order to determine whether the offender is genuinely contrite.

89 In a similar vein, the Court of Appeal in *BDB* held at [74] that “... an offender’s plea of guilt should be given little weight if the evidence against him is strong and he has little choice but to plead guilty”.

90 In court the accused shows remorse. However, his immediate reaction after the attack was not to turn himself in, but to conceal the weapon. Instead of taping the walking stick to his bicycle as he usually did, the accused went out of his way to hide the walking stick in a concrete compartment that was covered with a metal lid in the washing area at the void deck of Block 252, after ensuring there were no passers-by.⁸² This is a clear intention to evade the long arm of the law. Further, the objective evidence against the accused was heavily incriminating. First, there were two eyewitnesses to the attack. Second, photographic and video evidence of the attack were also captured. Third, the accused was found to be in possession of the kerambit knife upon his arrest, and the walking stick he attempted to conceal was recovered the day after his arrest.⁸³ Given this mountain of evidence against him, the accused knew it was hopeless to deny the charges. Thus, no sentencing discount is accorded to the accused on account of his early plea of guilt.

(4) Hardship to family

91 The Defence’s plea in mitigation gave considerable emphasis to the accused’s role as the primary caregiver of his ex-wife. The ensuing hardship the accused’s family may face from his imprisonment is, however, not a mitigating factor, as hardship to family is “part of the price to pay when committing a crime” (see *Lai Oei Mui Jenny v Public Prosecutor* [1993] 2 SLR(R) 406 at

⁸² SOF at para 27.

⁸³ SOF at para 28; PSS at para 45.

[11]) citing Lord Widgery CJ in *R v Ingham* (3 October 1974) Court of Appeal (Crim Div), UK). Thus, I am unable to accept that any sentencing discount should be accorded to the accused on account of the hardship his family may face.

(5) Summary on mitigating factors

92 In summary, I consider the following mitigating factors: (a) the accused's age and ill health; (b) his lack of similar antecedents; (c) his plea of guilt; and (d) the hardship to his family. I conclude that some consideration can be accorded to the accused's old age.

Sentencing precedents

93 I have considered the salient sentencing precedents.

94 In *Azlin*, the accused persons were charged under s 326 of the Penal Code for, *inter alia*, scalding their five-year-old son with hot water and causing his death. The most serious charge related to the scalding incident that occurred just before the son's death, when his father beat his legs with a broom and splashed him with hot water four times. The High Court imposed a sentence of 14 years and six months' imprisonment, taking into account the abuse of trust, the son's vulnerability, the delay in seeking medical attention, the attempt to hide the commission of the offence from the nursing staff and the police, and the dangerous means used – namely, hot water of more than 70°C (*Azlin* at [206]).

95 In *Miya Manik*, the accused and the deceased were members of rival syndicates. During a dispute between the two syndicates over the sale of contraband cigarettes, the accused slashed the deceased's left leg with a

chopper, causing the deceased's death. The High Court convicted him and sentenced him to 15 years' imprisonment and 15 strokes of the cane under s 326 of the Penal Code. In arriving at its decision, the court considered the following aggravating factors: planning and premeditation, group violence, profit incentive in the context of a syndicate, and the vicious manner in which the accused had attacked the unarmed deceased (*Miya Manik* at [126]–[129]).

96 While the accused's attack in the present case was nothing short of abhorrence, the present case still lacked some aggravating factors present in *Azlin* and *Miya Manik*, which included, *inter alia*, the abuse of trust, the victim's vulnerability, and group violence. The accused persons' actions in both cases had also caused the respective victims' deaths, which led to a higher indicative starting sentence. That said, I am also acutely aware that the present case contained exceptional aggravating factors of its own, namely the fact that the victim was a Safe Distancing Enforcement Officer discharging his duties at the height of the COVID-19 pandemic. Taking into account the totality of the circumstances, sentencing precedents and the accused's age, I am satisfied that 13 years' imprisonment appropriately reflects the gravity of the offence. This sentence clearly conveys the message that abuse and assaults against public servants, including Safe Distancing Enforcement Officers, will not be tolerated and will be met with severe consequences.

Summary of sentence for the offence under s 326 of the Penal Code

97 Given the brutality and unprovoked nature of the accused's attack, the dangerous weapons used, the egregious injuries inflicted on the victim and the public interest considerations involved, I find that a deterrent sentence of 13 years' imprisonment is warranted.

Section 7(1)(a) of the CESOWA (the third charge)

The applicable law

98 Section 7(1) of the CESOWA reads as follows:

7.—(1) Any person who, otherwise than for a lawful purpose —

(a) carries or has in his possession or under his control;

(b) manufactures, sells or hires or offers or exposes for sale or hire; or

(c) lends or gives to any other person,

any scheduled weapon shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 5 years and shall also be punished with caning with not less than 6 strokes and, in the case of a second or subsequent offence, to imprisonment for a term of not less than 2 years and not more than 8 years and shall also be punished with caning with not less than 6 strokes.

99 The established sentencing tariff for the offence under s 7(1)(a) of the CESOWA is a sentence in excess of six months' imprisonment. As noted in *Sentencing Practice in the Subordinate Courts* (LexisNexis, 3rd Ed, 2013) at p 431:

In view of the higher maximum punishment and the more serious nature of the weapons involved [for the offence under s 7(1) of the CESOWA], *the courts are likely to adopt a higher starting point than the six months' imprisonment and six strokes of the cane for the offence under s 6(1) [of the CESOWA]*. Otherwise, the sentencing approach should be the same as for s 6(1), in that, higher sentences will be imposed where the possession of the weapon has clearer links to some planned criminal activity as opposed to where it stands alone.

[emphasis added]

My findings

100 I find that nine months' imprisonment is warranted for the third charge due to the following aggravating factors.

101 First, the accused faces a similar charge under s 6(1) of the CESOWA (the second charge) which is taken into consideration for the purpose of sentencing. For the second charge the accused was in possession of two kerambit knives and hid one in each shoe. Why was the accused in possession of three dangerous and deadly weapons if his intention was only to cut the pandan leaves at the Park Connector? Furthermore, all these deadly weapons were hidden.

102 Second, the accused was not only in possession of the walking stick with the concealed blade in public. He also unsheathed it in public, posing profound and egregious danger to the victim and the witnesses.

103 Third, the accused's bespoke walking stick had a concealed long and sharp blade that was extremely difficult to detect. The 20.5cm-long blade was concealed at the end of the walking stick by a wooden sheath with a black rubber stopper, which was in turn secured with tape (see [11] above).⁸⁴ To any other person, the walking stick would appear innocuous. Had this attack not occurred, it is likely that the accused's weapon would have gone undetected by the authorities. The accused's concealment of his weapon engenders a profound sense of public unease. How can a person suspect that a normal walking stick has a hidden long blade capable of causing death? A deterrent sentence is necessary to send a strong signal that the careful and calculated concealment of dangerous weapons to evade detection by the authorities will not be tolerated.

104 Having regard to the above, I find that nine months' imprisonment for the offence under s 7(1)(a) of the CESOWA is warranted and justified.

⁸⁴ SOF at para 13.

Regulation 3A(1)(a) of the COVID-19 Regulations (the fourth charge)

The applicable law

105 Regulation 3A(1)(a) of the COVID-19 Regulations provides that “[e]very individual must wear a mask at all times when the individual is not in his or her ordinary place of residence”.

106 Section 34(7) of the COVID-19 Act reads as follows:

(7) A person who, without reasonable excuse, contravenes a control order, commits an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or

(b) in the case of a second or subsequent offence, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

My findings

107 I find that a custodial term of four weeks is appropriate in view of the following:

(a) The accused intentionally failed to wear a mask when he left his house.⁸⁵

(b) The accused obstinately refused to co-operate with the victim when he was asked to wear a mask.⁸⁶

⁸⁵ SOF at para 12.

⁸⁶ SOF at paras 18 to 19.

(c) The accused verbally abused and attacked the victim.⁸⁷ The accused hurled verbal expletives in dialect and abused the victim without wearing a mask. He then proceeded to put the victim’s life in serious harm’s way that could have easily resulted in the victim’s death by inflicting heinous and wanton acts of violence against him. This is one of the worst possible outcomes that could befall a Safe Distancing Enforcement Officer enforcing the COVID-19 Regulations. The accused’s abhorrent actions all stemmed from his refusal to wear a mask.

108 Having regard to all of the above, four weeks’ imprisonment for the offence under reg 3A(1)(a) of the COVID-19 Regulations is clearly justified.

The aggregate sentence

The one-transaction principle

109 Section 307(1) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (“CPC”) provides as follows:

307.—(1) Subject to subsection (2), if at one trial a person is convicted and sentenced to imprisonment for at least 3 distinct offences, the court before which the person is convicted must order the sentences for at least 2 of those offences to run consecutively.

110 The general rule, as stated in *Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 (“*Raveen*”) at [54], is that “sentences for unrelated offences should run consecutively, while sentences for related offences forming part of a single transaction should run concurrently”. Whether multiple offences form part of a single transaction depends on whether they form a “single invasion of the same legally protected interest” (*Raveen* at [39], citing D A Thomas,

⁸⁷ SOF at para 21.

Principles of Sentencing: The Sentencing Policy of the Court of Appeal Criminal Division (Heinemann, 2nd Ed, 1979) at p 53).

111 The sentences for the first charge under s 326 of the Penal Code and the fourth charge under reg 3A(1)(a) of the COVID-19 Regulations entail the invasion of different legally protected interests. The former offence concerns the invasion of the victim's bodily integrity while the essence of the latter offence lies in the threat posed to public health.⁸⁸

112 Therefore, I order the first charge and the fourth charge to run consecutively, *ie*, a sentence of 13 years and four weeks' imprisonment.

Imprisonment in lieu of caning

113 Two of the three proceeded charges have the statutory prescribed punishment of caning. If it were not for the accused's old age, I would have imposed 12 strokes of the cane on him in addition to the 13 years' imprisonment for the offence under s 326 of the Penal Code in light of the grave aggravating factors.

114 The statutory prescribed punishment for the third charge under s 7(1) of the CESOWA includes the imposition of a minimum of six strokes of the cane. As the accused is above 50 years of age, s 325(1)(b) of the CPC disallows caning to be imposed on the accused.

115 The aggregate number of strokes for the two proceeded charges would have been 18 strokes if not for the accused's age. Under s 325(2) of the CPC the court has a discretion to impose a term of imprisonment of not more than

⁸⁸ PSS at para 44.

12 months in lieu of the sentence of caning. In view of the gravity of the offences and considering the accused's old age, I impose an additional three months' imprisonment in lieu of caning, *ie*, two months for the first charge and one month for the third charge.

116 The imposition of imprisonment in lieu of caning is consistent with the principles and indicative guidelines laid out by the High Court in *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 ("*Amin*") at [66]–[67] and [89]–[91]:

66 First, the court should consider whether an additional term of imprisonment is needed to replace the lost deterrent effect of caning, having regard to why the offender was exempted from caning. We are here addressing, in particular, the sentencing objective of general deterrence which looks to deter other like-minded individuals, who are similarly situated as the offender before the court, from engaging in similar conduct. *The key question is whether such potential offenders would have known before committing the offence that by reason of their own circumstances, they would be exempted from caning. If so, then an additional term of imprisonment in lieu of caning may be more readily seen as necessary or appropriate in order to compensate for the general deterrent effect lost because the offender knows he or she will be exempted from caning.* If, on the other hand, the exemption was unexpected in the circumstances, then there would not be a similar need to replace the lost deterrent effect of caning because the prospect of caning would nonetheless have been contemplated by such would-be offenders, even if it might subsequently transpire that they will not be caned.

67 *In general, an offender who was exempted from caning due to gender or age is likely to have known from the outset that he or she would not be caned. Therefore, for this class of exempted offenders, an additional term of imprisonment will be more readily seen to be called for, in order to compensate for the lost deterrent effect of caning.* Conversely, an offender who was exempted from caning on medical grounds is less likely to have known that he would not be caned. Therefore, it would generally not be necessary to enhance the sentences of such offenders. So too might be the position with offenders who will receive the permitted limit of strokes but are exempted only from further strokes beyond this limit. Of course, these are mere guidelines, and each case must be decided on its own facts.

...

89 ... In our judgment, if the court decides to enhance an offender's sentence, the extent of such enhancement should bear some correlation to the number of strokes of the cane that the offender has been exempted from. However, we would not go so far as to adopt a pro-rated approach. Rather, we consider that indicative ranges of sentences would better allow sentencing judges to calibrate the extent of the enhancement to fit the circumstances of each case.

90 We thus provide the following indicative guidelines:

- (a) one to six strokes avoided: up to three months' imprisonment;
- (b) seven to 12 strokes avoided: three to six months' imprisonment;
- (c) *13 to 18 strokes avoided: six to nine months' imprisonment*; and
- (d) more than 19 strokes avoided: nine to 12 months' imprisonment.

91 Beyond this, in calibrating the precise extent of the enhancement, the court should have regard to the factors we have already discussed at [59]–[86] above. The court should identify the grounds which prompted it to enhance the offender's sentence in the first place, and consider what length of imprisonment would be appropriate to address those concerns. Additionally, the court should also consider whether any factor which weighed against the enhancement of the offender's sentence might justify a shorter period of additional imprisonment.

[emphasis in original omitted; emphasis added in italics]

117 Following the guidelines in *Amin*, the sentence of imprisonment in lieu of 18 strokes of the cane would have been six to nine months' imprisonment. As I stated at [46] and [48] above, there is a need for deterrence in the present case. However, I am also mindful of the accused's age. On the one hand, there is a need to deter would-be offenders from engaging in similar conduct with the knowledge that they are exempted from caning (*Amin* at [67]). On the other hand, there is a need to ensure the sentence is not crushing (*Mohamed Shouffee*

bin Adam v Public Prosecutor [2014] 2 SLR 998 (“*Shouffee*”) at [57]; see also [120]–[121] below).

118 Considering all the circumstances of the case, including the need for deterrence and the accused’s age, I find that three months’ imprisonment in lieu of the 18 strokes of the cane is appropriate and proportionate.

The totality principle

119 The first limb of the totality principle requires the court to consider whether the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences committed (*Shouffee* at [54]). The aggregate sentence of 13 years, three months and four weeks’ imprisonment is within the higher end of the sentencing range under s 326 of the Penal Code, which prescribes a punishment of life imprisonment or imprisonment for a term which may extend to 15 years. Thus, the sentence imposed is in line with the first limb of the totality principle.

120 Under the second limb of the totality principle, the aggregate sentence may be moderated if it is crushing and not in keeping with the offender’s past record and his future prospects (*Shouffee* at [57]).

121 The aggregate sentence does not have a crushing effect on the accused given the gravity of the offence under s 326 of the Penal Code, which warrants deterrent punishment that befits the accused and the serious aggravating features that originated from his actions. In considering the aggregate sentence, I am also mindful of the accused’s old age which has to be balanced against the public interest.

122 Therefore, I find that the facts of this case justify an aggregate sentence of 13 years, three months and four weeks' imprisonment.

Summary of findings on sentence

123 In summary, my findings on sentence are as follows:

(a) Deterrence and retribution are the governing sentencing principles, given the egregious violence committed against the victim, a Safe Distancing Enforcement Officer.

(b) Thirteen years' imprisonment is an appropriate sentence for the first charge, given the brutal and unprovoked nature of the accused's attack, the severity of the victim's injuries, the dangerous weapons used, and the relevant public interest considerations.

(c) Nine months' imprisonment is an appropriate sentence for the third charge, as there is a need to deter the calculated and undetectable concealment of dangerous weapons.

(d) Four weeks' imprisonment is an appropriate sentence for the fourth charge, given the accused's persistent refusal to wear a mask.

(e) The sentences for the first charge and the fourth charge are to run consecutively, giving rise to an aggregate sentence of 13 years and four weeks' imprisonment.

(f) In view of the gravity of the offences and considering the accused's old age, I impose an additional three months' imprisonment in lieu of caning for the first charge and the third charge.

Conclusion

124 For all the above reasons, I sentence the accused to 13 years, three months and four weeks' imprisonment. I order that his sentences of imprisonment be backdated to 4 May 2020, the date of his arrest.

Tan Siong Thye
Judge of the High Court

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(Attorney-General's Chambers) for the Prosecution;
Rajan Supramaniam (Regent Law LLC) for the Defence.