



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CRIMINAL DIVISION

Neutral Citation Number: [2025] CIGC (Crim) 67

Case Number: IND. 4 of 2024

THE KING

V

SELVYN EMANUEL BAILEY

Appearances: Mr. Kenneth Ferguson, Counsel for the Prosecution

Mr. Greg Walcolm, Counsel for the Defence

Before: Hon. Justice Emma Peters

Sentence Ruling: 18th December 2025

SENTENCE RULING

1. This is an edited version of the full sentencing remarks delivered in court in order that the published version does not indirectly identify the victim in the case.
2. The defendant was convicted unanimously by a jury at the end of a trial that took place in July 2025 of all three Counts that he faced. Count one was a charge of Rape contrary to section 127(2)(a) of the Penal Code (2022 Revision), and, Counts two and three were charges of indecent assault contrary to



section 132 of the Penal Code (2022 Revision). All of the offences took place in a 4-week period between mid-July and mid-August 2023.

The Facts

3. In July of 2023, the day after her 16th Birthday, the victim in this case travelled from her home in Jamaica to the Cayman Islands for the summer. She had looked forward to the experience. At trial various witnesses, including the defendant, were to tell the jury that there had been a plan for the defendant and his wife to adopt the victim (V) so that she could come to Cayman more permanently to live and be educated here.
4. The first incident in time to occur was that which was the subject of Count three. That indecent assault was the touching of V's bottom over clothing by the defendant as she tried on various new clothes.
5. Then on August 4th the incident that is the subject of Count two occurred. This was about three weeks after her arrival and the week before the Count one rape of which the defendant was convicted. V told the jury that she had awoken to find the defendant in her bedroom licking her naked vagina as she lay asleep in bed.
6. Count one was the charge of rape. On that day the defendant's wife was away on a business trip overseas. That had left the defendant and V on their own. The jury heard at trial that there had been an alternative plan for the victim to stay elsewhere but that had fallen through.
7. After eating dinner (which the defendant cooked) and drinking a drink that the defendant had bought for her, V explained that she was tired and went to bed early. She was so fast asleep when events took place later that she did not awake when she was raped. I make clear that even if there was some suspicion that the defendant may have drugged the complainant that night to facilitate the rape, there is insufficient evidence for me to be sure of it, and I will not pursue that line any further.
8. She awoke later that night and felt pain in her genital area. She went to the toilet, saw blood and put the circumstances together in her mind and realised that she had been raped by the defendant.



9. She called her boyfriend in Jamaica immediately that night and he alerted V's mother. The police were alerted. V was taken to be medically examined. It was agreed that the defendant's semen was found on her high vaginal swabs.
10. At trial, the defendant advanced various bizarre and unlikely theories as to how his semen had come to be on the victim's high vaginal swabs. Clearly, by their unanimous verdicts, the jury rejected those stories and decided that they were unanimously sure of the defendant's guilt.

Sentencing Guidelines

11. Pursuant to section 128 of the ***Penal Code*** (2022 Revision) the maximum sentence for the offence of rape is life imprisonment. Pursuant to section 132(5) of the ***Penal Code*** (2022 Revision) the maximum sentence for the offence of indecent assault is 10 years' imprisonment.
12. The Cayman Islands Sexual Offences Sentencing Guidelines published in April 2020 provide guidance on identifying the appropriate categorisation of the offence of rape, considering the harm caused and the culpability of the defendant.
13. The prosecution submit that for Count one, this is a category 3 harm case in the absence of any category one or two harm factors.
14. It is not disputed by the defence that this was a high culpability case due to abuse of trust. I set out in detail during the sentencing hearing at court why I concluded as a matter of law that was so but there is no dispute on the issue.
15. A category 3A offence has a starting point of 13 years' custody with a range of 11-16 years. The defence agrees with that categorisation. The Crown identify the aggravating features of ejaculation and the fact that the offence took place in the victim's own bed.



16. Count two is said to be a category 2 (due to touching of naked genitalia) harm offence and due to the abuse of trust, a culpability A offence. If that is right, then a starting point of 6 years' custody with a range of 5 – 9 years is suggested. The defence agrees with that categorisation.
17. Count three is Category 3 and, once more, for the same reasons is said to be culpability A so therefore a starting pointing of 2 years custody with a range of one to five years. The defence agrees with that categorisation.
18. The defence do not take issue with the Crown's suggested categorisation of the offences save to the extent they suggest that the aggravating feature of the victim being in her own bed should not effectively be double counted as that factor is, they say, reflected by the abuse of trust aspect of the case that puts the offences into high culpability in the first place. I accept that their point is well made.
19. The defence also observes that it is of note that the authority of *C. Dilbert & C. Samuels v. R* [2010 (1) CILR 10] discussed the appropriate starting point for an offence involving an abuse of trust and suggested a starting point 8 years, considering the principles outlined in *R. v. Millberry*, [2003] 1 W.L.R. 546. They fairly note that this authority pre-dates the publication of the Sentencing Guidelines.
20. The defence point to the mitigating factors, that the defendant has no previous convictions and furthermore, is of previous good character and/or exemplary conduct in support of which he has submitted several character references.
21. It is submitted by the defence that a balancing of the aggravating and mitigating factors should result in an overall reduction in the suggested starting point under the sentencing guidelines, or at the very least, no increase in that starting point.
22. The Crown do not make any submission, nor do I make any finding that there is any additional psychological harm beyond that inherent in the offence and, thus, I shall not address this issue any further.



Victim Impact Report

23. She speaks of how much she had looked forward to her trip to Cayman and how the defendant's behaviour escalated from comments to touching and then to rape. She returned to Jamaica after the incidents but has been left emotionally and psychologically scarred such that she has had repeated counselling. She talks of feeling vulnerable and does not know how she will manage future relationships. She says that she went to Cayman full of youth and energy and left without her dignity.

Social Inquiry Report

24. The defendant is from a large family - most of whom live in Jamaica which is where he was born and raised. He has been married twice and has two children of his own, one from his first marriage and one conceived during an affair he conducted in the first years of his second marriage (that is, his marriage to his current wife with whom he has no children).
25. He is educated to degree level and has continued his education since being remanded. He has been a working man throughout his life. He is a religious man. He has a number of health conditions. He is described as being a model prisoner. He still asserts that the allegations are untrue and come about from a vendetta. His wife is still supportive of him.

Mitigation

26. Mr. Walcolm points to the fact that not only does the defendant have no previous convictions and is therefore of previous good character but further the defendant has provided numerous character references in support of his exemplary conduct over the many decades of his life.
27. His character references are undoubtedly impressive. They speak of his "high Christian and moral values" and his integrity. Many of them speak of him as a loyal family man and of his devotion and



loyalty to his wife. Those latter observations must be noted in the context of what we know of the origin of his second child and of the offending of which he has been convicted.

28. The sentencing guidelines note that previous good character and or exemplary conduct is different from having no previous convictions. However, they also note that the more serious the offence, the less weight that should normally be attributed to this factor.
29. It is not said that his previous good character and exemplary conduct were used here to facilitate the offence. But those factors must be kept in context when considering that rape is one of the most serious offences on the statute books. Furthermore, when so many of the references focus so much on the defendant's loyalty and constancy to his wife, they must be kept in context. Having considered this matter carefully I have concluded that I shall give a 16-month discount for his previous good character.

Totality

30. Mr. Walcolm submits that paragraphs 6.1 and 6.2 of the 2015 Cayman Islands Sentencing Guidelines are instructive. They provide guidance regarding the considerations for determining whether to impose concurrent or consecutive sentences. They note that in a case such as this the Court may impose concurrent sentences with an increase in the sentence for the more serious offence to reflect the overall criminality. That is the approach that I intend to take, ensuring that the overall sentence properly reflects the overall criminality when balanced against the advanced mitigation.

The Court's Conclusions and Sentence

31. The young victim in this case had just turned 16 when she set off on an adventure to the Cayman Islands in the summer of 2023. This was more than just a holiday. This was a trip to stay with people who were in financially superior circumstances to her own mother and who were giving serious consideration to adopting her and giving her a better life in the Cayman Islands than the more basic lifestyle that she was living in Jamaica.



32. In the few short weeks that she stayed in Cayman, she was the subject of the defendant's unwanted affection on three occasions. The defendant went from touching over clothing, to licking her vagina whilst she was asleep to then committing the ultimate act of abusing the trust placed in him by raping her.
33. It is my view that the defendant was gradually escalating his offending to see how much he could get away with without her speaking out. When she did act in a challenging way she was made to apologise and repent. This young girl was just 16 and away from Jamaica for just the second time in her life.
34. The fact that she was made to apologise to the defendant for not behaving as well as he said she should shows a level of control on his part that was part of the grooming behaviour that he exhibited in preparation for the ultimate betrayal of trust by his rape of her.
35. So far as harm is concerned, I accept that because there were conflicting accounts given as to whether she slept through all or just some of the rape that the Crown are not asserting that she was particularly vulnerable due to her personal circumstances. That would have been a category 2 harm factor that would, on the facts, have been open to them to argue but I understand that since there was some doubt as to this point that the Crown do not put their case in that way.
36. Although there is an argument that the situation in which she found herself was such as to make her particularly vulnerable I will accept the Crown's submission that this is a category 3 offence.
37. Turning to culpability, I have already said that in the absence of any positive toxicology. I will not consider any further the suspicion that must exist regarding whether the defendant facilitated his actions by the use of drugs.
38. By the time of the rape there had been other offending committed against her.
39. However, the culpability factor that the Crown pointed to in support of their submission that the culpability is higher is that concerning the alleged abuse of trust, so let me turn to that factor and analyse whether I should properly consider this to be a Culpability A case. (Following paragraphs re abuse of trust redacted)



Abuse of Trust

40. There is a line of authorities concerning the question of whether an abuse of trust has taken place in an offence such as this. The line begins with *R v Forbes* [2016] EWCA Crim 1388 and then *R v JD* [2017] EWCA Crim 2504 and *R v AFB* [2022] EWCA Crim 1646.

41. In *Forbes* the Court of Appeal Criminal Division (CACD) said:

16. *It is evident from the appeals that one issue that has caused difficulty is “abuse of trust” as an express aggravating factor and as used in respect of culpability extensively in the definitive guideline.*
17. *Whilst we understand that in the colloquial sense the children's parents would have trusted a cousin, other relation or a neighbour (as in the case of Forbes – see paragraph 47 and F – paragraph 208) to behave properly towards their young children, the phrase “abuse of trust”, as used in the guideline, connotes something rather more than that. The mere fact of association or the fact that one sibling is older than another does not necessarily amount to breach of trust in this context. The observations in [54] of R v H should be read in this light.*
18. *The phrase plainly includes a relationship such as that which exists between a pupil and a teacher (as in the case of Clark who grossly abused his position of trust as a teacher at a boys' preparatory school by a sustained course of conduct over 7 years – see paragraphs 70 and following), a priest and children in a school for those from disturbed backgrounds (as in the appeal of McCallen – see paragraphs 86-92 and 97) or a scoutmaster and boys in his charge (as in the case of Warren to which we have already referred). It may also include parental or quasi-parental relationships or arise from an ad hoc situation, for example, where a late night taxi driver takes a lone female fare. What is necessary is a close examination of the facts and clear justification given if abuse of trust is to be found.*

42. So, it is clear that a Judge should conduct a close examination of the facts and give a clear justification if abuse of trust is to be found. In order for an abuse of trust to make an offence more serious, the



relationship between the offender and victim must be one that would give rise to the offender having a significant level of responsibility towards the victim on which the victim would be entitled to rely.

43. Otherwise alone in a foreign country and being assessed for her suitability and pliability to be allowed to go and live with this man and his wife, she was in a position where she had nowhere to turn.
44. I have carefully considered the position in light of the CACD's judgments as to what abuse of trust is and, having done so, I find there to be such a position and one that was breached egregiously by the defendant.
45. I therefore conclude that a starting point of 13 years' custody is appropriate.
46. The defendant ejaculated. His semen was found in the victim's vagina. That factor in my view merits a 6-month increase to the starting point.
47. I have outlined the mitigation advanced already and it is clear that the defendant has no previous convictions – he was (until his conviction by the jury) a man of good character. I have already indicated those factors merit a 16-month reduction.
48. For the same abuse of trust reasons, Count 2 (the licking of the naked genitalia) has a starting point of 6 years and Count 3 has a start point of 2 years. In order to properly take account of totality, and also having concluded that the offending displayed in Counts 2 and 3 was part of the escalation and grooming behaviour that led to Count one, I conclude that it is right to make all the sentences concurrent but to elevate the sentence on Count one to take account of that fact. I shall increase my sentence on Count one by two and a half years to reflect these two earlier offences. In my view that properly takes account of the principle of totality.
49. So, my sentence is as follows:

- (i) Count 1 – 14 years and 8 months
- (ii) Count 2 – 6 years concurrent
- (iii) Count 2 – 2 years concurrent
- (iv) The time the defendant has spent in custody since trial is to count automatically towards sentence.

Dated the 18th day of December 2025



**The Hon. Justice Emma Peters
Judge of the Grand Court**