

15-Jan-2010  
(QJ)

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CRIMINAL SIDE**

**INDICTMENT NO: 46/09**

**THE QUEEN**

**V**

**RONNIE RODNEY EBANKS**

**Appearances: Crown Counsel – Kenneth Furgueson**

**Defence Counsel – Nicholas Dixey of Mourant**

**Coram: Hon. Justice Quin Q.C.**

**Heard: 15<sup>th</sup> January 2009**



**SENTENCING RULING**

1. On the 22<sup>nd</sup> November 2009 the Defendant pleaded guilty to Count II on the Indictment, namely the charge of burglary, with intent to rape, contrary to Section 243(1)(a) of the Penal Code (2007 Revision).
2. The particulars of the offence are that on the 2<sup>nd</sup> July 2009, at West Bay Road, Grand Cayman, the Defendant entered an apartment as a trespasser with intent to rape.
3. On the 2<sup>nd</sup> July 2009 the police received a call from a Ms. W, who was a visitor on the island and resided at a West Bay Road apartment complex. The Defendant had broken into the apartment and entered the complainant's bedroom, where she was sleeping, with her eight-year-old daughter. The complainant said that whilst sleeping, she thought she heard someone whispering in her ear. She was awakened and discovered the Defendant standing over her holding a knife with a towel to her throat. The Defendant was not wearing a shirt. The Defendant told the

complainant to tell her daughter to be quiet or he would hurt her. He also told the complainant that he wanted to "fuck" her.

4. The complainant used her hands to prevent the knife from touching her throat, and she also tried to push the Defendant away.
5. The complainant's daughter awoke, and the complainant told her to run for help. During this time the Defendant continued to force himself on to the complainant. The daughter, upon realizing that her mother was in danger began to scream very loudly, and the Defendant ran out of the apartment.
6. After the Defendant left the complainant realized that she was bleeding from her finger – injury that must have occurred when she attempted to restrain the Defendant. At that time she saw the knife and the towel on the edge of the bed.
7. The towel and the knife were sent to the Royal Cayman Islands Police Service (RCIPS) Scenes of Crime Unit and on to the forensic science laboratory in the United States. It was later established that the Defendant's DNA was found on the towel and on the knife.
8. The Defendant was arrested by the police on the morning of the incident and taken to George Town police station.
9. On the 7<sup>th</sup> July 2009 the Defendant was charged and cautioned in accordance with the Judges' Rules, to which he replied, "Boss, I have nothing to say right now." The Defendant interviewed, but exercised his right to silence and made no comment.
10. Crown Counsel referred the Court to two English cases where the Defendants had pleaded guilty to burglary with intent to rape, namely **R v. Staunton** (1981) 3 Cr. App. R. (S.) 375 and **R v.**

**Richard Thomas Bolland** (1988) 10 Cr. App. R. (S.) 129. These were similar cases in which the Court of Appeal partially allowed the Appeals against sentence, and reduced, in the **Staunton** case, the sentence of imprisonment from eight (8) to five (5) years, and in the **Bolland** case, from seven (7) to five (5) years. In both cases there is no evidence of any previous convictions.

11. In the case before this Court the Crown Counsel completed his submissions by saying that he felt the Sentencing range was somewhere between five (5) to seven (7) years.
12. Counsel for the Defendant, Nicholas Dixey, candidly accepted, on behalf the Defendant, that he had committed a very serious offence, and one in which it must have been "very frightening, unpleasant and distressing for the complainant." Mr Dixey said that for the complainant to wake up on holiday in a bed with her daughter, and to find the an intruder, in this case the Defendant, standing over her, with a knife, making such a demand, must have been a terrifying experience.
13. Mr Dixey submits that, mercifully, there is no evidence of physical injury, save for the minor cut on the complainant's finger, and also, mercifully, that there is no evidence of any long lasting trauma.
14. Mr Dixey also provided the Court with some helpful authorities from which I would like to highlight two English decisions, which bear close examination and comparison to the facts of this case.
15. The first case is **R v. Brian David Reed** (1986) 8 Cr. App. R. (S) 152, an English Court of Appeal decision and in particular, the judgment of Stocker LJ. The Defendant was sentenced to 8 years imprisonment, having pleaded guilty to burglary with intent to steal. In **R v. Brian David Reed** the Appellant had entered the complainant's bedroom by forced entry. Like this case, there was a child on the bed and the Defendant pushed the lady and the child onto the bed and stated "stay there, don't move, I have got a knife, I'll be back for you later."

16. The Defendant in *Reed* had previous convictions for similar offences and the English Court of Appeal held that eight years was not excessive or wrong in principle.
17. Defence counsel also referred to *R v. Karl Zoszo* (1995) 16 Cr. App. R. (S.) 354, which was another decision of the English Court of Appeal.
18. The English Court examined the offence of burglary with the intent to rape and came to the conclusion that under the English Criminal Justice Act it does not come within the definition of a "sexual offence" but it clearly was a "violent offence" for the purposes of the act.
19. Similarly, in this case the Defendant is charged with burglary which, technically, under our Penal Code, is an offence relating to property and not a sexual offence or an offence against morality.
20. In *Zoszo*, the complainant suffered scratches to her face, neck, breasts, arms and legs. The English Court of Appeal held that there was no requirement that the injuries should be serious. The fact that the injuries resulted only indirectly from the burglary did not prevent the offence being treated as one which leads to physical injury. The Court also stated that the offence of burglary with intent to rape was a violent offence on the basis that it was intended to lead to physical injury, as rape was itself a physical injury.
21. Accordingly, the English Court of Appeal dismissed the Appeal and allowed the sentence of six years imprisonment for burglary with intent to rape to stand.
22. I take into account the Defendant's guilty plea. I also accept that he did not enter the complainant's apartment with a knife. However, he was sufficiently calm and deliberate to take a kitchen knife from the kitchen and use it to threaten the complainant.

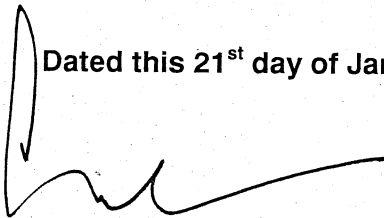
23. I also note that the Defendant previously received a sentence of 12 years imprisonment for rape, which sentence was imposed in August 2000. That particular offence had very similar features to the offence now before this Court.

24. I also note that the Defendant was released from prison only a few weeks before he committed this offence on the 2<sup>nd</sup> July 2009.

25. I have to take into account that the Defendant has not been convicted of rape or even attempted rape. However, as has been said before, women must be allowed to sleep in their own homes without being disturbed. This was an offence where the woman's home and her bedroom were violated by the Defendant in a very deliberate manner. It can be described as a very serious crime and the complainant was subject to a terrifying experience. The legislation has directed that the maximum sentence under our law is 14 years imprisonment.

26. In light of the Defendant's previous conviction, and the fact that he has committed this offence so shortly after being released, I impose a sentence of ten (10) years of imprisonment with time spent in custody to be taken into consideration.

Dated this 21<sup>st</sup> day of January 2010



**Quin J**  
**Judge of the Grand Court**

