



1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL DIVISION**
3

4 **Neutral Citation Number: [2025] CIGC (Crim) 55**
5 **INDICTMENT NO: 28 of 2025**
6

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8 **R**

9
10 **V.**

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12 **TB**
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16 **Appearances:** **Mr. Martin Mulgrew, Crown Counsel, Office of the Director of Public**
17 **Prosecutions for the Prosecution**

18
19 **Mr. Crister Brady of Brady Law for the Defence**
20

21
22 **Before:** **The Hon. Justice Cheryll Richards KC**
23

24 **Submissions Heard:** **10th October 2025**
25

26 **Sentence Judgment:** **16th October 2025**
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31 ***Criminal Law – Sentencing, Defilement contrary to section 134 (1) (b) of the Penal Code (2022 Revision),***
32 ***Victim is a child under 16 years, Application of the Cayman Islands Sentencing Guidelines***
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1 SENTENCE JUDGMENT

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3 **PREAMBLE**

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- 5 1. In pursuance of s.12 of the *Youth Justice Act* (2021 Revision) and s.31 of the *Criminal*
6 *Procedure Code* (2021 Revision), this judgment has been anonymised to protect the identity
7 of the victim. It is ordered that there be no reporting which would lead to the identification of
8 the victim in this case.
- 9

10 **INTRODUCTION**

11

- 12 2. The defendant is before the Court for sentencing following his guilty plea to Count One of the
13 Indictment. This charges the offence of Defilement contrary to section 134 (1) (b) of the *Penal*
14 *Code* (2022 Revision). The particulars are that he on or about the 31st day of January 2024 in
15 the Cayman Islands, had unlawful carnal knowledge of ES a girl under the age of 16 years of
16 age namely 13 years of age.
- 17
- 18 3. The maximum penalty is 12 years imprisonment.
- 19
- 20 4. The prosecution has indicated that it will not proceed on Count Two of the Indictment, a charge
21 of Interfering with the Execution of a Civil or Criminal Process and asks that this be left on
22 file. This is so ordered.
- 23

24 **THE FACTS**

25

- 26 5. The prosecution has provided a summary of facts which is set out below. These facts are not
27 disputed by the defence.
- 28
- 29 6. In March 2024 the victim ES was then thirteen years of age. The defendant was twenty-four
30 years of age. The age difference is thus one of eleven years.
- 31

- 1 7. The defendant's sister was the victim's best friend. This friendship led to the victim's contact
2 and friendship with the defendant. In March 2024, the victim complained of being unwell and
3 having an irregular menstrual cycle. She was advised to and did take a pregnancy test. The
4 result was positive. She was examined by a doctor and found to be eight weeks pregnant,
5 placing the date of conception at around the 31st January 2024. The victim was thirteen years
6 and five months of age as at the date of conception.
7
- 8 8. On the 3rd April 2024, the Police conducted an Achieving Best Evidence ("ABE") interview
9 with the victim. She told the Police that the defendant was her boyfriend and the father of the
10 child. They had been in a relationship for several months, having met through her sister. The
11 defendant is a neighbour. The victim went on to say that they had sexual intercourse on a
12 number of occasions. This had taken place at the defendant's home.
13
- 14 9. The defendant was arrested and interviewed. He denied any sexual contact with the
15 victim. He told the Police that the victim had told him that she was sixteen years of age. They
16 first met around February 2024. He later found out from the victim's sister that she was thirteen
17 years of age. He said that he had heard the victim speaking to her sister about being pregnant,
18 but the victim had not identified the father of the child.
19
- 20 10. An examination of both the phones of the victim and the defendant revealed communication of
21 a sexual nature between the two. In some of the messages the defendant expressed love,
22 passion and obsession with and for the victim. In a second interview, when asked about the
23 telephone messages found in his phone, he told the Police that other persons used his phone.
24
- 25 11. The victim gave birth to a child in October 2024. During the birth the victim suffered a vaginal
26 laceration which was repaired. However, she developed a vaginal haematoma which required
27 surgical intervention some four weeks later. A DNA test conducted of the defendant showed
28 that he is the father of the child.
29
30
31



1 12. After the defendant was arrested and admitted to bail by the police, he contacted the victim
2 repeatedly. On the 24th February 2024, he sent a message to the victim stating: -

3
4 *“Oi little girl try make sure they take my name down and put bf*
5 *I do yeh I not in no quoms with you nor him eitha get me out it or ima snitch*
6 *simple..una know weh I live so fwrđ if anything...tired of this shit I got a futre*
7 *a life look forward to una not f...g dah up yeh so tell them the f...g truth*
8 *or I will.”*



9
10 **CHRONOLOGY**

11
12 13. The defendant’s first appearance before the Summary Court on the charge was on the 25th
13 March 2025. He first appeared before the Grand Court on the 4th April 2025. At that time legal
14 aid arrangements were incomplete, and the DNA Report had not been served. The defendant
15 was arraigned on his second appearance before the Grand Court and entered the guilty plea.

16
17 14. It is agreed that he pleaded guilty at the first reasonable opportunity and is entitled to full credit.
18

19 **ANTECEDENT HISTORY**

20
21 15. The defendant has no previous convictions recorded against him.
22

23 **SOCIAL INQUIRY REPORT**

24
25 16. The Department of Community Rehabilitation (“DCR”) has provided a Social Inquiry Report
26 dated 24th September 2025 (“SIR”). The defendant is now twenty-six years old. He was initially
27 raised by one parent until he was sixteen years old. He reports being physically abused. He
28 completed High School although he had behavioural issues. The Probation Officer concludes
29 that he had a challenging childhood. He started tertiary studies but was not diligent in
30 completing them. He was employed at various jobs before becoming self-employed due to this
31 offending. He said that from his earnings he provides support for his child.
32

1 17. He has a serious health issue which in 2019 required major surgery. Notwithstanding this he
2 has continued to drink and smoke, which he has been advised against by medical personnel.
3 He told the Probation Officer that when he first met the victim, he was drunk.
4

5 18. The Officers' assessment is that the defendant attempted to justify his actions by saying that he
6 reluctantly engaged with the victim because she insisted on being with him. He appeared to the
7 Officer to be emotionally immature in some respects in that he has blamed his friends for some
8 of his actions during his younger years.
9

10 **VICTIM IMPACT REPORT**
11

12 19. With the assistance of the Department of Children and Family Services, the DCR has provided
13 a Victim Impact Report dated 7th October 2025, ("VIR").
14

15 20. The victim recounts a summary of the initial encounter with the defendant which is not accepted
16 by the defendant. She shared with the Social Worker that the defendant continues to insult her
17 by calling her degrading names and that throughout her pregnancy he sent her threatening
18 messages. After she gave birth, he denied the child stating that he is not placing his name on
19 the certificate as the father.
20

21 21. The Probation Officer who reviewed the matter concluded that the victim has been most
22 impacted at the psychological level. The Officer notes that the victim was in the early stages of
23 adolescence at the time the offending occurred and in the process of forming her sense of self.
24 Being rejected and called derogatory names by someone she trusted can lead to long term
25 damage to her image and self-confidence.
26

27 22. In the course of this hearing the Court was told that there were possibly issues of self-harm
28 with the victim and that this was a further reason that the defendant needed to be available to
29 provide support to her. The Court requested that the Probation Officer assist to verify this
30 information.
31



1 23. A further Report has been provided by the DCR which is dated 14th October 2025, and Counsel
2 have been afforded the opportunity to review and make any further submissions.

3
4 24. The Report states that the victim was recently rushed to hospital due to self-harm, she was
5 admitted over a three day period. She has since been referred to counselling which has been
6 arranged for her. Counselling support is also being provided to her mother.

7
8 25. Mother reports that they last received financial support from the defendant about one year ago.
9 They are struggling financially with having to pay for childcare to look after the child while
10 the victim resumes her schooling and for supplies for the child.



11
12 **THE SENTENCING GUIDELINES**

13
14 26. Both Counsel referred the Court to the *Cayman Islands Sentencing Guidelines* for the offence
15 of Defilement.

16
17 27. Counsel for the prosecution submits that the offence resulted in a pregnancy which places it
18 within Category 1 harm.

19
20 28. As to culpability, Counsel submits that this is either a Category A or B offence. Counsel refers
21 to the message sent by the defendant referenced above and says that this may be described as
22 intimidatory.

23
24 29. The starting point for a Category 1 A offence where the victim is over twelve years of age is 8
25 years imprisonment with a range of 6 to 9 years. The starting point for a Category 1 B offence
26 is 6 years imprisonment with a range of 4 to 7 years.

27
28 30. Defence Counsel accepts that the harm is at the level of Category 1 due to the pregnancy. It is
29 submitted that the culpability is at level B. Counsel explains that the message on which the
30 prosecution relies as a factor of intimidation is based on what the victim herself told the
31 defendant. His concern at that stage was that the victim should speak out as to what she had
32 told him was the truth.

1 31. Counsel asked the Court to note the circumstances of the offending in particular that the victim
2 in her ABE interview, said that she had forced the defendant to have intercourse with her.
3 Counsel said that while it is not intended by the submissions to blame the victim it is important
4 that the full picture is considered. This includes the very detailed messages exchanged by the
5 parties. Counsel submits that had the ages of the parties not been confirmed by other sources,
6 one would arguably not be able to tell from the messages exchanged that these were not two
7 persons with full capacity to consent.

8
9 32. Counsel refers to the following cases: -

10
11 33. In *R v Mark Charles Bodden*¹ the Court noted the increasing prevalence of offences of
12 Defilement. The defendant Bodden was ten years older than the victim. He had certain
13 vulnerabilities about which there was expert evidence. He received a sentence of 16 months
14 imprisonment.

15
16 34. Counsel submits that notwithstanding the pronouncement as to prevalence, the Court has
17 passed sentences to reflect the particular circumstances of each case.

18
19 35. In *R v Kevin McField*², there was a four-year age difference between the fourteen year old
20 victim and the defendant. He had been found hiding in a closet in the victim's bedroom at
21 2:30am on the night in question. They had been in a relationship as boyfriend and girlfriend.
22 He was sentenced to one year probation with a curfew and 100 hours of community service.

23
24 36. In *R v Randy McLean*³ the defendant was twenty-three years old; the victim was thirteen years
25 old. They had been in a relationship. The defendant was sentenced to 2 years imprisonment
26 suspended for 2 years and 50 hours community service.

27



¹ Grand Court Unreported Judgment Ind. 109/12, dated 4th March 2016

² Grand Court Unreported Judgment dated 16th June 2006.

³ Grand Court Unreported Judgment Ind. 48/13, dated 24th April 2014

1 37. In *R v Geoff Ryan Scott*⁴, the victim was fifteen years and four months old at the material time.
2 The defendant was twenty-two years old. He was sentenced to 2 years and 2 months
3 imprisonment followed by a probationary period of supervision.
4

5 38. Counsel accepts that these cases pre-date the *Guidelines* and that there are differences in the
6 circumstances.
7

8 39. In mitigation, Counsel submits that the defendant is of previously good character and is still a
9 young man. Counsel submits that no force or coercion was used on the victim and that the
10 defendant is remorseful and terrified of what the future now holds for him. He regrets that he
11 had not made more independent inquiries as to the victim’s age rather than recklessly accepting
12 her apparent maturity. He has been experiencing anxiety. He has not been able to see the child
13 and is fearful about what he will miss as a result of any custodial sentence.
14

15 THE SENTENCE

16
17 40. Under the general principles as to harm the *Guidelines* provide that the effects of sexual
18 offending may be physical and or psychological. The physical effects, injury, pregnancy or
19 sexually transmitted infection may be very serious. Paragraph 6 states: -
20

21 “In relation to offences against a child, the greater the age gap between the offender and
22 the victim, the higher the sentence is likely to be. However, the youth and/or immaturity of
23 the offender will also need to be taken into account.”
24

25 41. The Court has considered whether the offending passes the custody threshold in this case. It is
26 clearly serious noting that the harm is at the highest level. The end result is a teenage pregnancy
27 where the long-term implications are unavoidable. The victim continues to be in psychological
28 distress. Rather than render support, the defendant reacted with much anger, as is evident from
29 his message. He called the victim degrading names and belittled her.
30

⁴ Grand Court Unreported Judgment Ind. 75/19, dated 14th December 2020



1 42. The victim states in the VIR that she does not communicate with the defendant as he is not a
2 good example towards her nor their child and continues to insult her.

3
4 43. It is difficult to reconcile the suggestion that the defendant is remorseful and accepts
5 responsibility for his actions with the picture presented by the victim in her report. While at
6 this hearing the defendant denies the provision of illegal substances to the victim on the day of
7 the first sexual activity and says that the substance was provided by another person who was
8 present, what is not denied is that sexual activity took place. This must have been in
9 circumstances where the victim was in a compromised state.



10
11 44. The responsibility rested on the defendant as the adult.

12
13 45. In the Court's view the offending is serious and the custody threshold is clearly passed.

14
15 46. Both Counsel accept as thus this Court that the harm is at the level of Category 1. As to
16 culpability, the submission of Counsel for the defence is accepted that this is a Category B
17 offence. Given the explanation which is advanced, the message is not treated as a factor which
18 increases culpability. A Category 1 B offence has a starting point of 6 years custody.

19
20 47. In mitigation the Court takes into account everything said and written in favour of the
21 defendant. He has no previous convictions and is of good character. He is twenty-four years
22 old, relatively young and is said to be immature for his age. He had a difficult childhood. He is
23 remorseful. He has endeavoured to be gainfully employed despite his circumstances and is
24 willing to support the child. He has a serious health issue. He is at medium risk of re-offending.
25 To these I also add the fact of the circumstances of the offending as raised by defence Counsel.
26 All these factors serve to reduce the sentence by 30 months to 42 months. He is given one third
27 credit for his guilty plea for a sentence of 28 months imprisonment.

28
29 48. Consideration has been given to whether this sentence or any part of it should be suspended.
30 There is nothing in the personal circumstances of the defendant balanced against the serious
31 nature of the offending which suggests that the sentence should be suspended in its entirety. I
32 bear in mind nevertheless what is said to be his relative immaturity. The aims of sentencing in
33 this case must include punishment and rehabilitation. There is also a concern that the defendant

1 should assist in providing for the child. Consequently, the defendant is to serve 18 months'
2 immediate custody. Any time served is to be deducted. Also to be deducted is 50% of the time
3 spent on curfew or 100 days.
4

5 49. While in custody the defendant is to receive the benefit of the sex offender treatment
6 programme as recommended by the Probation Officer and any other treatment programme
7 deemed necessary. He is also to receive alcohol and drug counseling.
8

9 50. The remaining sentence of 10 months is suspended for 2 years following his release from
10 Prison. A Supervision Order is made pursuant to s.21 of the *Alternative Sentencing Act* (2008
11 Revision). During the 2 year period the defendant is to be supervised by the Probation Officers
12 and assisted as much as is possible. Pursuant to s. 42 of the *Penal Code*, he is to perform 120
13 hours of community service in 12 months. The Court asks that during the 2 year period of his
14 supervision, he be assisted by Probation to secure employment so that he can begin financial
15 contributions toward the support of the child.
16

17 **SEXUAL HARM PREVENTION ORDER**
18

19 51. The prosecution has applied for a sexual harm prevention order which is not opposed by the
20 defence. The Court finds that such an order is necessary to protect children from the defendant
21 and makes the order in terms of the draft which has been agreed by Counsel.
22

23 **Dated this the 16th day of October 2025**

24 

25 **The Hon. Justice Cheryll Richards KC**
26 **Judge of the Grand Court**