



1 IN THE GRAND COURT OF THE CAYMAN ISLAND
2 CRIMINAL DIVISION

3 INDICTMENT No. 26/2022

4
5
6 HIS MAJESTY THE KING

7
8
9 -v-

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11
12 RENATO ROLANDO HARRIS

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15 **Appearances:** Ms. Sarah Lewis, Crown Counsel for the Prosecution
16 Mr. Keith Myers and Mr. Richard Barton for the Defendant

17
18 **Before:** Hon Mrs. Justice Marlene Carter (Actg.)

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20 **Date of conviction:** 9 December 2022

21
22 **Date of Sentence**

23 **Hearing:** 31 January 2023

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25 **Sentence Delivered:** 15 February 2023

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29 **HEADNOTE**

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31 *Criminal Law – Sentence – Rape- Sustained attack*

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34 **SENTENCE JUDGMENT**

- 35
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37 1. Section 31 of the *Criminal Procedure Code (2014 Revision)* deals with the “Anonymity of
38 complainants in rape etc. cases and states:

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40 “31.(1) After a person is accused of a rape [etc.] offence, no matter likely to lead
41 members of the public to identify a woman as the woman against whom the
42 offence is alleged to have been committed shall be published in a written
43 publication available to the public or be broadcast, except as authorised by
44 a direction of the court.”

- 45
46 2. The woman against whom the offence has been committed will be referred to as “the
47 complainant” to protect her identity.



1 **The Facts**

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3 3. The defendant was found guilty of two offences of rape contrary to section 127 of the Penal Code
4 (2019 Revision) after a judge alone trial on 09 December 2022. The following are the facts of the
5 case taken largely from the Crown's written sentence submissions with which Counsel for the
6 defendant has indicated to the Court that the defendant takes no issue.

7
8 4. On the evening of Friday 13 July 2018, the complainant, went out with friends in the Seven Mile
9 area to celebrate finishing an examination. The complainant and her friends went to Barolos Wine
10 Bar on the West Bay Road where they socialised and consumed alcohol before moving venues
11 and driving to OBar, a bar in Seven Mile Plaza. There was some confusion upon arrival resulting
12 in the complainant, who believed that her friends were behind her, arriving in OBar to find that
13 she was alone. There she ran into the Defendant, whom she had met some months previously and
14 knew to be a DJ at Margaritaville.

15
16 5. Since that initial meeting they had exchanged numbers and the defendant would message the
17 complainant to invite her to events that he would DJ at, and at times, they had frequented the
18 same events. There was no suggestion on either side of a romantic relationship.

19
20 6. The complainant stayed in the company of the defendant. The defendant bought her at least two
21 alcoholic drinks during the time that they were together at OBar. The complainant had already
22 been consuming alcohol that evening and described herself as feeling drunk at this point
23 (estimating her drunkenness to be 7/10). Feeling the effects of the alcohol that she consumed,
24 the complainant suggested to the defendant that she wanted something to eat. The defendant
25 drove them both to Burger Shack where he bought her a burger.

26
27 7. It was between 2 and 3am at this point, and the complainant was under the impression that they
28 were going to go to Hell in West Bay. She was therefore surprised when Mr Harris turned the car
29 towards George Town. This happened shortly after the pair had kissed. The complainant
30 questioned Mr Harris about it, and he said that something with his son had come up. The
31 complainant did not press him about it as she was starting to feel very drunk.

32
33 8. When the car pulled up at a house the defendant went inside, the complainant stayed in the
34 passenger seat of the vehicle. When Mr Harris returned, he said "*Forget about West Bay, come*
35 *inside*". The complainant remembers going into the house however, she did not remember
36 anything more beyond this point as she blacked out.

- 1 9. The next morning the complainant awoke in unfamiliar surroundings. She realised that she was
2 in a strange bed and was naked. The defendant was lying next to her and was also naked. The
3 complainant described that she felt something wet between her legs and, in her words, “freaked
4 out” realizing that Mr Harris had had sexual intercourse with her whilst she was unconscious. She
5 asked Mr Harris if he had ejaculated inside her. When he confirmed that he had, she pleaded with
6 him to take her home so she could get the morning after pill. Mr Harris reacted by saying words
7 to the effect of “*Calm down! Why are you having this reaction?*”
8
- 9 10. The complainant tried to scramble up to find her belongings, but Mr Harris pushed her down on
10 the bed, got on top of her and, whilst the complainant cried and screamed “*get off me!*” Mr Harris
11 forced himself onto the complainant for a second time, penetrating her vagina with his penis. She
12 described herself as feeling like a cockroach, on her back flailing under him. She continued crying
13 telling him to get off her and he didn’t. Eventually the ordeal stopped, and the complainant rolled
14 towards the wall and cried.
15
- 16 11. The complainant pleaded with the defendant to take her to a pharmacy and drop her home. Mr
17 Harris drove her to a pharmacy and purchased the morning-after pill and then dropped the
18 complainant home. At home she took the pill, however several weeks later, she took a pregnancy
19 test which confirmed that she was pregnant.
20
- 21 12. In August 2018 the complainant left the Cayman Islands to return home. She terminated the
22 pregnancy.
23
- 24 13. In October 2018 the complainant made a report of the incident to the Royal Cayman Islands
25 Police. The defendant was interviewed under caution on 03 December 2018 and subsequently
26 charged with the present offences.
27

28 **The applicable sentencing guidelines**

- 29
- 30 14. Pursuant to Section 127 of the Penal Code (2022 Revision) the maximum sentence for rape is life
31 imprisonment.
32
- 33 15. The Cayman Islands’ Sentencing Guidelines for Sexual Offences (the ‘Guidelines’) issued in
34 April 2020 broadly reflect the approach that has been taken by the local courts in cases of this
35 kind and themselves refer to the judgment of the Court of Appeal in *R v Dilbert*¹.

¹ [2010 (1) CILR 10]



1 16. In *Dilbert* the CA held:

2
3 *“The appropriate starting point when sentencing for an offence of rape with no*
4 *aggravating or mitigating factors would be between 10 and 12 years.*

5
6

The presence of any one of the following aggravating factors could warrant
7 *an uplift of the appropriate starting point to a sentence of 15 years or more;*

8 (i) *Rape committed by two or more offenders acting together;*

9 (ii) *If the offender is in a position of responsibility towards the victim;*

10 (iii) *The abduction of the victim;*

11 (iv) *Rape of a child or vulnerable victim;*

12 (v) *Was part of a vulnerable minority;*

13 (vi) *Repeated rape in the course of one attack;*

14 (vii) *The offender was knowingly suffering from a sexually*
15 *transmissible disease, regardless of the victim’s knowledge of it.”*

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Mitigating factors would also have to be taken into account which
18 *could reduce the sentence below the 10 year tariff and these included*
19 *a guilty plea.”*

20
21 **The Crown’s Position on Sentence**

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23 17. As per the Guidelines, the Crown submits that the offending of this defendant falls within that
24 category 2 Harm, culpability A. The Crown points to several factors to support such a finding of
25 harm:

26 *“In terms of determining the offence category, there are a number of features*
27 *that cause an offence to be considered a category 2 offence, including the rape*
28 *resulting in pregnancy, severe psychological harm and a sustained incident.*
29 *The starting point for an offence with this categorisation is 20 years with a*
30 *sentencing range of 15-24 years.”*

31
32 Regarding culpability the Crown submits that use of alcohol on the victim to facilitate the offence
33 signifies culpability A.
34

35 18. Crown Counsel noted that if the court were to find that the defendant’s offending fell within
36 category 1 Harm, *“If the offending amounts to a campaign of rape or repeated offences, or one*
37 *or more category 2 factors are deemed to be extreme in nature or cause extreme impact,”* the

1 starting point would be 25 years with a range 20-30 years for an accompanying culpability A
2 offence, and 20 years with a range of 15-24 years) for a culpability B offence.

3
4 19. The Crown further submits the following are aggravating factors for the court's consideration:

- 5 (i) *Intoxicated victim provided with more alcohol by defendant to*
6 *facilitate first rape/ advantage taken of victim's unconscious state*
7 *to facilitate first rape;*
8 (ii) *Second rape perpetrated by force;*
9 (iii) *Repeated rapes in the course of one attack = sustained incident.*
10 (iv) *Rapes resulted in pregnancy*
11 (v) *Victim suffered psychological harm: diagnosed with Acute Stress*
12 *Disorder, considered self-harm, became a recluse, failed exams,*
13 *ruined medical career path.*

14
15 20. The Crown noted that there is in this case an absence of aggravating features such as breaking
16 into the victim's home, pre-planning and other injuries caused. The defendant has no relevant
17 previous convictions for similar offending.

18
19 21. The Crown submits that "*the appropriate sentence in totality, considering the aggravating and*
20 *mitigating factors and the categorisation in the Guidelines, is one of 18 - 20 years.*"

21
22 **The Victim Impact Report ("VIR")**

23
24 22. The Crown submitted a VIR prepared by the Department of Community Rehabilitation for the
25 court's consideration on sentence.

26
27 23. The complainant related the impact of the offence.

28 *"In the immediate period after the incident 'I experienced pain in my vaginal*
29 *area. This pain lasted for approximately a week. I felt very physically gross.*
30 *I felt 'he was on me' for several weeks post the incident despite me scrubbing*
31 *myself."*

32
33 *"[The complainant] also highlighted the extensive emotional impact that she*
34 *experienced. She divulged that she had panic attacks, anxiety and depression*
35 *as a result. She also disclosed that she was suicidal."*

36



1 *"It was coming up to the end of Semester exams but I could not go to class, I*
2 *could not study because it was easier to sleep because when I wake up I would*
3 *wake crying and would go to bed crying. It was easier to sleep and hope that*
4 *the nightmares would not come. Up to about eight months post the incident I*
5 *was still having nightmares."*

6
7 *"I was referred to the Cayman Red Cross and this agency assisted me with*
8 *accessing services. I started counselling at the Counselling Centre and after*
9 *returning to my home country I continued counselling, attending twice per*
10 *week."*

11
12 *"Another significant emotional impact of the offence was the resulting*
13 *pregnancy...I was already drained by the depression and anxiety and this was*
14 *compounded by the early pregnancy symptoms so I could not get out of bed,*
15 *could not eat due to being nauseous. All of this happening while I still had to*
16 *try focusing on school and my studies."*

17
18 *"...it has significantly changed me and how I view people. It changed clubbing*
19 *and night life for me. I can no longer be in that space. Now I see things for*
20 *what they are and what happens in that space. I am not saying everyone in*
21 *that space is a bad person but they do turn a blind eye to things."*

22
23 *"I went quiet on my social media because persons in his social network 'stalked*
24 *me'. Seeing some of the posts on certain social media outlet and some of the*
25 *comments and seeing that he is still very much embraced post-conviction, I*
26 *would not feel safe in the Cayman Islands."*

27
28 *In speaking to the ongoing impact [the complainant] spoke of her dashed*
29 *dreams of becoming an OB/GYM. The complainant related this latter to her*
30 *inability to continue with her studies as a direct result of these offences.*

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33 **Submissions on Sentence on behalf of The Defendant**

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36 24. Counsel for the defendant submitted that the offence falls within the Category 2, Culpability B
37 on the basis that the offence involved severe psychological harm and the Victim having become
38 pregnant as a result of the offence.



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25. Counsel for the defendant did not agree with the Crown that this was an offence which merited a finding of culpability A. Counsel argued that the court should find that there was a distinction between a victim who had already been drinking prior to her interaction with the defendant as in this case and a situation where the defendant himself supplies the victim with alcohol with the intention of committing the offence. Counsel noted that this was the only factor that could lead to the offence being at category A and instead submitted that it was at Category B, there being none of the factors in Category A present. Counsel for the defendant submitted that the starting point for a Category 2B offence was 15 years custody with a sentencing range of 10-19 years custody.

Mitigating Factors

26. In mitigation, Counsel for the defendant noted that the defendant was now forty (40) years of age. He is the father of four children ranging in ages from 4 to 16 years. The defendant is the primary care giver for his eldest child who has been living with his mother, since the defendant was convicted for the instant offences. Counsel stated that the defendant maintains a healthy relationship with his parents and his children. The Court was invited to consider how this conviction and sentence will continue to affect Mr Harris’s family and employability for the remainder of his life.

27. The court was also invited to consider character letters written by members of the local community on the defendant’s behalf. The letters speak to the defendant’s involvement as a close friend, husband and father and describes him as kind, generous, polite, and hardworking.

Social Inquiry Report (“SIR”)

28. The Department of Community Rehabilitation also produced for the court’s consideration a Social Inquiry Report in respect of the defendant. As always, this court is grateful to the Department for their continued assistance to the court.

29. The SIR states that the defendant was born and grew up in Jamaica. He described a stable home environment, and a happy childhood. He migrated to the Cayman Islands in 2004 and was employed as a Disc Jockey from 2005 until 2019 until he was fired from his employment for tardiness.

30. The defendant has never been diagnosed with any mental, psychological, or learning disorder nor, it appears from the report, does he engage in the use of illegal or illicit drugs. While the defendant

1 does not have any conviction for a previous relevant offence the defendant does have convictions
2 for offences of Cruelty to a Child and Assault Causing Actual Bodily Harm. These previous
3 convictions, together with the defendant's non-compliance with previous imposed orders of the
4 Court, a Community Service Order in 2015 and a Probation Order in 2016, caused the defendant
5 to be assessed as being at high risk in the component of Pro-Criminal attitude and Orientation.
6 However, the defendant's overall risk of re-offending was assessed as medium.

7
8 31. The defendant was assessed at high risk of sexual reoffending based on the Risk Matrix 2000
9 Assessment what the SIR describes as "*a static risk assessment used to predict risk of sexual*
10 *reoffending.*"

11
12 32. The SIR reveals that the defendant "*did not express any sort of remorse or empathy towards the*
13 *victim. In fact, he voiced great discord about the victim as he believes that he is in fact the victim*
14 *in the case after being falsely accused and convicted of such a serious offence.*"

15
16 33. The probation officer noted that the defendant:

17
18 *He stated: "she destroyed my life, she targeted me and preyed upon me." He also shared that*
19 *the victim "had always wanted to get with him."*

20
21 34. It is noteworthy that the defendant further stated to the Probation Officer that the complainant
22 was "*known to be a party animal.*" This was not a suggestion raised at trial where the defendant's
23 evidence was that he was only aware of the complainant in a peripheral way. This was not a
24 suggestion that was ever put to the complainant.

25
26 **Court's considerations**

27
28 35. This court must strive to find the appropriate sentence in this case.

29
30 36. This court has previously referred to the words of Harripersad-Charles J². in seeking to convey
31 where the offence of rape sits on the spectrum of serious offences: In *R. v. Huggins*³, Hariprashad-
32 Charles, J. stated: "*Short of homicide, it [rape] is the 'ultimate violation of self'. It is a violent*
33 *crime because it normally involves force, or the threat of force or intimidation to overcome the*
34 *will and the capacity of the victim to resist. Along with other forms of sexual assault, it belongs*
35 *to that class of indignities against the person that cannot ever be fully righted and that diminishes*
36 *all humanity.*"

37

² R v Okono Solomon

³ (BVI HCR 2009/001) [38],

- 1 37. Those sentiments remain relevant. In this case there is the clear use of force to commit one of
2 the offences.
- 3
- 4 38. The complainant has described to this court the effect of this offending: “*it has significantly*
5 *changed me and how I view people. It also made me hyper aware that you really cannot trust*
6 *anyone...*” The complainant described feelings of panic, anxiety, depression, and suicidal
7 thoughts. She had had to embark on counselling to assist her in dealing with the ongoing mental
8 and psychological effects of the offences.
- 9
- 10 39. The sentence of this court cannot right the wrong that has been perpetrated on the complainant.
11 The court’s sentence must both punish the defendant and deter other would be offenders from
12 subjecting anyone, especially young women, to behaviour of this sort.
- 13
- 14 40. After consideration of the facts and Guidelines I am satisfied that this is a Category 2 Harm
15 offence. The psychological harm to the complainant as outlined in the VIR, and the fact of the
16 pregnancy as a consequence of the offence merit such a finding. As to culpability, the only factor
17 which could cause this court to find that the offence rests at Category A culpability is if the court
18 were to agree with the Crown that there was evidence of the use of alcohol on the victim to
19 facilitate the offence This was not the premise upon which the Crown put its case. Although the
20 evidence at trial was that the defendant bought the complainant at least two drinks while at Obar,
21 the evidence was not of the defendant plying the complainant with alcohol to support a finding
22 of the use of the alcohol on the victim to facilitate the offence. This is an offence at Culpability
23 B. None of the factors at Category A are present. The starting point for sentence is 15 years
24 imprisonment with a range of 10-19 years.
- 25
- 26 41. Some of the aggravating factors as outlined by the Crown have already been considered in
27 determining the starting point and sentence range as above and are not double counted here.
28 However, the following aggravating factors remain relevant:
- 29
- 30 (i) *Advantage taken of victim’s unconscious state to facilitate first rape;*
- 31 (ii) *Second rape perpetrated by force;*
- 32 (iii) *Repeated rapes in the course of one attack = sustained incident.*
- 33
- 34 42. The sole mitigating factor is that this defendant does not have any previous relevant convictions.
35 The aggravating factors outweigh the mitigating factors and merit an increase to the starting point
36 for the offence. The starting point is increased to 17 years imprisonment.



1 43. I have considered the other submissions of counsel on mitigation and specifically the matters set
2 out at paragraphs 26 and 27 above. For personal mitigation the court will discount this sentence
3 by 6 months.

4

5 44. The sentence of this court on count 1 of the indictment is 16 ½ years imprisonment. The sentence
6 on Count 2 is also 16 ½ years imprisonment. These sentences will run concurrently. Any
7 previous time that the defendant has spent in custody as a result of this offence is to be deducted
8 from this sentence.

9

10 **Sexual Harm Prevention Order (SHPO)**

11

12

13 45. The Crown has applied for the imposition of a Sexual Harm Prevention Order for a period of not
14 less than 5 years.

15

16 46. I consider that a SHPO is necessary in the circumstances of this case and that the conditions for
17 the imposition of this order are satisfied as per Section 45A of the Penal Code (2022 Revision).
18 The circumstances of this offence and the effect of the offending on the victim are the court's
19 primary considerations.

20

21 47. The SHPO is imposed for a period of 4 years from the date of the defendant's release from custody
22 upon the following conditions:

23

24 (i) You are prohibited from contacting the complainant directly, indirectly or by any means
25 whatsoever.

26

27 (ii) You shall notify an officer of the Royal Cayman Islands Police Service, at George Town
28 Police Station, at the rank of Sergeant or above of your residence and associated
29 telephone numbers in writing within 48 hours of your release from imprisonment.

30

31 (iii) You shall notify an officer of the Royal Cayman Islands Police Service at the rank of
32 Sergeant or above, at George Town Police Station, of any change to your residence,
33 telephone number and email contacts in writing within 48 hours prior to any change.

34

35 (iv) You shall notify an officer of the Royal Cayman Islands Police Service at the rank of
36 Sergeant or above, at George Town Police Station, in writing and at least 3 days in
37 advance of any travel between the Sister Islands of the Cayman Islands. Such
38 notification shall include the travel itinerary of intended means of travel, the details




1 concerning persons and place you intend to visit together with the location and name of
2 the premises in which you intend to stay.

3
4 **N.B.** Where the offender has made a notification but has been advised that the
5 information notified is inaccurate or incomplete, he must report in person to George
6 Town Police Station and make a fresh notice to any officer of the Royal Cayman Islands
7 Police Service, at the rank of Sergeant or above, of his intentions in writing no later than
8 24 hours before his departure.

9
10 (v) You shall notify an officer of the Royal Cayman Islands Police Service at the rank of
11 Sergeant or above, at George Town Police Station, in writing of any change to, or
12 applications to change any identity documents providing the reasons for wanting to make
13 such change to your identity.

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18 
19 **Hon. Mrs. Justice Marlene I. Carter**
Judge of the Grand Court (Actg.)