

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS  
2 CRIMINAL SIDE  
3  
4

5 INDICTMENT NO: 0086/2010  
6

7  
8 THE QUEEN  
9

10 V  
11

12 ANDREW JASON EBANKS  
13  
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16 **Appearances:**

**For the Crown:**

17 **Mr. Kenneth Ferguson Crown Counsel, on behalf of**  
18 **the DPP**

19 **Defence Counsel:**

20 **Mr. John Furniss on behalf of the Defendant**  
21

22 **Before:**

**Honourable Mr. Justice Charles Quin**

23 **Sentencing Submissions Heard:**

**6<sup>th</sup> February 2013**  
24

25 **SENTENCE RULING**  
26

27  
28 1. On the 15<sup>th</sup> April 2011 the Defendant pleaded guilty to Count 2 on this two-count  
29 Indictment – Defilement, contrary to s.134(1)(b) of the Penal Code (2010 Revision),  
30 and the Crown decided to proceed against the Defendant on Count 1. On the 7<sup>th</sup>  
31 November 2012, the Crown decided not to pursue the trial on Count 1 and that  
32 charge has been left on file.

33 2. The particulars of Count 2 are that the Defendant, on Saturday the 27<sup>th</sup> day of  
34 November 2010 had carnal knowledge of a girl between the ages of 12 and 16.  
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1 *SUMMARY OF FACTS*

2 3. At the time of the commission of this offence the Defendant was 30 years of age. He  
3 lived with his wife and two children. The house was shared with another couple and  
4 their two children – one of whom was the victim.

5 4. On the 27<sup>th</sup> November 2010 the victim and her younger sibling were left in the care  
6 of the accused while their parents attended a party. At some point during the night  
7 while the victim was seated around the computer the Defendant began to massage  
8 her shoulders. She shrugged him off and told him to stop. The Defendant then tried  
9 to put his hands between her legs. Again the victim told him to stop. The Defendant  
10 persisted and the victim fought off his advances. The Defendant was interrupted  
11 when the younger child, who had been in another room, called out to the Defendant.  
12 The Defendant went to check on the younger child, during which time the victim  
13 sought refuge in her bedroom, locking the door behind her and hiding under the bed.  
14 The Defendant pried the door open, pushed the victim in the closet and forced  
15 himself on her.

16 5. The following evening the victim confided in her friend that she had been assaulted  
17 by the Defendant. The friend relayed this information to her aunt, who reported the  
18 matter to the police.

19 6. The Defendant was subsequently arrested and cautioned, to which the Defendant  
20 replied,

21 *“I didn’t mean to do it but I did. That’s why I said let’s go. I couldn’t help*  
22 *myself. I know I did wrong. I should have turned myself in before. I was drunk.*  
23 *This is the first time I do anything wrong.”*



1 7. The Defendant was interviewed by the police in the presence of his attorney. The  
2 Defendant admitted the offence but said that he did not force her. He said he was  
3 drunk and he could not remember all the details of the incident. The Defendant  
4 admitted that he knew the age of the victim.

5 *SUBMISSIONS ON BEHALF OF THE DEFENDANT*

6 8. Defence counsel, Mr. Furniss, has asked the Court to take into consideration that the  
7 Defendant tendered an early guilty plea.

8 9. Defence counsel stated that the Defendant had an alcohol problem and could not  
9 recall all the details.

10 10. Dr. McGill is of the opinion that the Defendant is a man with significant  
11 psychological problems.





1 *CONCLUSION*

2 17. This is a serious offence and one cannot underestimate the psychological damage  
3 and the emotional trauma that the young girl and her family have suffered.

4 18. Ms. Anglin highlights the facts that demonstrate that the Defendant has had a very  
5 disturbed and unhappy childhood. The Defendant's father has been a serious drug  
6 user and has spent time in prison. Regrettably, the Defendant's mother also appears  
7 to have shown very little interest in the Defendant. Ms. Anglin confirms that the  
8 Defendant was frequently shuttled to different foster homes, with intermittent  
9 periods with his mother. The Defendant has also spent time in different schools  
10 including some time at the Lighthouse School in Grand Cayman.

11 19. It is clear that the Defendant received minimal love and virtually no security from  
12 either of his parents - one of the results of which is that the Defendant suffers from  
13 significant medical and emotional difficulties. Ms. Anglin confirms that all this has  
14 led to a very unstable and unhappy childhood for the Defendant.

15 20. I take into account that when the Defendant was apprehended he immediately  
16 admitted his guilt. I also take into account that the Defendant entered his guilty plea  
17 for this offence nearly two years ago.

18 21. I take into account that the Defendant has shown, to the police and to the Probation  
19 Service, genuine remorse and contrition.

20 22. An offence of this nature would normally attract an immediate custodial sentence. I  
21 note that the Defendant was in prison from November 2010 until late July 2011.



1       23.    I take into account that the Defendant has already been in custody for over 8 months.  
2            This period, in itself, is a significant period of punishment. Since his release from  
3            prison in late July 2011 the Defendant has complied with all his bail conditions and  
4            his Probation Officer has highly commended his attitude and his conduct.

5       24.    I take into account that the Defendant has no previous convictions.

6       25.    At the time of his arrest the Defendant was working as a labourer with Edgewater  
7            Development. As soon as he was released in 2011 he immediately returned to his  
8            job. I also take into account that he is 30 years of age with a wife and two young  
9            children. He is in full employment and has a good employment record. It is very  
10          important that he continues to provide for his dependents.

11       26.    I have taken into account everything that has been submitted by both counsel and I  
12          have read these SIR, the Victim Impact Report and the medical reports relating to  
13          the Defendant. What is of utmost importance is that, the Court must endeavour to  
14          create the circumstances to try to ensure that the Defendant does not ever commit, or  
15          even contemplates committing any such offence again.

16       27.    I am grateful for the assistance of both Mr. Ferguson and Mr. Furniss and I am  
17          prepared to follow the Defence counsel's recommendation and invoke the provisions  
18          of the Alternative Sentencing Law (2008) and therefore, pursuant to s.21, I impose a  
19          sentence of two years' imprisonment to reflect the seriousness of the offence, but I  
20          also order a suspended sentence supervision order and I place the Defendant under  
21          the supervision of the DCR for two years.

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1        28. The Defendant must attend any psychiatric, medical or counselling sessions  
2                recommended by his assigned Probation Officer.

3        29. It must be made absolutely clear to the Defendant that, should he commit any similar  
4                offence he will be the subject of a custodial order for a period of two years  
5                imprisonment.

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7        **Dated this the 20<sup>th</sup> February 2013**

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**Honourable Mr. Justice Charles Quin**  
**Judge of the Grand Court**