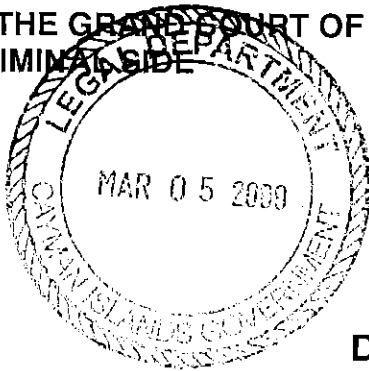


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**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CRIMINAL SIDE**



22/1/09

Hibam

Criminal

**INDICTMENT NO: 54//08**

**THE QUEEN**

**V**

**DORIAN DOLAN HUNTER**

**Appearances:**

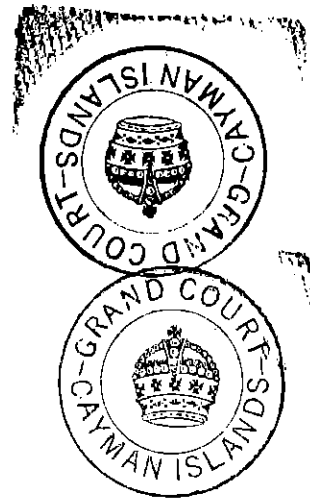
**Crown Counsel – John Masters  
Defence Counsel – John Furniss**

**Before:**

**Hon. Justice Quin Q.C.**

**Heard:**

**12<sup>th</sup> – 16<sup>th</sup> January 2009**



**RULING**

1. The defendant, Dorian Dolan Hunter, is charged with three counts of indecent assault, contrary to Section 132 of the Penal Code (2006 Revision) and one offence of rape, contrary to Section 127 of the Penal Code (2006 Revision)
  
2. The first three counts relate to charges of indecent assault, occurring between the 1<sup>st</sup> day of November and the 30<sup>th</sup> day of November 2006 whilst at the compound of the Cayman Islands Fire Station on Cayman Brac, where it is alleged that Dorian Dolan Hunter indecently assaulted Saskia Walton.
  - a. On the first count, the allegation is that Mr. Hunter touched her breast
  - b. On the second count, the allegation is that he kissed her without her consent.
  - c. On the third count the allegation is that he forced her to perform fellatio on him.

3. On the fourth count, the allegation is that the defendant raped Saskia Walton on a date between the 1<sup>st</sup> of November and the 31<sup>st</sup> December 2006, by having unlawful sexual intercourse with her without her consent.
4. The defendant chose trial by judge alone.

## **PROSECUTION**

### **COUNT 1**

5. The Crown's case is based on the evidence of the complainant, Saskia Walton, given on the 12<sup>th</sup> January 2009.
6. The complainant stated in her evidence that she was on duty in the Control Room at the Cayman Brac Fire Station. She stated that whilst she was alone in the Control Room performing her duties the defendant came in and put his hands in her shirt and felt her breasts. She recalled him touching her left breast and stated that she did not consent to him touching her in this manner.
7. Asked how she felt after he touched her breast she said she felt shocked and started cursing him. He said he just "wanted a feel."

## **COUNT 2**

8. The complainant said that during the course of a communication exercise in the fire vehicle "Mr. Hunter kissed my cheek."
9. The complainant said the defendant kissed her right cheek whilst she was sitting in the fire vehicle and Mr. Larry Scott was the driver. She was beside the driver and the complainant was to her right, so she was in the middle of both men. She said that she did not give the defendant permission to kiss her at all.
10. When asked how she felt, she said she was shocked and "could not believe that he just did that."

## **COUNT 3**

11. The complainant stated that she was in the bathroom, going to have a shower, and she was unaware that the defendant was also in the bathroom.
12. She said she was about to change when the defendant came out of one of the stalls and insisted on taking pictures.
13. She said the defendant also said that he wanted the complainant to give him a blowjob. The complainant explained that the defendant wanted her to perform oral sex on him and the words he used were that he wanted "a blowjob." She told him no, whereupon, he grabbed her by the hair and again stated that she should give him a blowjob.

14. The complainant stated that the defendant unzipped his coverall, forced her to the ground and told her to kiss his penis. The complainant said the defendant kept forcing his penis into her face and telling her to kiss it. The complainant said she refused, whereupon the complainant stated that the defendant pulled on her hair tighter, and told her to open her mouth – which she did. She then performed oral sex.
15. The complainant also said that the defendant ejaculated in her mouth.
16. The complainant stated that the defendant's phone then rang and the defendant left the bathroom.

#### **COUNT 4**

17. The complainant stated that she drove her sister and Sarah Dixon to a party. She herself left the party, because there was a much younger crowd there.
18. The complainant left the party to go to The Captain's Table. As she was driving to the Captain's Table the complainant said she saw a figure walking on the side of the road. When she passed the person, she thought the person seemed to be in some kind of distress. Therefore she looked in the rearview mirror, reversed and decided to stop.
19. The complainant got out of the car to check the person, and only then realised it was the defendant.

20. The complainant said that the defendant said to her "I told you I would get you," whereupon she tried to leave.
21. As she was running away she tripped, because she was wearing heels, and the defendant came on top of her. The complainant said that the defendant forced himself on her.
22. When asked what penetration meant she said "putting his penis in my vagina." When asked if the penis entered the vagina, the complainant said, "I don't know. All I know is that there was pressure being applied." She could not say if the defendant was all the way in her because she was fighting him off.
23. The complainant was asked in examination-in-chief whether she felt any of him was in her and she said "no, not really."
24. Further when asked how much of his penis "entered your vagina, do you know how far in" the complainant said, "No I don't know."
25. When asked by Crown Counsel "Are you saying his penis entered your vagina but you don't know how much?" She replied, "Yes I don't know. I never had sex before so I really don't know."

## DEFENCE

### COUNT 1

26. When it was put to the defendant whether he surprised the complainant by entering into the Control Room at the Fire Station and putting one hand inside her T-shirt to feel one of her breasts, he said "That's not true."

### COUNT 2

27. The defendant admitted that he did kiss the complainant. The defendant stated that the complainant invited him to smell her perfume and also to kiss her. He said that is the reason he did it. He said he only kissed her because of the invitation. He said the complainant asked him to smell the perfume and, after doing that, she asked him to kiss her on the neck, which he did. He said the complainant, far from resisting it, actually invited him to do so.

### COUNT 3

28. The defendant said he never forced the complainant to have oral sex in the bathroom. He did not grab her by the hair and pull her down. And he did not force her to have oral sex, nor did he ejaculate in her mouth.

### COUNT 4

29. The defendant denied having unlawful sexual intercourse with the complainant. He denies that he was ever out on the "south side" near the Bat Cave. He denies meeting the complainant there or forcing her to the ground – either on the roadway or on the verge. He was asked specifically whether he had put his penis in her vagina, to which he replied "No Sir."

**MR.. LARRY SCOTT**

30. Mr. Larry Scott who gave evidence has been a fireman since June 1994.

31. He recalled the training exercise when the complainant and the defendant were in the truck.

32. He recalls the defendant kissing the complainant on the neck on two occasions, and, in fact, Mr. Scott said he asked the defendant to stop.

33. Mr. Scott felt that the defendant's conduct was inappropriate. He said that there was no conversation leading up to the kiss on the neck. Furthermore, Mr. Scott felt the complainant bump up against him as if she was trying to get away from the defendant.

34. Mr. Scott said that some of the things that the men did with the complainant were not right. He said they did not treat her like a lady.

35. He confirms that she was considered attractive and was well liked.

36. He recalls seeing a photo which came up on Mr. Conolly's computer. He said that women got bad treatment in the fire station and that there was a lot of gossip that was not nice. He described the fire station as a very unpleasant environment. He said women "get bad treatment."

## CROSS-EXAMINATION

37. Mr. Scott said he told the defendant to stop when he was kissing the complainant in the fire truck. When the defendant kissed the complainant again Mr. Scott told him again and the defendant did stop.

38. Mr. Scott said he recalls an occasion at the station when he was looking for the complainant and he could not find her. He also called for the defendant and he knocked on the bathroom door.

39. Mr. Scott said the defendant came out and spoke to him and said, "You have messed something up. You stopped me from getting a blowjob." Mr. Scott said the defendant said he was also trying to take pictures of the complainant naked.

40. Mr. Scott said he recalls "when she was in Grand Cayman when we spoke of the picture." The complainant was upset by the conduct generally (at the fire station). I asked her whether she had reported the problem and she said she did.

41. After the incident in the bathroom Mr. Scott said he asked the complainant about it and she said nothing. She just dropped her head, and she did not look happy, "whereas, Mr. Hunter was smiling and saying that I had stopped him getting a blowjob."

42. Mr. Scott also said that the complainant complained of the defendant's conduct from time to time.

## **REASONS FOR JUDGMENT**

43. The complainant says that one of the reasons that she did not complain about each of these acts was that she knew how the system worked "over there." She said that even if she made a complaint it would have no affect. The culture of the male-dominated fire station means that anything goes. This was confirmed by Mr. Larry Scott and the defendant.

44. The defendant in his evidence accepts this and clearly it was not unusual for pornographic photographs to be swapped around.

45. Furthermore Larry Scott confirms that the complainant was not treated well.

46. I find Mr. Scott to be both a credible and courageous witness who is prepared to blow the whistle on the inappropriate and improper treatment meted out to the complainant. He has not remained silent, which many might consider to be the easier option.

47. The complainant did make a complaint to Mr. Kennedy Douglas about general sexual harassment, but it seemed to get nowhere.

48. In relation to the rape, the complainant did not tell her sister or her friend and therefore the complaint was not made for some time. It has to be said that often victims of rape and sexual offences do not make prompt complaints and, in my view, there are many good, possible reasons for this.

49. The complainant comes across as a good honest witness who is trying to assist the Court. There are some minor inconsistencies in relation to her evidence but, in view of the fact that these events took place over two years ago, that is hardly surprising.
50. Mr. Larry Scott also described the complainant as unhappy. In my view the complainant seemed cowed by what was going on at the fire station. She was subdued.
51. The complainant did make her complaint to Mr. Grant, the Chief Fire Officer in Cayman Brac. She outlined the indecent assaults. She was advised that the allegations of forced oral sexual assault and rape should be dealt with by the police. Subsequently the complainant made a complaint to the police some five (5) months later.
52. The defendant submits that there is no evidence of corroboration for charges 1, 3, and 4. However, there is evidence of resistance in various forms, in relation to all four counts.
53. The defendant says that he had oral sex twice with the complainant – once at West End Park and also at the Fire Station.
54. The defendant also says he and the complainant had "a secret love thing going on." At the same time, he says it was the complainant's idea to have the photographs of her breasts taken. He claims that the complainant wanted to advertise these photos on the Internet. He further claims that the complainant asked him to show these photos around to the other fire officers in the station. I find the defendant's claims to be highly unlikely and implausible.

55. The defendant said that another reason he took the photo was to protect him against a false allegation yet to be made that he sexually assaulted her. He said he took it in case "stuff like this happened." I also find this claim to be unlikely and implausible.
56. The defendant admits that he gave the photo to a senior officer who kept it. He said the reason was that he did not want his wife to know.
57. The defendant said that he had oral sex with the complainant. At the same time, the defendant said he found the complainant to be masculine, and did not find her attractive.
58. Mr. Scott, to some extent, corroborates the defendant's brazen behaviour and describes an incident where the defendant comes out of the bathroom smiling – accusing Mr. Scott of preventing him from having a blowjob.
59. I find it quite astonishing that the defendant admits having oral sex in the fire station, and yet he reports a complaint of the fact that the complainant was wearing boxers in the changing area.
60. The defendant also said the complainant made an allegation of rape because the complainant's father would be angry about the photo. He stated in evidence that he assumed that the complainant's father would be angry. The defendant admits that he does not know if her father would be angry and further, nobody told him that he would be angry. I find the defendant's explanation in this regard to be unconvincing and, again, implausible.

61. What I also find extraordinary is that the defendant never told the police about the photo, despite the fact that he said one of the main reasons that he took the photo was "to have protection for this sort of stuff."

62. It is also extraordinary that when the defendant was arrested by the police he appears to criticize the complainant wherever he could and yet, at the same time, he never mentioned the photograph. This important exhibit was accurately described by Crown Counsel as his "trump card or his get out of jail card."

63. In my view the defendant's evidence is inconsistent and vague. He tailors his answers to suit his position and is prepared to say anything to avoid detection. He actually refused to answer questions and, one occasion, had to be ordered by the Court to answer a question put to him by Crown Counsel. In relation to his evidence he was constantly shifting his position and I find him to be an unreliable witness.

64. However, I must remind myself that the burden of proof is on the Crown and the standard of proof is that I must be sure that the defendant is guilty on each of the four counts. If I am not sure, or I harbour any reasonable doubt on any of the four counts, then I must return a verdict of not guilty.

65. The defendant has denied all four charges which I will now deal with separately.

## JUDGMENT

66. Count 1: I find the defendant guilty, in that he did approach the complainant in the Control Room and put his hand down her T-shirt to feel her breast. I accept the evidence of the complainant in this regard and the fact that she was taken by surprise and found the defendant's conduct inappropriate to such an extent that she cursed him. I reject the version given by the defendant on this count.
67. Count 2: I accept the evidence of the complainant and Mr. Scott and find the defendant guilty of Count 2, in that he kissed the defendant in an inappropriate manner, without her consent. I reject the defendant's explanation in relation to this charge.
68. Count 3: Again, I find the complainant's evidence to be reliable and truthful and the defendant to be dishonest on the charge. Accordingly, I find the defendant guilty of forcing the complainant to perform oral sex on him in the bathroom – out of the sight and earshot of the other fire officers, and therefore guilty on count 3.
69. Count 4: As I have said earlier, I have been impressed by the complainant. I have been impressed by her demeanour and the manner in which she tried to recall the facts. Accordingly I find her to be a truthful witness. She was trying to recall events which took place a long time ago. However, in relation to Count 4, I am again reminded of the standard of proof, which has to be reached by the Crown and I have some difficulties in being sure that the defendant is guilty as charged. There is lack of evidence leading up to the question of penetration. It is not clear whether the complainant was wearing jeans or a jeans skirt. There is no evidence as to how her jeans pants or skirt were removed. Also, there is no evidence of a removal of her underwear or any removal of the defendant's trousers.

70. In relation to Count 4 I now set out in detail the complainant's evidence-in-chief.

71. On the question of penetration: The complainant was asked whether she could be more specific:

- a. Question: Did any of his penis enter your vagina?
- b. Answer: I don't know. All I know is that there was a pressure being applied. I can't really say that he was all the way in me or whatever, because I was fighting him off
- c. Question: Did you feel any of him was in you?
- d. Answer: No, not really
- e. Question: Are you able to say if any part of his penis entered any part of your vagina?
- f. Answer: Yes
- g. Question: How much of his penis entered your vagina. Do you know how far in?
- h. Answer: No, I don't know
- i. Question: You are saying his penis entered your vagina but you don't know how much?
- j. Answer: Yeah, I don't know. I never had sex before so I really don't know.

72. Then further in cross-examination the complainant said:

- a. I felt something being inserted in me, causing a lot of pain.
- b. Question: Could you see what it was?
- c. Answer: No.
- d. Question: Can you state clearly what it was that caused the pain?
- e. Answer: No

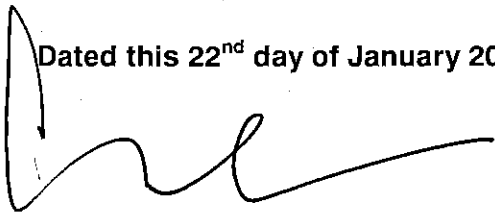
73. Finally in re-examination the complainant was questioned:

- a. Are you able to say whether his trousers or his pants were on or off, or if he was wearing shorts or whatever?
- b. Answer: No
- c. Question: You don't know?
- d. Answer: No I don't know

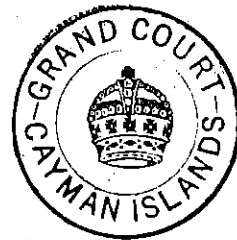
74. I have deep misgivings about this complaint of rape, because when the complainant was asked in examination-in-chief whether she felt any of the defendant was in her, her answer was no, not really.

75. I find that the evidence does not make me sure that the defendant is guilty of this count. Accordingly, I find the defendant not guilty of rape. However, I do find him guilty of indecent assault in relation to Count 4.

Dated this 22<sup>nd</sup> day of January 2009



Quin J  
Judge of the Grand Court



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