



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

3
4 INDICTMENT NO: 0097 & 0098/2016

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7
8 THE QUEEN

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10 V

11 JEMAL ABDULLAH KHAN



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16 **Appearances:**

17 Mr. Patrick Moran, Deputy DPP for the
18 Crown

19 Mrs. Laura Larner of Samson & McGrath for
20 the Defendant

21
22 **Before:**

The Hon. Mr. Justice Charles Quin Q.C.

23 **Submissions Heard:**

26th October 2016

24 **Sentence Judgment Delivered:**

17th November 2016

25
26 **HEADNOTE**

27
28 *Criminal Law – Multiple offences of Indecent Assault & two for Insulting*
29 *Behaviour – Offences committed over a two-year period in the course of the*
30 *Defendant’s duties as a physician. Breach of Trust. Magnitude and scale of*
31 *offending revealed only after investigation into a single allegation, which led to the*
32 *identification of numerous other female patients indecently assaulted. Guilty pleas*
33 *to 11 counts on Indictment.*

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SENTENCE JUDGMENT



PREAMBLE

1. Section 31 of the Criminal Procedure Code (2013 Revision) deals with the "Anonymity of complainants in rape etc. cases and states:

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

For the avoidance of doubt: It is the Court's view that the indecent assault charges against this Defendant fall within this section of the law by virtue of the use of the word "etc." and therefore I order that there be no identification of the Complainants in this case.

INTRODUCTION

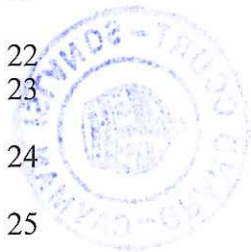
- 2. I convey my thanks to the Deputy DPP, Mr. Moran, and Defence counsel, Mrs. Larner, for their helpful and well-reasoned oral and written submissions.
- 3. On the 30th September 2016, on his first appearance in the Grand Court, the Defendant pleaded guilty to Counts 3, 5, 6, 8, 9, 10, 11, 12, 13, 15 and 16.
- 4. Counts 3, 5, 6, 8, 9, 10, 12, 13 and 16 are all charges of Indecent Assault contrary to s.132 of the Penal Code (2013 Revision). Counts 11 and 15 are charges of Insulting Behaviour contrary to s.88B of the Penal Code (2013 Revision).

2 5. Count 3 – Indecent Assault of DD

3 i. DD first began seeing Dr Khan in 2008, having been referred to him for treatment
4 for a chronic lower back problem. He continued to treat her for that and other
5 ailments over the course of the next 6 years. Although initially he appears to have
6 provided chiropractic manipulation to her whilst she was fully clothed, things
7 changed when she also asked him to treat her for tendonitis in her wrist.

8
9 ii. In order to treat this complaint, the Defendant requested that DD remove her upper
10 clothing, including her bra, so that he could apply massage to her arm and
11 shoulder. She agreed to do so, and received treatment from him with a towel
12 covering her upper body. Such was the nature of the treatment that the towel
13 would often slip to expose her breast. Although somewhat uncomfortable about
14 such occurrences, DD put her concerns aside - the Defendant was a professional
15 doctor who was helping her overcome her medical problems.

16
17 iii. By 2014, DD was receiving treatment from the Defendant for a hip condition. In
18 the course of such treatment, which involved massage and acupuncture in her
19 lower back and buttocks, she was able to keep her underwear on (although
20 presumably was required to remove her outer clothing to enable the acupuncture to
21 be administered).



1 iv. However, during the course of a consultation in August 2014 the Defendant
2 indecently assaulted DD. She described this appointment as being “very different”
3 to all of her prior consultations. In the course of that consultation the Defendant
4 told her to take off her panties. Although reluctant to do so, she complied with his
5 instructions because she trusted him implicitly.

6
7 v. DD was told to lie on her front on the treatment table. Although a towel was
8 placed over her, the Defendant kept moving it aside to enable him to massage her
9 inner thigh. DD described the touching as being “very close” to her genital area,
10 close enough to make her feel “very uncomfortable” and “very exposed”.

11
12 vi. DD’s discomfort at the manner in which the Defendant was touching her does not
13 appear to have gone unnoticed by him. Although he continued to touch her, he
14 asked her if she was comfortable with what he was doing. When she told him that
15 she was not, he appears to have sought to make light of the situation before
16 bringing the appointment to an end and leaving the room.

17
18 vii. This was the last appointment DD ever had with the Defendant. So disturbed was
19 she by the manner in which the Defendant had behaved that she told her husband
20 about it immediately. Although they discussed whether to make a formal
21 complaint, DD was concerned that it would just be “her word against his”, and that
22 she did not have any evidence to support her account.



1 viii. DD's husband felt so strongly about what had happened that he decided to speak
2 the Defendant about it. He visited the Defendant's clinic and complained about
3 how uncomfortable his wife reported that she had felt during her last appointment.
4 Mr D was particularly keen to know why the Defendant had not told his wife that
5 the removal of her panties was not necessary for the purposes of the treatment he
6 was providing.

7
8 ix. In the course of this encounter, the Defendant apologized to Mr D. He accepted
9 that he should have informed DD that removing her underwear was not in fact
10 necessary, but was optional. DD indicated that he was considering reporting the
11 Defendant to the appropriate professional regulator.

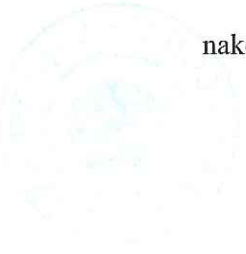
12
13 x. No doubt concerned at the prospect of any disciplinary action, the Defendant
14 followed up his verbal apology with a written apology to Mr D, in which he sought
15 to assure Mr D as to his bona fides as a physician. The apology appeared to have
16 the desired effect, and the Defendant was not reported to anyone at that stage.



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6. Count 5 – Indecent Assault of MH

- i. A few months after he indecently assaulted DD, the Defendant behaved in a very similar manner with another patient – MH. Unlike the case with many of his longer-term patients, the Defendant did not waste any time gaining the trust of MH before abusing her.
- ii. MH visited the clinic in January 2015, following a recommendation from a friend, to see if the Defendant could help her with pain in her hip. She was told by the Defendant to lie on his treatment table, having removed her clothing to point where she was wearing just panties and a gown. Without warning, the Defendant put his hand underneath her gown and began to touch her softly in the area next to her vagina.
- iii. MH, who had never been to a chiropractor before, felt both uncomfortable and confused. She believed that, because the Defendant was a professional medical practitioner, what he was doing to her must have been for medical reasons.
- iv. She decided not to confront the Defendant about the way he was touching her, instead remaining silent as the consultation continued. Her confusion deepened when the Defendant moved her gown in a manner which completely exposed her naked breast before applying treatment to her neck.



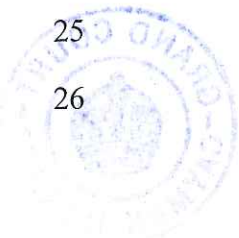
1 v. At the end of the consultation, MH anxiously went to find her husband, who had
2 been waiting for her at the clinic. She told him what the Defendant had done to
3 her, and together they discussed whether she had been touched inappropriately.
4 MH resolved never to return to visit the Defendant's clinic. In the days after the
5 assault, the Defendant repeatedly sought to contact MH, both on her mobile
6 telephone and on her work phone.

7
8 vi. The prosecution cannot say what was the motive behind these calls, but whatever
9 the case, MH never went back to the Defendant's clinic. Instead, MH found
10 another chiropractor to deal with her condition – one who did not require her to
11 remove any clothing at all, and who did not touch her the same way as this
12 Defendant.

13
14 7. Count 6 – Indecent Assault of AP

15
16 i. Another of the Defendant's long term patients was AP. She had first sought his
17 help in March 2013 in relation to lower pain back. Like several of the Defendant's
18 other victims, AP had never before received chiropractic treatment or acupuncture.
19 As such, they had no point of reference against which to measure the
20 appropriateness of the way he treated them.

21
22 ii. As the consultations progressed, the Defendant persuaded AP to agree to a course
23 of acupuncture. At the first such session, he told her to take of all her clothes and
24 lie on the treatment table with just a towel covering her. She followed his
25 instructions, but chose to leave her underwear on.



1 iii. When the Defendant came into the treatment room, he told her that she was
2 required to be totally naked for this medical treatment, but said that on this
3 occasion he would allow her to keep on her underwear.

4
5 iv. AP returned for further acupuncture sessions. True to his word, the Defendant
6 made her take off all of her clothes before receiving any treatment. However, she
7 began to feel particularly uncomfortable by the manner in which he manipulated
8 her body in these sessions.

9
10 v. The Defendant would make her lay face down on the treatment table and lift her
11 leg up into the air, to the point where her naked genitals were exposed for several
12 seconds. AP felt “really invaded” by this behaviour, which also included the
13 Defendant touching her “very close to her private area”.

14
15 vi. Never having had chiropractic treatment or acupuncture before, AP was unsure
16 whether it was really necessary for her to remove all of her clothes for the
17 treatment. She discussed the issue with a number of people, including her own
18 mother, who is a doctor, following which she decided never to return to see him
19 again.

20
21 vii. AP cancelled her next appointment with the Defendant, and, despite his subsequent
22 attempts to get in touch with her, she never returned to see him. She struggled
23 with the issue of whether or not to report him to the authorities; although she felt
24 violated and invaded by her treatment at the hands of the Defendant, she was also
25 concerned that nobody would believe her.



1 8. Count 8 – Indecent Assault of TE

2
3 i. Between 2014 and 2015 TE became a patient of the Defendant. She initially went
4 to see him in order to obtain treatment for pain in her shoulder. In the course of
5 their initial dealings, TE became uneasy about the manner in which he was
6 massaging her upper body to treat her shoulder pain. However, she continued to
7 visit him.

8
9 ii. As the treatment progressed, the Defendant suggested to TE that she may in fact
10 have a problem with the muscles in her legs and he offered to examine them for
11 her. Upon such examination, he stated that TE’s leg muscles were tight, and
12 offered to treat this condition in conjunction with the problem in her upper back.

13
14 iii. As the treatment progressed further, an incident took place on the treatment table
15 in which TE described the Defendant as “cross[ing] the line”. TE was, at the time,
16 lying on her back. She was wearing her underwear and a towel to cover her. The
17 Defendant began massaging the area of her hip, and went on to move not only the
18 towel but also TE’s underwear. She was unsure how exposed her genitals were or
19 what the Defendant could see of her private area.

20
21 iv. TE was sure, however, that the Defendant’s hands were (as she put it) “deeply in
22 my groin area”, “in the pubic hair area” and “very close right to my genital area”.
23 She knew that what he was doing was not right, and she was made to feel
24 extremely uncomfortable.



1 v. TE was too embarrassed to say anything about the incident to anyone. Indeed, she
2 returned to see the Defendant for a couple of sessions of treatment to her back, but
3 indicated that she did not require any further treatment on the area of her legs.
4 Such was her discomfort at the whole experience that she stopped seeing the
5 Defendant soon afterwards. She continued to feel ashamed about what he had
6 done to her for some time.

7
8 9. Count 9 – Indecent Assault of MV

9
10 i. MV appears to have been the Defendant's 5th victim. Although he had already
11 been taken to task by the husband of one of his earlier victims (Mr D), he had of
12 course managed to avoid being reported to the authorities. This was a state of
13 affairs which was to continue for another year.

14
15 ii. In the spring / summer of 2015, MV went to see the Defendant for treatment for a
16 neck injury. The first sessions she had gave her no cause for concern – the
17 Defendant applied chiropractic manipulation to MV whilst she remained fully
18 clothed.

19
20 iii. However, it was around the third session that things began to change. The
21 Defendant announced to MV that he would be providing acupuncture treatment.
22 Although she had not requested such treatment, she nevertheless agreed to it. He
23 told her to take of all of her clothes expect for her panties, and to lie on the
24 treatment table. Not having been told that totally nudity was optional, she did
25 what she was told.



1 iv. The Defendant initially applied needles to MV's upper body and left her alone for
2 10 minutes. When he returned, he indicated that he was going to apply needles to
3 other areas, including her groin. Before doing so, he indicated that he would need
4 to "check" her abdominus muscle.

5
6 v. MV was herself trained in various forms of physical therapy, and she was aware
7 that the abdominus muscle was connected to her pubic bone. She knew that he
8 could examine the abdominus muscle through her clothing. Whilst she was
9 expecting him to touch that part of her body, she certainly was not expecting him
10 to do it in the manner that he did. He pulled her panties down until they were
11 around her thighs and then pressed her naked flesh with his hand, in an area
12 "extremely close" to her genital area.

13
14 vi. MV described feeling shocked and embarrassed about how the Defendant had
15 gone about touching her. Because she had never had acupuncture treatment
16 before, and because she felt that the Defendant was a professional medical
17 practitioner, she was unsure about how to deal with what had occurred.

18
19 vii. Having spoken to some friends about what the Defendant had done to her, MV
20 embarked upon making a report of the incident to the Health Practice Commission.
21 However, she discovered that the Defendant was at the time one of the
22 Commissioners, and this information caused her concern. Although MV went as
23 far as to draft a letter to the Commission, reporting the Defendant for
24 unprofessional conduct, she chose not to send it (XB90).

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26 viii. As well as having to live with the consequences of having been indecently
27 assaulted by the Defendant, MV is also seeking to come to terms with the fact
28 that she did not have the courage to send that letter.



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10. Count 10 – Indecent Assault of JZ

- i. In the early summer of 2015, the Defendant indecently assaulted another of his patient. JZ had been a willing patient of his since 2007. However, it was only when she went to see him for treatment following an injury she sustained in a road traffic accident that year, that things began to get uncomfortable.
- ii. JZ sustained injuries to her legs and hips in the accident, and went to see the Defendant. He indicated that he could provide acupuncture treatment to her backside, her groin, and her pubic area. She believes that she was told to remove her underwear for this treatment.
- iii. In the course of one of these sessions, the Defendant said to JZ that he was going to apply massage to her private area. Before doing so, he stated that his fingers might “slip”. JZ found this comment to be perplexing, but she trusted him as a professional medical practitioner, and she permitted him to proceed to treat her.
- iv. During the course of the “massage”, JZ felt the Defendant’s finger enter her vagina for a few seconds, just as he had warned her it might. She clearly felt it there, and she was sufficiently troubled about the incident to report it to several of her friends that evening.



1 11. Count 11 – Photography of LH

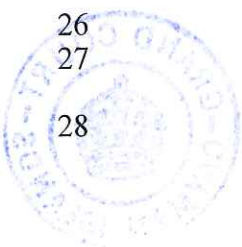
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3 i. It was not until the beginning of 2016 that a chain of events began which
4 ultimately persuaded the victims of the Defendant to come forward and publicly
5 report what he had done to them.

6
7 ii. In January 2016 a woman named LH came to see the Defendant for treatment for
8 chronic upper back pain. He told her that she had a curvature to her upper back,
9 and suggested a course of treatment including acupuncture.

10
11 iii. In these initial sessions of treatment, the Defendant told her to remove all of her
12 clothing on her upper body, including her bra. He proceeded to apply both
13 massage and acupuncture to that area. She did not, at that stage, feel that there was
14 anything wrong with the Defendant’s manner.

15
16 iv. However, after a few session of treatment, the Defendant told LH that she had a
17 problem with a muscle in her groin, and he offered to treat it. Initially he allowed
18 her to keep her underwear on for the treatment.

19
20 v. However, at a consultation on the morning of 27.01.2016, something occurred
21 which caused LH a great deal of concern. At the beginning of the consultation, the
22 Defendant told LH that he had diagnosed a problem with her hamstring muscles,
23 and suggested to her that he treat it. She agreed, and went on to receive
24 acupuncture to various parts of her body including her buttocks. She was
25 completely naked, save for a towel covering her thighs.



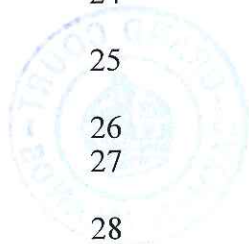
1 vi. As the Defendant removed the acupuncture needles, LH noticed a significant
2 pause, followed by a flash of light and a clicking noise which sounded identical to
3 that made by a camera phone. LH was certain that the Defendant had taken a
4 photograph of her without her consent.

5
6 vii. Within seconds of this happening, the Defendant began to talk to her about a trip
7 he had taken to the U.S.A. a few days earlier. It was the only time he had ever
8 mentioned to her anything about his personal life, and it was clearly an attempt to
9 distract her from what had just taken place.

10
11 viii. LH felt physically nauseous at the realization that a photograph had been taken of
12 her whilst she was completely disrobed. She wanted to demand that the Defendant
13 allow her to inspect his phone, but she did not have the words to do it.

14
15 ix. Instead, LH allowed him to continue to treat her as if nothing had happened. She
16 just did not know what else to do. At the end of the consultation, LH resolved
17 never to return and she cancelled a follow up appointment. She also told her
18 husband and grandmother about what happened.

19
20 x. Despite the fact that he had taken a photograph of her without her consent, the
21 Defendant sent LH an email a few days later, in an effort to come back to see him
22 [XB131]. In that email, he suggested that LH should not jeopardise her medical
23 progress by cancelling any appointments. Bearing in mind what he had done, it
24 appears clear that in contacting her in this way he was seeking to assess the
25 potential consequences of the flash of his camera.



1 xi. Those consequences turned out to be significant. Soon after LH returned from a
2 trip abroad, she wrote a letter of complaint to the Health Practice Commission, in
3 which she reported that the Defendant had photographed her on the treatment table
4 [XB130]. However, in the time between that incident on 27.01.2016 and the
5 drafting of that letter on 18.02.2016, the Defendant had indecently assaulted 2
6 more female patients, and was to go on to assault a further female patient the
7 following day.

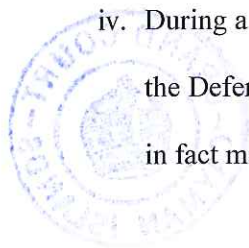
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9 12. Count 12 – Indecent Assault of SH

10 i. The victim of this count had been a patient of the Defendant for many years. By
11 the time he indecently assaulted her at the beginning of February 2015, she had
12 been a patient of his for at least 15 years. He was the only chiropractor she had
13 ever been to, and she trusted him implicitly.

14
15 ii. Over the course of her consultations with the Defendant, SH had received
16 acupuncture whilst in varying states of undress. She had always experienced good
17 medical results with him. Not only did she trust him as a practitioner, but she had
18 also enjoyed a friendly relationship during their consultations.

19
20 iii. The last few sessions of SH's treatment were conducted in an upstairs treatment
21 room, and the layout of the room was such that SH had what she described as a
22 "funny feeling" about the room.

23
24 iv. During a consultation on 01.02.2016 an incident occurred which made SH feel that
25 the Defendant was no longer providing her with medical treatment, but that he was
26 in fact making an unwanted sexual advance on her.



1 v. SH was on the treatment table wearing nothing but her panties. Following some
2 acupuncture, the Defendant began to manipulate her legs and underwear, in a
3 manner which exposed her pubic area. He massaged this area and ran his hand
4 along her inner thigh, brushing her vagina with it.

5
6 vi. SH described his actions on this occasion as “not being like any other time” that
7 she had seen him. She described herself as being “hyper-alert” as he touched her
8 in that manner.

9
10 vii. SH was completely shocked. She did not say anything to the Defendant, who went
11 on to brush his hand against her vagina another 2 or 3 times. As he did so, her
12 underwear was pulled aside in a position that allowed him to make direct skin
13 contact with her vagina.

14
15 viii. SH described how she felt “horribly violated” at how the Defendant had behaved
16 towards her. She was in no doubt that this had been a sexual advance, and she left
17 the clinic, never to return.

18
19 13. Count 13 – Indecent Assault of KB

20
21 i. A few days after he assaulted SH (05.02.2016), the Defendant also assaulted
22 another female patient in a very similar manner. KB had been a patient of the
23 Defendant for approximately one week, in which she had 3 consultations with him
24 in quick succession.



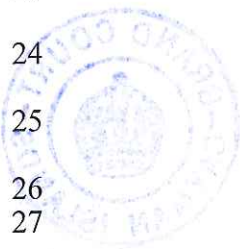
1 ii. KB consulted the Defendant because she had been experiencing pain in the area of
2 her hips and thighs. During the visits, she had deliberately worn a pair of small
3 tights in order to protect her modesty and make her feel more comfortable.
4 Despite her requests to keep this garment on, the Defendant told her that she would
5 have to remove it and strip to just her underwear.

6
7 iii. The treatment provided to KB consisted of acupuncture, physical manipulation
8 (adjustment) and massage. KB was not comfortable with the fact that the
9 Defendant was massaging a muscle very close to her pubic region, but she did not
10 voice discomfort to him during those first 2 consultations.

11
12 iv. However, on the third and final visit (01.02.2016), the Defendant actually touched
13 KB's vagina with his fingers on several occasions. After the first such touch, KB
14 said nothing, in the hope that it was simply an accident.

15
16 v. However, when it became apparent to KB that it was no accident, she asked the
17 Defendant to stop touching her there. He apologized for doing so, and sought to
18 explain his actions by saying that he was trying to reach a "difficult" muscle.

19
20 vi. The treatment session continued, and KB continued to have concerns about the
21 manner in which the Defendant was conducting himself. She did not ask any more
22 questions; she described feeling "a bit intimidated" because he was a doctor.
23 Instead, she reported the events to her husband and a friend, and refused to make
24 any further appointments despite being contacted by the Defendant's secretary to
25 make one.



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14. Count 15 – Photographs of DC (s.88B of the Penal Code)

- i. In due course the police discovered 9 separate images on the hard drive found at the Defendant’s home. The images were of a female who appeared to be lying on the treatment table in the upstairs room at the Defendant’s clinic. That female was not LH. The police did not know who she was.

- ii. It is clear from those images that the female was naked save for a small towel. The images depicted several areas of her naked body, including her exposed breasts, and also contained extremely close up images of her naked genitalia (in one of those images a male thumb can be clearly seen).

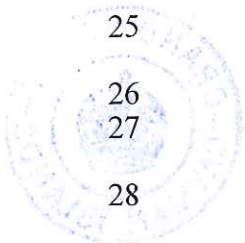
- iii. The images appear to be still images taken from a video file (that had been played at some stage on the computer hard drive). It remains unclear what type of recording equipment was used to take that footage. What did appear clear was that the female was totally unaware that the images had been taken.

- iv. Upon the discovery of these images, the Defendant was arrested on 07.06.2016. He was interviewed by the police for a second time, and made no comment to all questions put to him about the images found on the hard drive.



1 15. Count 16 – Indecent Assault of DC

- 2
- 3 i. The last victim of this Defendant was DC. She first consulted the Defendant in
- 4 June 2014 with a view to obtaining chiropractic therapy for a knee complaint.
- 5 Initially, he indicated that DC could keep on her clothes during the treatment
- 6 sessions, which consisted solely of manipulations / adjustments.
- 7
- 8 ii. However, as the consultations went on, the Defendant told DC that she had tight
- 9 hips, and he suggested acupuncture. For this treatment, she was required to strip to
- 10 her underwear, and to remove her bra on occasion. DC was content to do so, and
- 11 she recalled that there was always a towel over her to ensure that she was not
- 12 overly exposed.
- 13
- 14 iii. However, DC recalls that at some stage these consultations moved to an upstairs
- 15 room at the clinic, and it was in this room that matters took a turn for the worse on
- 16 19.02.2016.
- 17
- 18 iv. On this date, DC went for what was to become her last consultation with the
- 19 Defendant. By this stage in the consultations, the Defendant had persuaded DC
- 20 that she would need to be completely naked for the treatment.
- 21
- 22 v. When she went into the treatment room, DC noted that music was being played
- 23 that she could only describe as “bedroom music”. She also noticed that the
- 24 Defendant spoke to her in a soft manner, which she described as not being like a
- 25 doctor talking to a patient.
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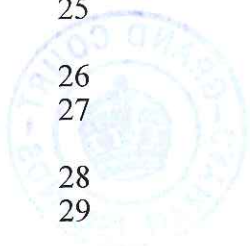
1 vi. The Defendant began to touch DC in a slow and intimate manner as she lay naked
2 on the table, rubbing his bare hand from her stomach down to her vagina. He
3 continued to rub her in a manner which made her feel awkward, uncomfortable and
4 embarrassed.

5
6 vii. The Defendant positioned his own body in various ways during this session, at one
7 point his own crotch was “basically resting on [DC’s] head”, and at another point
8 his face was very close to hers. When this happened, she kept her own eyes
9 closed.

10
11 viii. All she could think was “oh my, get me out of here”. All she could do was to
12 repeat to the Defendant “are we almost done here?”. When she began to shiver,
13 the Defendant indicated that the treatment was finished and abruptly left the room.

14
15 ix. As soon as he had left, DC got up from the table and quickly got dressed. When he
16 returned, he walked up right up to her and stood in front of her in her “personal
17 space”. He placed his hands firmly on both her shoulders and he asked whether
18 she had enjoyed the visit. DC cannot now recall how she responded, but
19 remembers that this made her feel even more awkward that she had already been
20 feeling.

21
22 x. DC left the clinic without booking another appointment, and told her boyfriend
23 about what had happened that night. She found another physician and resolved
24 never to see the Defendant again, ignoring several requests from both the
25 Defendant himself and his staff to book a follow-up appointment.





CHRONOLOGY OF RCIPS INVESTIGATION

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16. These offences were committed by the Defendant between August 2014 and February 2016 when he was practicing as a Chiropractor from offices located in George Town, Grand Cayman. The Defendant's victims of Indecent Assault were all patients of the Defendant and the offences were carried out on his treatment table. In addition, in relation to Counts 11 and 15 (Insulting Behaviour) the Defendant also took images of two of his victims without their consent.

17. The offences only came to light due to the courage of one of his victims, LH (Count 11) who was convinced that he had taken photographs of her whilst she was lying naked on his treatment table.

18. This victim initially reported her concerns to the medical authorities in February 2016. She was advised to report the matter to the police, which she did in March 2016.

19. The subsequent police investigations into that single allegation led to the identification of numerous other female patients who had been indecently assaulted by the Defendant.

20. Although many of these women had told their family and friends about what the Defendant had done to them at the time, initially none of them had the courage to come forward to the police at that stage. The Court has significant sympathy for these victims who felt shocked, distressed and seriously humiliated.

21. One woman, MV, Count 9, revealed that she had written a letter of complaint to the Cayman Islands Health Practice Commission (CIHPC) but had not sent it after she learned that the Defendant was a member of the said Commission.



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22. It was only upon the instigation of a careful police investigation, based initially upon the account of that single victim, LH, Count 11, that the magnitude of the Defendant's offending gradually came to light.
23. Over the course of his dealings with these patients, details of which were set out in full on the 26th October 2016, the Defendant appears to have gained the trust of the majority of his patients in the course of initial consultations, and then went on to abuse that trust in later consultations.
24. The Defendant gained the trust of each of his patients, and then, as the visits of each patient increased, the Defendant persuaded several of his patients to undress until they were completely naked – often in circumstances where it would appear that there was really no need for them to have done so. He went on to touch many of them in their most intimate areas, in a manner which made them most uncomfortable and distressed.
25. Many of these patients were of the view that the Defendant was a capable and skilled medical practitioner and chiropractor. In some cases, their reliance on him to ease their physical pain and suffering was such that they returned to him for treatment notwithstanding their concerns about the parts of their body that he had touched and the manner in which he had touched them.
26. In the course of the investigation, the police discovered that the Defendant had kept numerous naked images of one of his victims on his personal computer. That victim was able to identify herself from those photographs – some of which could not have been of a more personal or embarrassing nature.



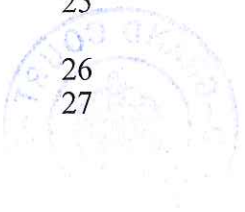
1 27. It was not until a few months later, in June 2016, that DC, Count 16, discovered that
2 the Defendant had violated her privacy in another entirely reprehensible way when the
3 RCIPS discovered the photographs. By then, a police investigation was well under
4 way into the allegation made by the first victim, LH (i.e. relating to Count 11- which
5 was reported initially to the CIHPC in late February 2016).

6
7 28. A warrant was obtained by the police to search the Defendant's home in South Sound,
8 Grand Cayman. The search took place on the 14th April 2016 and a computer hard
9 drive was seized for analysis.

10
11 29. On the 15th April 2016 the police seized medical records from the Defendant's clinic.
12 The Defendant was present at the time of the seizure and was clearly aware of the
13 general nature of the police investigation.

14
15 30. The Defendant made an unsolicited comment to lead investigator WDC Emma
16 Twydell, to the effect that he used a cold laser machine during LH's treatment, which
17 emitted light and sound. He demonstrated the machine to WDC Twydell, who noted
18 that the machine made "beeping sounds" and emitted a red/orange light similar to
19 photographs being taken. However, it was clearly not the device which he had used on
20 LH when the photograph was taken.

21
22 31. Following the various seizure operations, the Defendant was interviewed by
23 appointment at the police station on the 20th April 2016. He made a prepared statement,
24 in which he denied taking any photographs of LH, again suggesting that she must have
25 mistaken the cold laser machine for a camera.



1 32. At this stage, only one complainant had contacted the police about the Defendant. It
2 was not until after the analysis of the hard drive found at the Defendant's home address
3 that the true nature and extent of the Defendant's abuse of his patients began to become
4 clear.

5
6 33. In due course the police discovered 9 separate images on the hard drive found at the
7 Defendant's home. The images were of a female who appeared to be lying on the
8 treatment table in the upstairs room at the Defendant's clinic. That female was not LH,
9 the initial complainant and, at the time, the police did not know her identity.

10

11 34. Upon the discovery of these images, the Defendant was arrested on the 7th June 2016.
12 He was interviewed by the police for a second time, and made no comment to all
13 questions put to him about the images found on the hard drive.

14

15 35. Following the discovery of these images, and the refusal of the Defendant to provide
16 any details about them, the police could not rule out the potential for there to be other
17 victims amongst the Defendant's patients. Accordingly, a press release was swiftly
18 issued by the RCIPS.

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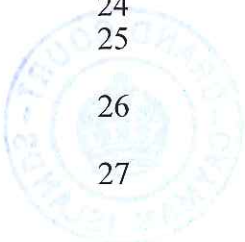
20 36. Although the name of the Defendant was not made public, the release itself contained
21 an appeal to the public for any information of potential relevance to an investigation
22 into allegations of impropriety against a local chiropractor. The scale of the police
23 investigation developed quickly following the issue of that press release.

24

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1 37. The female patient in those images was soon identified as DC (Counts 15 and 16) (the
2 victim of the indecent assault on 19.02.16). She had been off-island at the time of the
3 discovery of the images of her. On her return, DC was contacted by the police. She
4 was understandably shocked to discover that, not only had the Defendant indecently
5 assaulted her in his upstairs room on the evening of 19th February 2016, but that he had
6 also taken intimate images of her during an earlier consultation.

7
8 38. Following the issue of that press release, the other female patients – whose accounts
9 were set in detail on the 26th October 2016 – began to come forward to tell the police
10 what the Defendant had done to them.

11
12 39. Most of these victims were treated in similar manner by the Defendant, who, after
13 gaining their trust, manipulated them into undressing for the pretended purpose of
14 medical treatment, massage and pain relief. It was then that the Defendant proceeded to
15 touch the women in inappropriate ways, including, on three occasions, touching their
16 genitals.

17
18 40. All these patients described as being initially shocked and stunned by the Defendant's
19 behaviour, and then embarrassed, ashamed and degraded by what he had done to them.
20 The Deputy Director of the DPP has prepared a very helpful chart – setting out the
21 offences from August 2014 to February 2016, which I have reproduced below.



1

Count#	OFFENCE	DATE(S)	NATURE OF OFFENCE
3	Jemal Khan, on or around 25.08.2014, in the jurisdiction of the Cayman Islands, indecently assaulted DD.	25.08.2014	Touching her naked inside thigh very close to her naked genitals.
5	Jemal Khan, on or around 21.01.2015, in the jurisdiction of the Cayman Islands, indecently assaulted MCH.	21.01.2015	Touching her naked inside thigh "softly" in the area next to her genitals (panties on).
6	Jemal Khan, on a date between 21.10.2013 and 07.02.2015, in the jurisdiction of the Cayman Islands, indecently assaulted AP.	21.10.2013 - 07.02.2015	Touching her naked "private area" very close to her naked genitals.
8	Jemal Khan, on a date between 01.01.2014 and 28.03.2015, in the jurisdiction of the Cayman Islands, indecently assaulted TE.	01.01.2014 – 28.03.2015	Touching her naked private area very close to her genitals (panties moved aside).
9	Jemal Khan, on a date between 26.02.2015 and 22.04.2015, in the jurisdiction of the Cayman Islands, indecently assaulted MV.	26.02.2015 – 22.04.2015	Touching her naked thighs and her "private area" extremely close to her naked genitals.
10	Jemal Khan, on a date between 30.04.2015 and 03.06.2015, in the jurisdiction of the Cayman Islands, indecently assaulted JZ.	30.04.2015 - 03.06.2015	Touching with his fingers inside her naked vagina.
11	Jemal Khan, on or around 27.01.2016, in the jurisdiction of the Cayman Islands, used insulting behaviour within the hearing or sight of LH , a person likely to be thereby caused harassment, alarm or distress	27.01.2016	Photographed without consent whilst naked on treatment table.
12	Jemal Khan, on 01.02.2016, in the jurisdiction of the Cayman Islands, indecently assaulted SH.	01.02.2016	Touching her naked genitals with his hand several times (unclear whether she was completely naked or her panties were pulled aside).
13	Jemal Khan, on or around 05.02.2016, in the jurisdiction of the Cayman Islands, indecently assaulted KB.	05.02.2016	Repeatedly touching vagina (over panties).
15	Jemal Khan, between 16.11.2015 and 11.02.2016, in the jurisdiction of the Cayman Islands, used insulting behaviour within the hearing or sight of DC , a person likely to be thereby caused harassment, alarm or distress.	16.11.2015 - 11.02.2016	Photographed without consent whilst naked on treatment table (video footage from which stills found).
16	Jemal Khan, on or around 19.02.2016, in the jurisdiction of the Cayman Islands, indecently assaulted DC.	19.02.2016	Fingers and palm rubbing her naked stomach and naked vagina.

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3



1 41. Count 10 – when the Defendant’s touched the victim with his fingers inside her naked
2 vagina – is the most serious. Counts 12 and 16 are also counts in which the Defendant
3 touched his patients genitalia. In Counts 3, 6, 8 and 9 the Defendant touched the
4 patients close to his patients’ genitalia. Counts 5 and 13 involve the touching of
5 clothed genitals or areas next to the genitals. Counts 11 and 15 involve the taking of
6 photographic images of the naked patients without their consent.

7
8 42. By early July 2016 charges had been had been brought against the Defendant in
9 relation to these patients, and they continued to be laid as patients continued to come
10 forward. The Defendant was interviewed in relation to the allegations made by each
11 patient, and still he maintained his silence.

12
13 43. In August and September 2016 the Defendant’s attorneys wrote to the Office of the
14 Director of Public Prosecutions, stating that the Defendant would be pleading guilty
15 and, on the Defendant’s first appearance in the Grand Court on the 30th September
16 2016 the Defendant pleaded guilty to the aforementioned charges and was remanded in
17 custody to await sentence.



1 *THE CROWN'S POSITION*

2
3 48. The Crown submits that although these UK Guidelines are for offences of a similar
4 nature, they may offer very limited assistance for the following reasons:

5
6 i. The statutory maxima for the equivalent offences in England & Wales are
7 significantly different, that is:

8 (a) for assault by penetration: Life imprisonment;

9 (b) for sexual assault: 10 years' imprisonment – being the same as indecent
10 assault in the Cayman Islands; and

11 (c) for voyeurism: 2 years' imprisonment – whereas, the maximum for
12 insulting behaviour in the Cayman Islands is 3 years' imprisonment.

13
14 49. In addition the Crown submits that sentencing for offences involving sexual abuse
15 appears to be at a significantly higher level in the Cayman Islands than for the
16 equivalent offences in England & Wales. In this regard the Crown submits:

17
18 i. The tariffs set in the Cayman Islands 2002 Statement on Tariffs and Guidelines are
19 much higher for sexual offences than in England & Wales, irrespective of the
20 maximum available sentence;



1 ii. The Cayman Islands Court of Appeal (CICA) has acknowledged a difference in the
2 public's attitude towards sentencing for certain sexual offences of in this
3 jurisdiction when compared to England & Wales and cites - *Regina v. McLean*
4 and *Regina v. Douglas*¹ –although the Crown concedes that these offences
5 involved young victims;

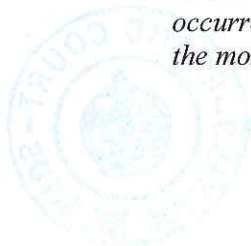
6
7 iii. The Deputy DPP submits that *even in* England & Wales, a case involving
8 offending on this scale is arguably of sufficient seriousness to fall outside the UK
9 Sentencing Guidelines and refers to the Judgment of Lord Thomas, LCJ, in the
10 case of *Regina v. Davinder Jeet Bains*² . In *Bains* the offences were of a more
11 serious nature but there are parallels to the present case. In *Bains* Lord Thomas
12 LCJ stated at paragraph 24 of his Judgment that doctor-patient offences do not fit
13 easily within the guidelines and further, no one could have had offending on this
14 scale by a medical practitioner in contemplation. At paragraph 26 Lord Thomas
15 LCJ stated:

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18 *“It seems to us that the most important factor in this case is the gross*
19 *breach of trust which occurred. There can be no doubt that the public*
20 *places enormous trust in doctor. The maintenance of confidence in that*
21 *trust is of paramount importance to the public and to the proper*
22 *functioning of our national health service and other health services. In this*
23 *particular case we view with very considerable seriousness the failure by*
24 *him and the medical practice at which the Appellant worked to enquire of*
25 *the patients whether they required a chaperone. It also indicated a very*
26 *considerable degree of planning on the part of the Appellant; for it to have*
27 *occurred on the numerous occasions in this case is inexplicable other than*
28 *the most careful planning.”*
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¹ CICA nos. 10 and 19 of 2014

² [2014] EWCA Crim. 2124 at paragraphs 24 and 26



1 52. The Court also takes into account the many written references from former patients and
2 fellow professional colleagues of the Defendant who have taken the time to write to the
3 Court and explain that they have always found Dr. Khan to be a professional,
4 knowledgeable and extremely competent chiropractor. These references from male and
5 female patients speak very highly of the Defendant's professionalism and competence.

6
7
8 53. The Court has also received an impressive letter from the Defendant's wife and,
9 indeed, the Defendant is fortunate to have such a supportive partner during what must
10 evidently be a difficult time for her and their family.

11
12 54. The Defence highlights the fact that the Defendant has no previous convictions and no
13 disciplinary findings or incidents of malpractice in the Cayman Islands or in Canada.

14
15 55. To address the impulse disorder diagnosed by Ms. Bodden the Defendant has
16 undertaken a specific boundary training course through the University of Bridgeport.

17
18 56. Defence counsel submits further in mitigation that the photos the Defendant took all
19 remained on the Defendant's computer and were not distributed to any third party.

20
21 57. Defence refers to local cases of *R v. Williams*³; *R v Delroy James*⁴; and *R v. Dilbert &*
22 *Samuels*⁵.

23
24 58. The case of *Dilbert & Samuels* involves violent rape charges of the most serious type
25 and is of minimal assistance.

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³ [2011] (1) CILR Note 3

⁴ CICA 17th November 2015

⁵ [2010] (1) CILR 10

1 59. The case of *Williams (supra)* is a case where the Defendant/Appellant was convicted
2 of attempted rape of his 12-year old stepdaughter and is again of minimal assistance.

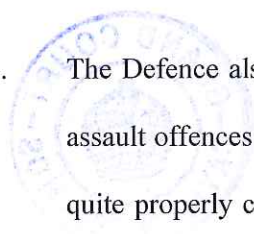
3
4 60. In the *James* teacher-children case, the charges were indecent assault, indecent image
5 and gross indecency. This court notes that whilst the CICA quashed the sentence of 3
6 years on Count 6 (gross indecency) because the Judge erred in failing to sentence on
7 the agreed Basis of Plea, the Court of Appeal still held that the overall sentence of 3
8 years' imprisonment was not manifestly excessive.

9
10 61. The Defence relies on the UK Sentencing Guidelines for Sexual Assault, which were
11 published on the 1st April 2014. As yet there are no guidelines for sentencing for
12 offences of this nature in the Cayman Islands.

13
14 62. The Defence submits that offences involving the touching of naked genitalia, namely
15 counts 10, 12 and 16, fall into Category 2 and that the remaining counts which do not
16 involve direct contact with naked genitalia would fall into Category 3.

17
18 63. The Defence also accepts that due to the breach of trust in this case, all the indecent
19 assault offences fall into culpability category A. Furthermore, the Defendant's counsel
20 quite properly concedes that Count 10 – the indecent assault with penetration – is an
21 aggravating factor.

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1 64. The Defence also submits that, as the victims were vulnerable due to their position as
2 patients, this breach of trust would already be addressed by placing the case into a
3 culpability Category A, and therefore care must be taken not to double account for the
4 aggravating factor of breach of trust which encompasses the vulnerability of a victim
5 within a doctor-patient relationship.

6
7 65. Counsel submits that Counts 10, 12 and 16 would, under the UK Sentencing
8 Guidelines be Category 2, Culpability 'A' offences, which would warrant a starting
9 point of 2 years' custody – with a range of 1 to 4 years' custody and submits further
10 that the starting point for all the other Indecent Assault counts – 3, 5, 6, 8, 9, and 13 –
11 is 26 weeks with a sentencing range from a CSO to 12 months.

12
13 66. The Defence submits that for taking photographic images of naked victims without
14 their consent – Counts 11 and 15, the proper starting point is a high-level CSO with a a
15 range from a CSO to 26 weeks in custody.



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1 *CONCLUSION*

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3 67. The UK Sentencing Guidelines at page 18 set out the steps to be taken if one were to
4 follow the Guidelines.

5
6 68. Counts 3, 6, 8, 9, 12 and 16 are all in my view, Category 2 under Harm and Culpability
7 'A'. They all involve the Defendant touching genitalia or the naked private area very
8 close to genitalia. There was also a significant degree of planning and an abuse of trust.
9 The Guidelines recommend a starting point of 2 years' imprisonment with a range of 1
10 – 4 years' custody.

11
12 69. However in the second paragraph at Step 2 on page 18 of the Guidelines the learned
13 editors state:

14
15 *“A case of particular gravity reflected by the multiple features of culpability or*
16 *harm in Step 1 could merit upward adjustment from the starting point before*
17 *further adjustment for aggravating and mitigating factors set out at page 19.”*
18

19
20 70. I consider that this is a case of “*particular gravity*” reflected in the “*multiple features*
21 *of culpability and harm*” as presented by the Deputy DPP. I also take into account the
22 submissions made the DDPP as set out in paragraphs 48 and 49 above and in my view
23 the appropriate starting point for counts 3, 6, 8, 9, 12, and 16 is 4 years' imprisonment.

24
25 71. Leaving aside the gross breach of trust which is incorporated in Harm, Category 1 and
26 Culpability A, the Court cannot ignore the fact that this was not one isolated error of
27 judgment, but rather 11 separate offences over 18 months – which could not have been
28 committed without careful planning and the identification of appropriate victims
29 amongst the defendant's patients. Furthermore, there are the additional aggravating
30 factors of the vulnerability of the victims.



1 72. In *R v. Navin Naran Zala*⁶ the LCJ Lord Thomas, in referring to the case of *Bains*⁷,
2 applied the approach to be taken in sentencing general practitioners who offend by way
3 “of inappropriate examinations of their patients and the very high degree of breach of
4 trust that they engender.”

5
6 73. In *Zala*, the Court took into account the Appellant’s good character but stressed the
7 importance of “the absolute need to deal with doctors who abuse their trust and the
8 degree of harm suffered.”

9
10 74. These aggravating factors of the numerous victims over a long period of time would
11 raise the starting point from 4 years to 5 years’ imprisonment.

12
13 75. However, I now take into account the aforesaid mitigating factors:

- 14
15 i. The defendant has no previous convictions;
16 ii. The defendant is of good character as evidenced by the letters of reference;
17 iii. The defendant has expressed remorse;
18 iv. Ms. Bodden has given a diagnosis of impulsive disorder;
19 v. The defendant’s medical career is in ruin.

20
21 76. These mitigating factors reduce the figure to 4 years’ imprisonment.

22
23 77. Count 10 is, as the defence concedes, a more serious offence and has two very serious
24 aggravating factors.

25

⁶ [2014] EWCA Crim. 2181 at paragraph 40

⁷ *supra*



1 78. The first is that the defendant told his victim that he was going to apply massages to
2 her private area and that his fingers might slip. Although his victim found it
3 perplexing, she trusted him as her chiropractor and medical practitioner. The defendant
4 then proceeded to penetrate her vagina with his fingers. She said:

5 *“I felt his finger slip into my vagina very briefly” and she also said “it was inside.*
6 *It was not for long”.*
7

8
9 79. It is noteworthy that this is offence would be a separate offence if it took place in the
10 UK – with a maximum of life imprisonment. In my view, these are very serious
11 aggravating factors which merit a custodial sentence of 7 years’ imprisonment.

12
13 80. Again I take into account the same mitigating factors, in that, the defendant has no
14 previous convictions, is of good character as supported by his references, and has
15 expressed remorse, together with the fact that his medical career is in ruin. Therefore I
16 would reduce the sentence to six years’ imprisonment.

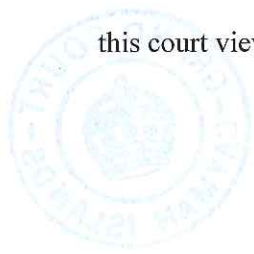
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1 81. Defence counsel accepts that in this case there is a serious breach of trust, where the
2 Defendant took advantage of his position of power or position of trust over his
3 patients. Therefore, it is important that the Court imposes a penalty that properly
4 reflects the gravity of these offences. Adopting the words of Lord Thomas in *Bains*,
5 the maintenance of confidence in the trust between a doctor and a patient is of
6 paramount importance to the public and to the proper functioning of all health services
7 in the Cayman Islands. The Defendant was not only a practicing chiropractor, but also
8 a member of the CIHPC – a body which is responsible for the professional conduct of
9 medical practitioners in the Cayman Islands. These indecent assaults took place under
10 cover of his profession and he, by virtue of his position on the CIHPC was a trustee of
11 the high standards that are expected of the medical profession in the Cayman Islands.

12
13
14 82. I accept that his medical career is in ruin but the court must impose a sentence which
15 reflects the overall criminality of these offences.

16
17 83. Accordingly, having taken into account the submissions of both counsel, read the
18 helpful authorities and the defendant’s supporting documentation, I now set out what
19 this court views as the appropriate sentences:



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- 1 i. Indecent Assault involving penetration – Count 10:
2 (a) 6 years’ imprisonment;
3 ii. Indecent Assault involving touching of naked genitalia or area next to genitalia –
4 Counts 3, 6, 8, 9, 12 and 16:
5 (a) 4 years’ imprisonment;
6 iii. Indecent Assault involving touching of clothed genitalia or areas next to genitalia –
7 Counts 5 and 13:
8 (a) 2 years and 8 months’ imprisonment;
9 iv. Taking photographic images of naked victims without their consent – Counts 11
10 and 15:
11 (a) 18 months’ imprisonment.

12
13 84. The Defendant is entitled to the standard 33 1/3% reduction for his early guilty pleas
14 on each count and, accordingly, the final sentence for each count is as follows, with all
15 sentences to run concurrently:

- 16 i. Indecent Assault involving penetration – Count 10:
17 (a) 4 years’ imprisonment;
18 ii. Indecent Assault involving touching of naked genitalia or area next to genitalia –
19 Counts 3, 6, 8, 9, 12 and 16:
20 (a) 2 years’ and 8 months’ imprisonment.
21 iii. Indecent Assault involving touching of clothed genitalia or areas next to genitalia –
22 Counts 5 and 13:
23 (a) 16 months’ imprisonment;
24 iv. Taking photographic images of naked victims without their consent – Counts 11
25 and 15.
26 (a) 1 year imprisonment.



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85. At paragraph 5 on page 8 of the *Cayman Islands Sentencing Guidelines, General Principles*, published in October 2015, the learned editors state:

“The Court when sentencing for more than a single offence should pass a total sentence which reflects all the offending behaviour before it, and, at the same time, is a sentence which is just and proportionate.”

86. Accordingly, I impose a total sentence of 4 years’ imprisonment with time spent in custody to be taken into consideration.

87. I also order the destruction of the computer hard drive seized.

88. Finally, it would be remiss of me not to commend the excellent work of Chief Inspector Malcolm Kaye, WDC Emma Twydell, and, WDC Jodie Tatum for their careful work in investigating the full extent of the crimes committed and the very sensitive manner in which they obtained their witness statements.

Dated this the 17th November 2016



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