

**COMMONWEALTH OF THE BAHAMAS**

**CRI/VBI NO.95/03/2022**

**IN THE SUPREME COURT**

**Criminal Division**

**B E T W E E N**

**DIRECTOR OF PUBLIC PROSECUTIONS**

Applicant

**AND**

**ORLANDO ANTONIO WILLIAMS**

Respondent

**BEFORE:**

**Mr. Justice Andrew Forbes**

**APPEARANCES:**

**Mrs. Ashely Carroll & Mr. Sean Novell Smith on behalf of the  
Director of Public Prosecutions**

**Mr. K Brian Hanna on behalf of Mr. Orlando Williams**

**HEARING DATE:**

**5<sup>th</sup> June, 2024**

**SENTENCING DATE:**

**5<sup>th</sup> June, 2024**

## SENTENCING

### BACKGROUND

[1.] On the 8<sup>th</sup> April 2024 the Convict appeared to the Criminal Court and entered a guilty plea to the charges of Unlawful Sexual Intercourse (3 counts) after Counsel for the Convict and Counsel for Office of Director of Public Prosecution had a discussion. The Crown then introduced the facts and the facts were accepted by the Convict. The Court, subsequently, convicted Orlando Antonio Williams, on the 8<sup>th</sup> April 2024 for the Offences of Unlawful Sexual Intercourse (3 counts) contrary to section 10(1) (a) of the Sexual Offences Act.

[2.] That the convict who was represented by Counsel Mr. K. Brian Hanna, requested a probation report for the Convict should be provided to aid in sentencing. A Probation Report was, in fact, prepared by Chief Probation Officer Ms. Wynelle Goodridge and Mr. Laish Boyd Jr. as a Trainee Probation Officer and dated the 14<sup>th</sup> May 2024. The Probation Report sourced information from the Convict – Orlando Williams, his mother – Ms. Daydremae Williams, and his sister – Ms. Crystal Williams. The Court would note that the family of the victim elected not to speak with the Probation Department. The Probation Report also sought to rely upon certain information from the Criminal Records Office.

[3.] Counsel for the DPP made recommendations as to an appropriate sentence and Counsel for Mr. Brian Hanna made pleas in mitigation.

### FACTS

[4.] The brief facts were extracted from the statements of the Officers conducting the investigations, as well as, the statements made by the Convict to the Police when questioned. According to Officer Lynette Leadon, she reported receiving information from another Officer; that as a result of the information, she would have attended the Emergency Room at the Rand Memorial Hospital and was given information that the Convict was in custody. That she later recorded a written statement from Keva Bullard referencing her thirteen (13) year old daughter.

[5.] That she took a written statement from the victim TB in the presence of her sister. According to the victim, she received messages via Facebook where she and the Convict began communicating. That the Convict met with her in person sometime in January when he picked her

up from her residence and went back to his residence where they had sexual intercourse. That she recounted that this occurred on two (2) other occasions.

[6.] Officer Leadon indicated on the 9<sup>th</sup> March 2022 at about 2:51pm during a record of interview involving the Convict, the Convict indicated what occurred. That this record of interview was also recorded and that those records were secured and marked for future identification. That during the investigation, the Officer Leadon spoke to several individuals and received additional information. That Officer Leadon noted that during the record of interview conducted with the Convict, that the Convict admitted to having unlawful sexual intercourse with the victim where they had protected sex once and unprotected sex on two separate occasions.

[7.] According to the information supplied in the Probation Report, the Convict was born in Grand Bahama and commenced his education at Freeport Primary School. He then advanced to Jack Hayward High School but was expelled for fighting. That he then attended Total Education Centre but did not complete the course there. That he was first employed at Pieces Restaurant as a General worker in 2011. He worked there for seven (7) years. He then secured employment as a kitchen helper for one (1) year at Sire's restaurant. He then became employed on a full time basis as a painter at Professional Paint for one (1) year in 2020. While working these jobs the Convict worked on a contractual and part-time basis in many areas including painting masonry, carpentry, auto mechanic repair and tiling. He is a bachelor with one child who is eleven years (11) and lives with her maternal aunt. He provides financial and emotional support. The Convict notes he has a good relationship with his siblings and mother. The Convict states that he smokes marijuana and sometimes consumes alcoholic beverages. That he doesn't attend church but was raised in the Anglican tradition.

[8.] The mother of the Convict, Ms. Daydremae, described her son as humble, mannerly and a quiet child. As an adult, she described him as hardworking and caring. She opined that she may have been too over protective as a mother and this may have resulted in him being naïve and easily influenced in his adult years. When asked about her son's predicament she expressed shocked noting it was not in her son's nature to take something so precious from a woman. As she later learned of the details she developed reservations about the veracity of the allegations and possible deceptions of her son from other parties' involved.

[9.] The Court must stop here and comment on the casual nature in which our culture appears to sexualize girls. It doesn't matter how physically developed they may appear young girls are not

mentally capable of making adult decisions of a sexual nature. Nonetheless, it appears that our society appears to hold the female child to a higher standard than the adult male in this instance.

[10.] Ms. Krystal Williams, the sister of the Convict, described that she admired the Convict for his many varied skills. She called him a hard worker who mostly kept to himself. She was devastated to learn of the allegations and hopes that he will embrace the work programs at the Bahamas Department of Corrections (BDCOS) to further improve his skills.

[11.] Another sister, Ms. Kenrika Storr, noted that their relationship was not close as they have different interests. She describes him as not a troublesome person who stays mostly to himself. The Court notes that in the Probation Report, the victim and her family did not make themselves available to be interviewed and thus no comments are forthcoming.

## LAW

[12.] The Sexual Offences Act prescribes as follows:

*“10. (1) Any person who — (a) has unlawful sexual intercourse with a person under fourteen years of age, whether with or without the consent of the person with whom he had unlawful sexual intercourse; ..... is guilty of an offence and liable to imprisonment for life.”*

[13.] In deciding the appropriate sentence consideration must be given to the general principles of sentencing **Halbury’s Laws Third ed. Vol 11(2)** at paragraphs **1188** notes:

*“The aims of sentencing are now considered to be retribution, deterrence and protection and modern sentencing policy reflects a combination of several of all of these aims. The retributive elements is intended to show a public revulsion of the offence and to punish the offender for his wrong conduct. Deterrent sentences are aimed at deterring not only the actual offender from further offences but also potential offenders from breaking the law. The importance of reformation of the offender is shown by growing emphasis laid upon it by much of modern legislation. However, the protection of society is often overriding consideration. In addition reparation is becoming an important objective in sentencing.”*

Each case must depend on its own circumstances and various factors must be considered by the court in deciding which of the principles should predominate.

[14.] In the Court of Appeal case of **Prince Hepburn v. Regina** SCCrApp. No. 79 of 2013, *Adderley JA* (Retired) offered the following guidelines as to sentencing where he said at paragraph 36:-

*“In excising his sentencing function judicially the sentencing Judge must individualize the crime to the particular victim so that he can, in accordance with his legal mandate identify and take steps into consideration the aggravating as well mitigating factors applicable to the particular perpetrator in the particular case. This includes but not limited to considering the nature of the crime and the manner and circumstances in which it was carried out, the age of the convict, whether he has past convictions of a similar nature and his conduct before and after the crime was committed. He must ensure that having regard to the objects of sentencing, retribution, deterrence, prevention and rehabilitation that the tariff is reasonable and the sentence is fair and proportionate to the crime.”*

### **SUBMISSIONS**

[15.] Mr. K. Brian Hanna, on behalf of the Convict, suggest that the Convict is a relatively young man and still redeemable. That the Convict plead guilty at the earliest opportunity. That the Convict’s actions were not premeditated and that the Convict lost his self-control. Mr. Hanna laid over for consideration of the Court booklet titled ‘A Compendium Sentencing Guideline of the Eastern Caribbean Supreme Court’ Sexual Offences re-issue 8<sup>th</sup> November 2021. Particularly, he referred the Court to page 17 thereof. The Court notes that page 17 speaks to Aggravating and Mitigating Factors and steps 3, 4 & 5. With step 3 being “credit should be given for a guilty plea as appropriate.” And step 4 being “Adjust figure on assessing totality if sentencing for more than one offence...” Mr. Hanna appeared to argue that given that the virtual complainant nor the family appeared to be interested in responding to inquires that this should motivate the Court to consider an alternative sentence as oppose to custodial and perhaps consider a probationary sentence.

[16.] Mrs. Ashely Carroll, on behalf of the Director of Public Prosecutions, notes that there are mitigating and aggravating factors. The Crown noted that there was a preliminary agreement between the parties; however, the agreement was never executed. However, the Convict preferred that the Court make the determination. The Crown, however, recommended a custodial sentence of two (2) years on each count to run concurrently and in support cited the case of **Director of**

**Public Prosecutions v. Maurice Reynolds VBI**, No. 167/9/2020 in which *Madam Justice Camille Darville Gomez* sentenced Reynolds to four (4) years. It would be noted that unlike the current case Reynolds went to trial which lasted ten (10) days and he tendered an Alibi defence.

### **ANYALSIS & DISCUSSION**

[17.] In individualizing this case to the present, the Convict – Mr. Orlando Williams appeared to have cooperated with the investigation. He did participate in the Record of Interview and gave a full statement. He also elected to plead guilty at the very earliest opportunity. These certainly all inure to his credit. Certainly, which differs from the **Reynolds case**.

[18.] The Convict does appear to demonstrate remorse. The question for consideration is what would be an appropriate sentence to impose regarding unlawful sexual intercourse. In this regard, the Court reviewed the Court of Appeal and noted in the case of **Chervin Guepson Brown v. Director of Public Prosecutions** SCCrApp. No. 124 of 2022 this involved an appeal where the appellant was arguing several grounds of appeal and one was the harshness of the sentence. In his case he was tried by a jury and convicted unanimously and sentenced to eight (8) years.

[19.] At paragraph 33 et seq., *President of Appeal Sir Michael Barnett* noted the following comments which are illustrative where he said the following:

*“33. In determining whether a sentence is unduly harsh, this Court considers whether the sentence imposed is one in the range of which a judge could reasonably impose. In making that assessment, this Court is entitled to have regard to sentences which have been approved by this Court in other offences involving sexual misconduct. 34. In Taborda v Regina SCCrApp No. 171 of 2017, this Court reviewed a number of sentences for convictions of sexual offences. We noted that “The range of 7 to 10 years was completely consistent with sentences of this court on charges for rape when the accused pleaded guilty and was a first offender.” 35. I refer to a few cases. In Attorney General v Campbell [2005] 4 BHS J. No 93, the accused, a mature male was convicted after a trial for unlawful sexual intercourse with an eleven-year-old girl. He was sentenced to 7 years’ imprisonment. In Johnson v R [2007] 5 LRC 99, a man was convicted of unlawful sexual intercourse with an 8-year-old boy. He had no previous conviction and his sentence of 20 years’ imprisonment was affirmed by this Court. In Bridgewater v R [2008] 5 BHS J No 75, a male was convicted of unlawful sexual intercourse with a 6-year-old girl. He was sentenced*

*to 7 years' imprisonment and ordered to be flogged with ten strokes. On appeal, the sentence of flogging was quashed but the 7-year sentence was not set aside. 36. More recently, in Bethel v R [2017] 1 BHS J 106, this Court affirmed a sentence of 12 years when an Intended Appellant was sentenced after a conviction, after a full trial, of the rape of a dependent child who was 13 years old. Further, in R v Barr [2018] 1 BHS J No 80, Grant-Thompson, J imposed a 12-year sentence on a man convicted of unlawful sexual intercourse with an 11-year-old girl. 37. Having regard to previous sentences imposed by the courts for these types of offences, in my judgment, the sentence of eight years is not outside the range of reasonableness which makes the sentence unduly harsh. This was not a guilty plea and Mary was only 13 years old and was subjected to a full trial. Accordingly, the proposed appeal against sentence has no realistic prospects of success."*

[20.] Nevertheless, the Court recognizes that the Convict plead guilty at the earliest, he cooperated with the investigation. There are no previous convictions of similar nature save for a Possession of dangerous drugs with intent to supply where he was granted a conditional discharge. Although, it is noted that this is not applicable as the Convict at the time was a Juvenile. It has become high time where the Criminal Records Office follows through and expunged the records of these Juvenile as oppose to constantly publishing them in direct violation of the Rehabilitation of Offenders and the Child Protection Acts.

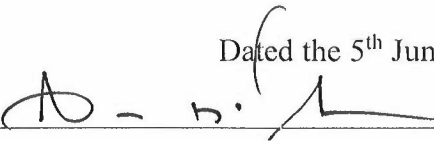
[21.] The Court notes that he is a father with financial and emotional responsibility for his minor child, however, the Court also notes that this crime was wholly avoidable. Where we have young people immersed in social media with ever-increasing danger and lack of supervision, we will continue to have individuals seeking them out. We have the continued problem of children being sexualized by in this case, an Adult man; but by no means is it limited to just men seeking out the attention of vulnerable children. In the circumstances, an alternative sentence would be inappropriate and the Court will impose a custodial sentence. It requires everyone identifying and seeking to correct this trend before other manifest challenges emerge. The Court was also made aware of the proposed agreement between Counsel for the Crown and the Convict and frankly this Court is somewhat flummoxed as to why the Convict did not accept what was a generous offer from the Director of Public Prosecution (DPP).

## DISPOSITION

[22.] The Court hereby convicts Mr. Orlando Williams of Unlawful Sexual Intercourse (3 Counts) contrary to section 10(1) (a) of the Sexual Offences Act Chapter 99 of the Statute Laws of the Bahamas and imposes a two (2) year sentence on each count to run concurrently and commencing from the 20<sup>th</sup> April 2024 in consideration of the proposal offered by the DPP. The Convict has expressed interest in attending Carpentry and Electrical classes while at BDOCs. If classes are available, it is recommended that the Convict is so enrolled. It is perhaps also necessary that the Convict, if available, enroll in substance abuse classes.

[23.] The Convict may appeal the sentence of this Court to the Court of Appeal within the statutory time.

Dated the 5<sup>th</sup> June, 2024

A handwritten signature in black ink, appearing to read 'A. Forbes', is written over a horizontal line. The signature is fluid and cursive.

**Andrew Forbes**  
**Justice of the Supreme Court**