

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL DIVISION**

**2024
CRI/vbi/123/4/**

B E T W E E N

THE DIRECTOR OF PUBLIC PROSECUTIONS

The Respondent

V

QUINCY KEVIN EDGECOMBE

The Convict

Before: The Honourable Madam Senior Justice Mrs. Cheryl Grant-Thompson

**Appearances: Mr. Basil Cumberbatch along with Mrs. Karine MacVean-
Counsel for the Director of Public Prosecutions**

Mr. Alex Dorsett – Counsel for The Convict

Hearing: 27th September, 2024.

SENTENCING JUDGMENT

Convicted for Unlawful Sexual Intercourse, contrary to Section 10(1)(a) and 11(1)(a) of the Sexual Offences Act, Chapter 99- Sentence of Life Imprisonment (2 count); Prior Convictions- Convict 24 years old at the time of the offence (now 27 years old)- Guilty Plea

GRANT-THOMPSON SNR. J

BACKGROUND

1. On Friday 16th August, 2024, the Convict was arraigned before this Honourable Court and pled Guilty to two (2) counts of **Unlawful Sexual Intercourse, contrary to Sections 10(1)(a) & 11(1)(a) of the Sexual Offences Act, Chapter 99**. The matter was adjourned to the 21st of August, 2024, in open Court for the Crown to present the facts upon which they relied. The matter was further adjourned to the 18th of September, 2024, however, the Convict did not appear for his sentencing hearing and a bench warrant was issued for his arrest.
2. On the 21st of August, 2024, the Crown withdrew the second count. The Court asked the Defendant if he accepted those facts. The Defendant indicated that he did accept them. He was then formally convicted of the charge before the Court.

THE FACTS

3. The brief facts as posited by the Crown and accepted by the Convict read as follows: The Virtual Complainant (thirteen (13) years of age at the time of the offence) “**S.R.**” communicated with the Convict, Quincy Edgecombe (24 years of age at the time of the offence) in August of 2022 and he gave the Complainant his cell number. On the 14th of August, 2022, the Convict collected the Complainant in his black Passo vehicle from her grandmother’s residence. The Convict then took the Virtual Complainant to his friends in Elizabeth Estates where they engaged in sexual intercourse in the bedroom. The Convict was interviewed on the 6th of June, 2023, when he admitted to knowing the Virtual Complainant having first met her in Instagram. He also admitted having met with her on the 14th of August, 2022 and

that he has access to a black Passo. However, he denied engaging in sexual intercourse with the Virtual Complainant. On the 16th of August, 2024, the Convict was arraigned before this Honourable Court and pled guilty to one (1 count) of **Unlawful Sexual Intercourse, contrary to Sections 10(1)(a) & 11(1)(a) of the Sexual Offences Act, Chapter 99** and the matter was adjourned to the 18th September, 2024 for sentencing.

4. THE LAW

UNLAWFUL SEXUAL INTERCOURSE,

Sections 10(1)(a) & 11(1)(a) of the Sexual Offences Act, Chapter 99 provides that:

“10. (1) Any person who has unlawful sexual intercourse with any 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 subject to, on a first conviction for the offence, a term of imprisonment of seven years and in the case of a second or subsequent conviction for the offence, a term of imprisonment of fourteen years.”

AGGRAVATING FACTORS

- 5.** The aggravating factors against the Convict namely **Quincy K. Edgecombe:**
 - i. He has several previous convictions for Causing Damage, Receiving, Unlawful Possession, Violation of Curfew, Deceit of a Public Officer, Assault;
 - ii. He has one (1) pending matter of Unlawful Sexual Intercourse;
 - iii. The age of the Complainant at the time of the offence;
 - iv. The prevalence of sexual offences in The Bahamas; and

- v. The seriousness of the offence.

MITIGATING FACTORS

6. The Convict is a fairly young man, at the time of the committing this offence:
 - He is twenty-five (25) years old;
 - He pled guilty at the first reasonable opportunity given to him during his arraignment on the 16th of August, 2024;
 - He admitted to his guilt and having met up with the Virtual Complainant on the 14th of August, 2022; and
 - He is a Bahamian citizen.

CROWN'S SUBMISSIONS ON SENTENCING

7. The Crown submitted that the range of sentence should be as follows:

Deputy Director of Public Prosecutions, Mr. Basil Cumberbatch submitted to the Court that the Convict is liable by law to serve a fourteen (14) year custodial sentence in prison for this offence. Counsel for the Crown accepted that the now Convict pled guilty at the first opportunity during his arraignment. The Crown submits that the Convict has the propensity to commit offences like this again. In addition to the sentence this Court may impose upon him, Counsel suggested that the Convict should be psychologically evaluated and assessed.

In these circumstances, Deputy Director of Public Prosecutions respectfully recommended to the Court that the sentence should range between nine (9) to twelve (12) years for the offence of Unlawful Sexual Intercourse might be appropriate in the disposition of this matter. This would also give the Convict

an opportunity to be rehabilitated, to receive professional counseling, adequate psychiatric evaluation and care.

RECOMMENDATION FROM THE PROSECUTION

8. It was humbly recommended that the Court sentence the Convict, **Quincy K. Edgecombe** to serve a term of imprisonment of Nine to Twelve (9-12) years for the offence of **Unlawful Sexual Intercourse, contrary to Sections 10(1)(a) & 11(1)(a) of the Sexual Offences Act, Chapter 99 (1 count)**. The Court took into consideration the time the Convict has spent on remand.

PLEA IN MITIGATION

9. On the 27th of September, 2024, Mr. Alex Dorsette, Counsel for the Convict made a plea in mitigation on behalf of Mr. Quincy Edgecombe (the Convict). Mr. Dorsette submitted that Mr. Edgecombe is a twenty-seven (27) year old male, who was employed with Marco's Trucking. Further, Mr. Edgecombe is a father of a two (2) year old son.
10. In response to the Prosecutions submission that the Convict should be sentenced to term of nine- twelve (9-12) years imprisonment, Mr. Dorsette submitted that a lesser sentence would be more appropriate. To support his submission Mr. Dorsette relied on the Court of Appeal case of **Chervin Guepson Brown v Director of Public Prosecutions SCCrApp No. 124 of 2022**. In this case the Appellant had been convicted of the offence of Unlawful Sexual Intercourse with a thirteen (13) year old female. There was a full trial and the Appellant in this matter had not pled guilty. The Appellant was then sentenced to a term of eight (8) years imprisonment.

11. Comparing **Chervin Brown v DPP (supra)** to the current circumstances, Mr. Dorsette submitted that the Virtual Complainant in both matters were thirteen (13) years of age. However, unlike in Chervin Brown the Convict in this matter pled guilty at the first reasonable chance, intentionally choose not to waste the Courts time and sought to save the Virtual Complainant the emotional stress of having to give evidence.

12. Mr. Dorsette also replied upon the case of **Bethel v. R 1917**, where a man was sentenced to twelve (12) years imprisonment for a similar offence as the current matter. According to Mr. Dorsette, in this case there were two (2) aggravating factors. Firstly, the Convict did not plead guilty, chose to put the Court through a full trial and the Virtual Complainant through horror of reliving the experience. Secondly, the child was a minor and a dependent. Mr. Dorsette submits that those factors do not arise in this case. Mr. Dorsette avers that the Virtual Complainant did not waste the Courts time, did not force the Virtual Complainant to relive the experience, the Virtual Complainant was not a dependent, they were not living in the same house, they were not neighbors, and he was not a relative of the Virtual Complainant- someone tasked with looking over her.

13. The case of **Crown v Barr 2018 1BHSJ** was also replied upon by Mr. Dorsette. Here Counsel for the Convict drew the distinction between the ages of the Virtual Complainants. In this matter, this very Court imposed a twelve (12) year sentence of a man convicted of Unlawful Sexual Intercourse with an eleven (11) year old girl. However, as asserted by Mr. Dorsette, the Virtual Complainant at the time of the offence was thirteen and seven months years old.

14. Mr. Dorsette submitted that the Convict was and still is a very young man. At the time he committed the offence he was twenty-five (25) years old. He is now twenty-

seven (27) years old. As a result of the Convict's young age, he is not very mature. The Convict has strong family ties, a close relationship with his father and his mother, and supports both his son and his son's mother. Further, Mr. Dorsette submitted that although it is not a defence, the Court should take into consideration the fact that the relationship between the Virtual Complainant and the Convict was not longstanding. He is remorseful. Lastly, although Mr. Edgecombe has committed other offences in the past, they have no bearing on this matter as they are not similar in nature.

15. Thus, Counsel for the Convict submitted that the Court should consider a sentence of two (2) years imprisonment.

RESPONSE TO PLEA IN MITIGATION

16. In response to Mr. Dorsette's submissions, Counsel for the Crown- Mr. Cumberbatch- submitted that he too was once twenty-five (25) years old and would have known that it was wrong to be intimate with a minor. Counsel for the Crown also replied to Mr. Dorsette's comment that the Convict believed that the Virtual Complainant was sixteen (16) years old. In response to this Mr. Cumberbatch read to the Court **Section 10(2) of the Sexual Offences Act, Chapter 99**, which states that "*Notwithstanding the provisions of Section 96 of the Penal Code, it is no defense to a charge under this section that the person did not know or believe or had not the means of knowing that the other person was under 14 years of age.*". The fact that he did not know the Virtual Complainant's true age is not a defence.

17. Moreover, Mr. Cumberbatch submitted that although the Convict would have pled guilty in this matter and he does have previous offences, it seems that he has not

learned anything from his previous matters. As he continues to come back and commit further offences.

18. Mr. Cumberbatch also submitted that since the Convict pled guilty at the first opportunity, did not waste the Court's time, on its face, it appears that Mr. Edgecombe would be entitled to one third reduction of the twelve (12) year sentence. Which amounts to eight (8) years imprisonment. However, regarding this general rule Counsel for the Crown implored to the Court to understand that this would only be applicable if the Convict had no previous convictions. This is not the case in this matter. The Convict has several previous offences.

19. Mr. Cumberbatch submitted that along with the fact that the Convict has previous convictions, a few additional aggravating factors are the age of the Virtual Complainant at the time of the offence (which was thirteen (13) years old), the prevalence of sexual offences in The Bahamas and the seriousness of the offence. Counsel for the Crown also brought to the Courts attention that in sentencing the Court should always seek to prevent and deter both the Convict and likeminded persons from committing further offences. This Court agrees. The Complainant was young. Sexual matters robbing minor children of their innocence has become prevalent in our country. The Court intends its verdict to send a clear message to society. That it is good to accept responsibility, but a Convict cannot continue to slip and fall robbing a minor of their innocence.

20. Regarding the case of **Chervin Brown v DPP (supra)** Mr. Cumberbatch read to the Court paragraph 36 which stated that "*in Bethel v. R 1917, this Court affirmed the sentence of 12 years when the Intended Appellant was sentenced after conviction after a full trial.*" "... of the rape of defendant child was 13 years of age". Moreover,

the Crown also relied on the case of **Crown v Barr 2018 1 BHSJ**. In this matter, this very Court imposed a twelve (12) year sentence of a man convicted of unlawful sexual intercourse with an eleven (11) year old girl.

21. As a result of these factors, Mr. Cumberbatch submitted that a sentence of 9-12 years would be an appropriate range.

SENTENCING PROVISIONS

22. Section 185 of the Criminal Procedure Code, Chapter 91 (“the CPC”), provides as follows:

“The court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed and may hear counsel on any mitigating or other circumstances which may be relevant.”

SENTENCE OF THE OFFENDER

23. In determining the seriousness of the offence, the Crown submitted that the range of sentence should be as follows:

- (i) The **most serious** of offence are those in which a weapon is used resulting in serious injury
- (ii) The offences which are of **medium seriousness** are those in which a weapon is used, however, there is either no injury or very minor injury; and
- (iii) The **least serious** of offences are those in which no weapon is used, or despite there being a weapon, mere threat or minimal force it used.

24. The Crown respectfully submitted that this offence fell within the **least serious** spectrum of the sentencing scale. The Court agrees. This is the **least serious** of offences.

PURPOSE OF SENTENCING

25. Sentencing must always be proportionate to the gravity of the offence and promote a sense of responsibility in the offender for the offence committed. The object of sentencing is to promote a respect for the law and order, maintain a peaceful and safe society, and discourage crime by the imposition of sanctions. Sentencing should also be aimed at the rehabilitation of the offender so that he may reform his ways to become a contributing member of society. Such sanctions for breach of the law are provided by law for the means of sentencing.

26. Court is guided by the four (4) classical principles of sentencing namely retribution, deterrence, prevention and rehabilitation.

- (i) **Retribution** - In recognition that punishment is intended to reflect society's and the legislative's abhorrence of the offence;
- (ii) **Deterrence** – to deter potential offenders and the offender himself from recidivism;
- (iii) **Prevention** – aimed at preventing the offender through incarceration from offending against the law and thus protection of the society; and
- (iv) **Rehabilitation** – aimed at assisting the offender to reform his ways so as to become a contributing member of society.

27. The Court is of the view that the Convict should be deterred from this type of offence - and other members of society who are likeminded should also be deterred. However, having said that the Court believes that this Convict is capable of rehabilitation. He seeks help. It is obvious to the Court that he needs psychiatric care and counseling which he has never really received. The Court would like to see him get the help, care and support that he so desperately needs. The Court finds the circumstances of the case, the age of the Complainant, previous convictions of the Convict to be aggravating.

28. In these circumstances, applying the general principles of sentencing and the Court of Appeal guidelines as stated above along with balancing the mitigating and aggravating factors in the instant case, the Crown proposed that a **Ten (10) years** sentence is appropriate.

29. The Court intends that the sentence will send a strong message to the community that justice is tempered with mercy. The Court will balance the need for society to have some retribution by the Convict serving some sentence for this serious indictable offence but yet ensuring that he receives the professional assistance he requires.

30. Mr. Quincy K. Edgecombe, you are hereby sentenced to a term of **Ten (10) years imprisonment** for the offence of **Unlawful Sexual Intercourse, contrary to Sections 10(1)(a) & 11(1)(a) of the Sexual Offences Act, Chapter 99**. This sentence is to run from the date of conviction which was the 27th day of September, 2024.

31. The Court humbly request that:

- i. This Convict is to receive practical electrical training for the vocation of Electrical Services at B.D.O.C.S;
- ii. He is allowed to work along with the skilled labour crew on the internal construction projects at B.D.O.C.S;
- iii. He receives psychiatric evaluation and counseling for sexual offenders at the Sandilands Rehabilitation Centre and to be released into general population at The Bahamas Department of Correctional Services upon completion; and
- iv. That he serve a sentence of ten (10) years.

32. The Court promised to put its reasons in writing, this the Court now does.

Dated the 30th day of October A.D., 2024.

The Honourable Madam Senior Justice Mrs. Cheryl Grant-Thompson