

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

2017/CRI/VBI/121/5

Between

THE DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

AND

SPARK ELVIS STRAPP

Respondent

Before: The Honorable Madam Justice Guillimina Archer-Minns

**Appearances: Ms. Davina Pinder for the Applicant
Mr. David Cash for the Respondent**

Hearing Date(s): 5 February 2026

SENTENCING RULING

***Sentencing—Rape—Applicable principles—Aggravating Factors—Age disparity between offender and victim—
Mitigating factors—Prospects for Reform—Whether substantiated by evidence.***

INTRODUCTION AND BACKGROUND

1. Spark Elvis Strapp (hereinafter referred to as “the Convict”) was convicted following a three-day jury trial on 18 August 2025 of one count of the rape of A.D (hereinafter referred to as “the complainant”), contrary to section 6(a) of the Sexual Offences Act, Ch. 99. At the time of the offence, the convict was 37 years old and the victim was 17.

Factual background

2. The brief facts of this matter, as accepted by the jury, are as follows. On Friday, 27 January 2017, the complainant accepted a ride home from the convict, also called “Blacks”, after finishing her shift at a hot dog stand at the “Fish Fry”, Arawak Cay. The convict also worked at a restaurant on Arawak Cay and frequented the hot dog stand. The vehicle in which the ride was offered did not belong to the convict but to his cousin, whom he directed to drop him and the complainant to the convict’s apartment. The complainant expected that the convict would drop her home from there, as he claimed that he had “lots of rides” (cars) and had promised that he would take her home.

3. Instead of taking her home when she got to his apartment, the convict initiated a conversation about sex, making the complainant uncomfortable and uneasy. She repeatedly asked him to take her home and eventually announced that she would walk home herself after her requests went unheeded. As she tried to leave, the convict blocked the exit to the front door and threatened to hit her over the head with a large frying pan he had picked up. He also threatened that he would “*bury her outside in his backyard, it won’t be the first or the last.*”

4. Fearful for her life, she complied with his demands and went to his bedroom and undressed. Despite her protests, the convict raped her, first by forcing her to perform oral sex on him and then having penetrative sex with her. He also told her to suck his anus which she refused to do. After he was finished she managed to put on her pants, grab her top and jacket and ran out of the house. She jumped the wall and ran into the road, dangerously ducking through cars out of fear that she was being followed by the convict. Realizing that she had a friend who lived in that area, she ran to her friend’s house, banging on the door screaming and crying that she had been raped.

5. The complainant received assistance at her friend’s house and reported the incident to the police that same night. As a result, the convict was arrested, formally charged with rape and brought to trial. He elected not to take the stand but his case, as was recorded in his statement of interview was that the sex between him and the complainant was consensual.

6. The jury clearly disbelieved the convict’s version of events and returned a unanimous guilty verdict of 9-0 for the offence of rape. The convict requested a probation report and the matter was adjourned to 15 January 2026 for the hearing of sentencing submissions which came on for hearing on Friday 6 February 2026.

DISCUSSION AND ANALYSIS

The Law

7. Both counsel for the Prosecution, Ms. Davina Pinder and Defence, Mr. David Cash agreed that the starting point when considering the possible sentence for the offence is section 6 of the Sexual Offences Act, Ch. 99, which provides that:

“Any person who – (a) commits rape; (b) attempts to commit rape; or (c) assaults any person with intent to commit rape, is guilty of an offence and liable to a term of imprisonment within the range of fifteen years to imprisonment for life.”

8. Reference was also made to the leading case of **Prince Hepburn v Regina SCCrApp No. 79 of 2013**, wherein the Court of Appeal described the sentencing functions and provided guidelines for sentencing in matters of this kind. The Appeal Court (per Adderley J.A.), stated as follows [at 36]:

“In exercising his sentencing functions judicially the sentencing judge must individualize the crime to the particular perpetrator and the particular victim so that he can, in accordance with his legal mandate, identify and take into consideration the aggravating as well as mitigating factors applicable to the particular perpetrator in the particular case. This includes but is 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 or not he pleaded guilty at the first opportunity, whether he had 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.”

9. On the issue of proportionality, counsel for the Prosecution also cited **Jermaine Ramdeen v Commissioner of Police** (BS 2018 CA 114), where the Court of Appeal stated that [at paragraphs 8 and 9]:

“Proportionality in sentencing is concerned with the relationship between the seriousness of the offence committed and the sentence imposed. At the same time, proportionality is about the sentencing process, not only its result. Properly understood, proportionality in sentencing entitles an offender ‘to a process directed at crafting a just sentence’ and ‘a sentencing judge is prohibited from arriving at sentences contingent on factors unrelated to the determination of a fit sentence.”

10. Both counsel urged the Court to keep the objectives of sentencing in mind in its approach to determining an appropriate sentence. These were summarized in the West Indian case of **Benjamin v R (1964) 7 WIR 459**, as follows:

- (a) to exact *retribution* by and on behalf of the society and in accordance with law by inflicting punishment;
- (b) as a *deterrence* to other potential offenders (general deterrence) and the perpetrator himself (specific deterrence) from committing similar crimes;
- (c) *prevention* of the commission of any further offence by the perpetrator; and
- (d) *rehabilitation* of the offender to reform him and to enable his return as a contributing member of society.

Submissions of the Parties

Prosecution Submissions

11. Counsel for the Prosecution did not propose a determinate sentence but submitted that the appropriate range is 15-20 years in prison, relying on a number of comparative cases in which sentences within that range have been imposed. It was further submitted that there were significant aggravating factors in this case which augured for a sentence higher than the statutory minimum.

12. In this regard, the Prosecution referred to **R v Billam and other appeals and applications [1986] 1 All ER 985** (“**Billam**”), wherein Lord Lane CJ, explained the circumstances under which rape offences may be treated as aggravated. He stated:

“The crime should in any event be treated as aggravated by any of the following factors: (1) violence is used over and above the force necessary to commit the rape; (2) a weapon is used to frighten or wound the victim; (3) the rape is repeated; (4) the rape has been carefully planned; (5) the defendant has previous convictions for rape or other serious offences of a violent or sexual kind; (6) the victim is subjected to further sexual indignities or perversions; (7) the victim is either very old or very young; (8) the effect on the victim, whether physical or mental, is of special seriousness. Where any or more of these aggravating features are present, the sentence should be substantially higher than the figure suggested as the starting point.”

13. The Prosecution submitted that there were no mitigating factors in this case but proffered a laundry list of aggravating factors. These were as follows:

- (a) The nature and seriousness of the offence;
- (b) The age of the complainant—she was 17 years old at the time of the offence;
- (c) The age of the convict, who was 37 years old at the time of the offence (and 20 years older than the victim);
- (d) The psychological harm done to the complainant;
- (e) The claimant was put through the trauma of having to re-live the trauma by the trial process;
- (f) The convict showed lack of remorse by denying and continuing to deny the act and has not taken any responsibility for his conduct, despite being convicted; and
- (g) The prevalence of sexual offences in this country.

14. In particular, the Prosecution highlighted the following: (i) that the offence involved a degree of planning, as the convict pretended to have a car so that the complainant could be taken to his place; (ii) that the convict exploited the complainant's youth and naivete; (iii) that the convict threatened violence with a metallic frying pan and also threatened he would "bury her in the backyard" if she did not comply; and (vi) that the event left the victim emotionally and psychologically scarred.

Probation Report

15. The court received a probation report dated 8 January 2026 from Ms. Deah Duvalier of the Department of Rehabilitative and Welfare Services. That report was compiled based on information she received from three persons, one of whom wished to remain anonymous, records from the Bahamas Department of Correctional Services ("BDOCS") and the Criminal Records Office of the Police Force ("CRO"). Feedback was also solicited from the victim on the impact of the offence.

16. Pertinent parts of that report are as follows: the convict described himself to the probation officer as a "*family-oriented, hardworking, independent and God-fearing person*" from a close-knit family, although he was not able to identify the addresses or occupations of his three siblings. He has twin girls aged 10, with his wife, whom he married in 2025 following an "on-and-off" relationship for 11 years. His wife and children previously lived with him but have relocated since he was incarcerated and he does not know where they have relocated to. He has maintained a fairly steady employment history over the years, working at a number of private and public entities.

17. The convict maintained his innocence of the crime during his interview. He reiterated the version of events given in his statement that his sexual encounter with the complainant was consensual and transactional, and that she became upset after he failed to pay her the amount she demanded for the encounter. The convict was described by a relative as a "very good person" who was not troublesome and family oriented. A neighbor described him as an "all right" person and another opined that he does not know him to be "*violent or capable of such an offence*" as he was hardworking and enjoyed "*watching sports, working, gambling, smoking and drinking*".

18. For her part, the complainant stated that she "trusted" the convict and did not consent to sex with him. She is now 26 and stated that since the offence she has become "*distrustful in her romantic relationships*", has panic attacks and that the "*incident has had a negative impact on her life*". She wishes for the convict to account for his actions, as she does not want any other victim to experience what she experienced.

Defence Submissions

19. For the offender, Mr. Cash submitted that a sentence of 15 years strikes the balance between appropriate punishment and sending the societal message that the crime of rape is reprehensible. He also relies on what he says are several mitigating factors, namely:

- (i) (relative) youth;
- (ii) previous good character;
- (iii) the convict's history of steady employment;
- (iv) his prospects for reform; and
- (v) his status as a father of two.

Court's Discussion

20. There is no gainsaying that rape is a very serious offence. In **Billam**, the UK Court of Appeal endorsed a passage from the Criminal Law Revision Committee's 15th Report on Sexual Offences (Cmd Paper 9213 of 1984), which stated inter alia:

"Rape is generally regarded as the most grave of all the sexual offences.... [It] involves a severe degree of emotional and psychological trauma; it may be described as a violation which in effect obliterates the personality of the victim. Its physical consequences are severe; the actual physical harm occasioned by the act of intercourse; associated violence or force and in some cases degradation; after the event, quite apart from the woman's continuing insecurity, the fear of venereal disease or pregnancy."

21. In **Franklyn Huggins v The Queen (BVIHCR 2009/0001)**, a case from the BVI High Court, the Court said [at paragraph 17]:

"Short of homicide, rape is the 'ultimate violation of self'. It is a violent crime because it normally involves force, or the threat of force or intimidation to overcome the will and the capacity of the victim to resist. Along with other forms of sexual assault, it belongs to that class of indignities against the person that cannot ever be fully righted and that diminishes all humanity."

22. It is therefore accepted that any sentence imposed must appropriately reflect the seriousness with which society, the legislature and the courts view the offence of rape.

23. The Court has considered the written and oral submissions of counsel for the Prosecution and counsel for the convict Mr. Strapp. Counsel for the convict submitted that the sentence should remain at the statutory minimum having regard to the mitigating factors which he identified. The prosecution otherwise contended that there were no mitigating factors. Mitigating factors are factors that may lessen the seriousness of the offence or the blameworthiness of the offender, and which may justify a reduction in the severity of a sentence at the discretion of the judge see (**R v Nico Easton [2025] EWCA 1684, "Easton"**).

24. We do not currently have, in this jurisdiction, sentencing guidelines that prescribe aggravating or mitigating factors. But these principles are well established in the case law, and the Court is required to have regard to them (see **Prince Hepburn v R**, and **Taylor v The Commissioner of Police [2015] 2 BHS J. No. 52**). Mitigating factors may be offence-specific (such as lack of premeditation) or may be based on personal circumstances (such as remorse, good character or efforts at rehabilitation).

25. The Court is satisfied that what was described as the convict's "relative youth" is not a mitigating factor in this case. In a recent case, the Court of Appeal rejected the submission that it was proper to treat age as a mitigating factor where the convict was 33 at the time of offending. For that and other reasons, the Court of Appeal vacated the sentence of 10 years imposed by the trial judge and increased it to 25 years. The Court said (per Charles J.A.) [at 58]:

"...the Respondent was thirty-three (33) years old at the time of the offence in August 2021 and thirty-six (36) years old at the date of sentencing on 24 October 2024. In the absence of any evidence of immaturity, impaired judgment, or reduced moral culpability, a person in his mid-thirties cannot properly be characterized as "young" for the purposes of mitigation. Youth operates as a mitigating factor only where it reflects a lack of maturity or life experience bearing upon culpability, rather than mere chronology. As this stage of life, the Respondent was a fully mature adult, and his age, was, at most, a neutral consideration. To treat age as mitigating was a mischaracterization of mitigation and constituted an error in principle: see R v Peters & ORs. [2005] 2 Cr. App R(S) 101."

26. Mr. Strapp was 37 at the time of the offence and 46 at the sentencing hearing. He is a middle-aged adult, and absent any of the factors identified by the Court of Appeal that might alleviate culpability, the submission that his age or relative youth is a mitigating factor is not one that can seriously be made on his behalf. If anything, and as explained below, his relative age compared to that of the victim is more properly to be cast as an aggravating factor.

27. As to his good character, the cases are clear that the absence of a criminal record is not strictly a mitigating factor—"it denotes the absence of an aggravating factor" (see **Attorney General's Reference (No. 6 of 2006) Niall David McGonigle [2007] NICA 16**).

28. While prospects for reform and rehabilitation is routinely cited as a mitigating factor, it is fact-sensitive and should be substantiated or evidenced by reference to some efforts or initiatives taken by the convict to genuinely change or turn their life around (**Easton**, paragraph. 23). Based on the indication in the probation report, the most that can be said about the convict in this regard is that he has managed to stay out of trouble following his incarceration. There is no information or evidence that he has taken any steps to address his offending behavior, or that he will likely take such steps in the imminent future. As noted, he maintained his innocence and according to the report blamed his incarceration on personal misfortune—"In life I am not treated fairly because I'm not this nice-looking fellow, because I'm black." I therefore do not accept that is a mitigating factor for which credit should be given.

29. As to the other personal circumstances of the convict listed, I am not of the view that these rank high as mitigating factors, in light of the seriousness of this case. In any event, they are clearly overshadowed by the aggravating factors.

Aggravating factors

30. The Court also do not accept that all of the factors listed by the Prosecution are properly to be regarded as aggravating factors. While remorse may be a mitigating factors, lack of remorse is not an aggravating factor (see **W.G. v The Director of Public Prosecution SCCrApp & CAIS No. 198 of 2023**).

31. However, the Prosecution has listed additional factors which in my view are properly to be considered as aggravating factors in this case. I accept the submission that the youth and vulnerability of the victim, when compared with the relatively much older age of the offender, was an aggravating factor. The complainant was 17 years old at the time of the incident and in the eyes of the law still a child. The Child Protection Act, Ch. 132 defines a child as a “*person below the age of eighteen years*”.

32. In **R v Ben Corran and Others [2005] EWCA Crim 192**, the UK Criminal Court of Appeal said [at paragraph 8]:

“The age of the defendant, of itself and when compared with the age of the victim, is also an important factor. [..] If the offender is much older than the victim, a substantial term of imprisonment will usually be called for.”

33. As indicated, the victim was 17 at the time, and the offender was 37—a difference of 20 years. He was old enough to be her father, and he abused the trust she placed in him as an older and responsible person whom she thought would assist her in getting home safely.

34. The offence was also committed with the threat of violence. The offender not only threatened to inflict serious bodily harm on the victim with a frying pan but also made threats to the victim which implied that he was willing to kill her and bury her body.

35. Further, although the offence might not have required any great degree of planning, it is obvious that it was not an opportunistic crime, and the offender orchestrated a ride that would get the victim home alone with him, which required some degree of planning on his behalf.

36. Lastly, as indicated in the probation report, the offence has left a serious psychological and emotional impact on the victim, who has reported that she now experiences panic attacks and has difficulty coping in her romantic relationships, which is unfortunately one of the lasting effects of sexual violence and rape.

Comparative Cases

37. Counsel for the prosecution commended to the court a number of authorities in similar offence cases and submitted that the appropriate sentence should be similar to those.

38. In **AG v Frederick Derrick Francis SCCrApp No. 2 of 2007**, the convict was sentenced to 14 years' imprisonment for the rape of the female, whom he also murdered, and life imprisonment for the murder of both the female and a male victim. The sentence of 14 years for rape was undisturbed on appeal by the Attorney General (of the sentences for the murders only).

39. In **Saunders v The Queen [2020] UKPC 4**, the appellant's appeal of his conviction and number of years sentence for rape of a female whom he dragged into bushes while wielding a knife and raped and then blindfolded and took her to another location where he again raped her, was also dismissed by the Privy Council.

40. In **Henry Sean Darren Gay v The DPP SCCr. App No. 5 of 2020**, the victim was visiting her family in San Salvador and enjoying a bike ride when she was accosted by the appellant, who raped her. He was convicted and sentenced to 20 years' imprisonment. His appeal on the grounds that his sentence was unduly harsh was dismissed by the Court of Appeal, which confirmed both the conviction and the sentence.

41. Finally, in **D.E. v The DPP SCCrApp & CAIS No. 215 of 2023**, the appellant was convicted of attempted rape and sentenced to 10 years' imprisonment. He had attempted forcibly to have sexual intercourse with the complainant on a bus, but she fought him off and was able to escape. The Court of Appeal rejected the ground of appeal that the sentence was unduly harsh and severe and affirmed both the conviction and sentence.

42. I have given careful consideration to these cases, but in doing so I have borne in mind that each case turns on its own specific facts and individual circumstances. Thus, while those cases may be useful guides, they are not prescriptive. At the end of the day, my sentence must reflect the particular circumstances and factors relevant to the case against the convict.

CONCLUSION AND DISPOSITION

43. Having regard to all of the circumstances of this case, the written and oral submissions of counsel for the prosecution and the convict, the aggravating and mitigating factors, and the probation report, I consider that an appropriate sentence would be 18 years' imprisonment, less time served.

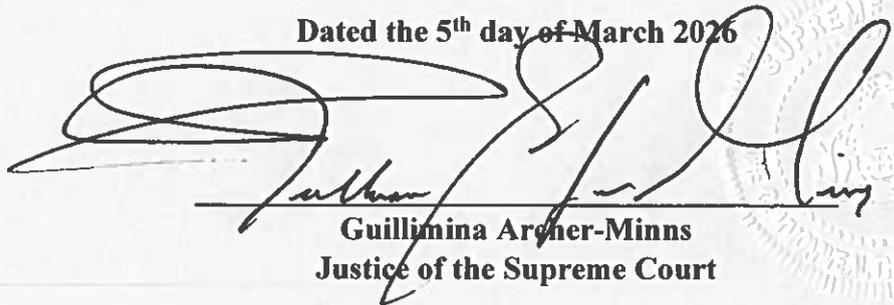
44. This sentence appropriately reflects the seriousness of the crime of Rape, and the fact that it almost always attracts a substantial custodial sentence. In fact, Parliament has legislated for an upper ceiling of life imprisonment. There are also a number of aggravating factors that make it appropriate to move the sentence higher than that suggested by the convict's counsel. Firstly, the

complainant's participation in the degrading acts was procured by the threat of the use of force, and possible death threats. Secondly, the convict exploited the significant age disparity between himself and the complainant and abused the trust he had established with her. Thirdly, the offence was planned to a significant degree, and the victim has suffered lasting harm as a result.

45. The Court is further of the view that none of the mitigating factors relied on by the defence justify any reduction in the sentence imposed. The sentence is just and proportionate, having regard to the offending behavior and the personal circumstances of the offender.

46. The convict is hereby sentenced to 18 years imprisonment, less time spent on remand which is six and a half (6.5) months commencing from the 19 August 2025. The sentence imposed herein is to take effect from the date of conviction, namely 18 August 2025.

Dated the 5th day of March 2026



Guillimina Archer-Minns
Justice of the Supreme Court

