

COMMONWEALTH OF THE BAHAMAS

VBI NO. 154/6/2024

IN THE SUPREME COURT

Criminal Division

B E T W E E N

THE DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

AND

JEROME FORBES

Convict

Before: The Honourable Madam Justice Petra M. Hanna-Adderley

Appearances: Mr. Sean N. Smith for The Director of Public Prosecutions

Mrs. Joyce Bowe for Jerome Forbes

Sentencing Hearing

Date: 19 February 2026

Sentencing Date: 23 March 2026

JUDGMENT ON SENTENCING

Criminal Law-Convicted of one Count of Rape, contrary to Section 6 (a) of the Sexual Offences Act, Chapter 99- Sentence of 13 years;- Convict is 34 years old.

HANNA-ADDERLEY, J

Background

[1.] On 4 November 2025, the Convict, Jerome Forbes, was convicted by a unanimous jury of 1 Count of Rape of the Victim (name withheld for anonymity). He is before the court for sentencing.

The Facts

[2.] The brief facts are as follows:

- (1) The Victim in this matter is 41 years old, she was 38 years old when the offence was committed. She is not married and has never been married. She has 3 children. On 23 June 2023 she was employed at Phluid Factory at the Caravel Beach location, Freeport, Grand Bahama and at the time of the incident she had been employed there about 3 weeks as a cashier. When asked if she knew the Convict she said that she knew him as a team leader and supervisor who also worked at Phluid Factory. That she never worked directly with him but at the end of the shift he would secure the funds and the store. That she never gave him her cell number nor did she have his cell number. She identified the Convict in court. The Victim only saw the Convict about 3 times while working at Phluid Factory. For the first 2 weeks she got off work at 7:00 p.m. because she was on a training schedule. During the 3rd week she got off at 9:00 p.m., so she saw the Convict when he came to secure funds and the store.
- (2) That on Friday 23 June 2023 she was at work. That the day went fine but at closing time when she was about to close out her drawer she discovered that she was short a few hundred dollars. She became emotional because she knew that any shortfall would be deducted from her salary. She went to the storage room in the store and she said the Convict followed her there and gave her “side hug” and told her not to worry about it. He told her that other cashiers went through the same thing.
- (3) That prior to leaving work before 9:00 p.m. she and some of her coworkers, Octavia Rigby, Felicia Thompson, the Convict and a customer one Darrell, had a few drinks while at the store, prior to closing time. She had Stoli, vodka, with coconut water and few shots of dark rum. That earlier that day some of her co-workers, Octavia and Felicia, had made plans to go out after work and she was asked if she would like to go. She agreed to go and so after the store closed she drove to a bar located

near Rum Cay Villas Condominiums. When she arrived there she met the Convict and one Relly Cooper sitting at the bar and she sat with them.

- (4) That sometime later Octavia and Felicia arrived and that while at the bar she had another Stoli and cranberry juice and 2 Jack Daniels honey shots. The Victim continued to talk about the money short fall. Darrell, Octavia, Felicity and the Convict were there. A few moments later the Victim started to feel inebriated and she tried to get up but could barely walk and she started to vomit uncontrollably. One of her co-workers said it was time to take her home.
- (5) The Victim tried to walk but she fell and she remembers her co-workers helping her up and they carried to her vehicle. She recalled being placed in her vehicle and carried home by the Convict and Octavia. She does not remember how they found their way to her residence but she re-calls vomiting on the car park when they arrived at her residence.
- (6) When got inside her apartment they put her in bed. She remembers telling Octavia to turn on the air condition because she was hot. She went in bed "whole sail", with uniform work clothes still on.
- (7) The Victim believes that after they left she fell asleep and sometime later the Convict come back into her apartment. She remembers him taking off her clothes, pulling down her pants and saying "I know I was going to fuck you tonight." She said that the Convict put his penis into her vagina. She tried pushing him off but she was too weak and out of it; her arms felt limp. He kept telling her to open her mouth but her head kept falling back. She could see the Convict. The light came from the bathroom and hallway were on so she could have seen him. The Convict was wearing a white t-shirt and some black Nike slippers.
- (8) That after a short while, although she did not recall how much time had passed, she got up and was looking for phone. She stumbled outside and found her cell phone in her vehicle and called her friend Renee Gibson. Renee came to the apartment and she told her what had happened. Renee tried calling the police but could not get through so she went to the station and brought 2 police officers back to the Victim's residence. The Police later took her to hospital where she was examined by doctor.

- (9) On 26 June 2023 the Victim was shown a photo line-up by police where she identified the Convict by circling his photo on the 12 man line-up. The Victim also took part in a confrontation with the Convict at the Police Station during which time the Convict apologized to her, stating that what he did was wrong and he asked her not to send him to jail. She stated that she never invited the Convict back to her house as they had no form of personal communication, and that she did not give him permission to have sexual intercourse with her.
- (10) The Victim stated that she told the Convict to stop doing what he was doing because he was hurting her. She did not know why he kept asking her to open her mouth.
- (11) In her statement to the Police the Victim said that she kept falling in and out of consciousness. That when the Convict finished, she was lying on her back and he ejaculated on her stomach and then wiped the sperm off. That the incident lasted 5 to 6 minutes. She said she did not call the Police because of her inebriated state. Her friend and mentor Renee called the Police. She recalled driving to the hospital with the Police.
- (12) She denied hugging and kissing the Convict at the Bar. And she denied doing so when he came back to her apartment. That she told Renee that a young man from Phluid Factory had had sex with her that night. She denied saying to Renee that she did not know who he was. That she did notice that a towel was missing from her bathroom after the incident. She denied getting up out of her bed and opening the door for the Convict. She denied inviting him back to her apartment.
- (13) On the 24 June 2023 the matter was reported to the police. The Convict was arraigned on 13 February 2024 and pleaded not guilty. At the close of the Prosecution's case, the Convict took the stand and gave evidence under oath in his defence. He did not call any witnesses. It was against this backdrop that on 4 November 2025 the Convict was unanimously convicted of 1 count of Rape.

Probation Report

[3.] The Convict's Probation Report dated 12 February 2025 (hereinafter referred to as "**the Report**") were prepared by Mr. Laish Boyd Jr., Trainee Probation Officer at the Department of

Rehabilitative/Welfare Services and was co-signed by Miss Wynelle Goodridge, Chief Probation Officer.

[4.] The following persons were interviewed for the Report, namely, the Convict, Ms. Helen Williams the Convict's mother, Mr. Naaman Forbes, the Convict's father, Ms. Charlene Pharisen the Convict's former paramour and the Victim.

[5.] The Convict was born on 27 September 1991 to Ms. Helen Williams and Mr. Naaman Forbes. He is 34 years old, he was 31 years old at the time of the offence. He has 2 maternal siblings, his older brother Tre Forbes works as a security Guard for Elite Security. His younger brother De-Von Romer is employed as a Bartender on Coco Cay, The Bahamas.

[6.] The Convict was first educated at the Walter Parker Primary School, where he completed his elementary studies. He then attended the St. Georges High School, and discontinued his education in the 12th grade due to academic issues. He attended the Alpha-Omega Christian School, and graduated from the institution in 2008.

[7.] The Convict was first employed with his grandfather, Mr. Hadley Forbes, as a Luggage Handler for a brief period. He then worked as a taxi driver under Ms. Zelda Forbes. He was then employed briefly as a houseman at the Island Seas Resort, and he worked with his father's company for several, years in Exuma. This included several tasks: Customs Brokerage, Propane Gas Sales, a Convenience Store Operator, and a Western Union Branch. The Convict worked at Phluid Factory for a 7 year period as a General Worker, and was eventually promoted to Supervisor. He has also assisted his mother in the sale of tours at various times.

[8.] The Convict's mother Ms. Helen Williams was born in West Grand Bahama. She attended primary and high school in Grand Bahama and was always gainfully employed in Freeport, having worked at Sun Island Tours, then Bahamas Travel, H. Forbes Charters, Executive Tours and Sunny Days Tours as a Broker. She describes the Convict as mannerly and always quiet in his youth. That he was an Alter Server at the Pro-Cathedral of Christ the King Church, Freeport and did not present any behavioural challenges. That she installed in her sons respect for women, and described her

role as primary Caretaker for her sons, even in their adult lives. The Convict displayed a positive attitude and loved caring for animals. She said that she and the Convict were like “like friends”. That they talked about every subject and were open with each other. That her tour customers became extremely fond of him over the years. That she deemed him an organized individual, a homebody who is family focused and enjoys cooking and cleaning in the home. That he was close to his siblings. The Convict’s involvement in this incident has “killed her” and left her dumbfounded as her son has been a good person all of his life.

[9.] The Convict’s father, Mr. Naaman Forbes Sr. was born in Grand Bahama. He completed primary and high school in Grand Bahama. He worked initially in hoteling and then at H. Forbes Charter Services. He then worked in the flight services business in Freeport, Turks and Caicos and Exuma. Finally, he became self-employed as the owner of Forbes Enterprises in Exuma, which provides a variety of services including Licensed Customs Brokerage. Mr. Forbes Sr. admitted that his involvement in the Convict’s life was minimal. He attributed this to the fact that he and Ms. Williams severed ties shortly after the birth of the Convict. In addition, he (Mr. Forbes Sr.) resided in Exuma and only had contact with the Convict during the summer holidays. However, he reported that he rendered financial assistance to the Convict. Mr. Forbes deemed the Convict to be a quiet individual who always kept to himself throughout his youth. The Convict was employed at his father's business in Exuma. Mr. Forbes Sr. deemed him to be a great employee who possessed an excellent work ethic, and was willing to learn. Efforts made by Mr. Forbes Sr. to persuade the Convict to relocate to Exuma in order to assume a pivotal role in the business were unsuccessful.

[10.] Mr. Forbes Sr. reported that he was unaware of the Convict's arrest and subsequent conviction in the present matter, until he was contacted to assist with legal fees. He was confused by the accusations and queried the authenticity of the claims. Mr. Forbes Sr. noted that such action is out of character for the Convict, and expressed surprise since at the time of the offence the Convict was involved in a committed relationship. Mr. Forbes Sr. acknowledged the severity of the matter, and is of the view that the Convict made a poor decision.

[11.] Mr. Forbes Sr. stated that the adverse effects on the victim cannot be reversed. Despite this, he is requesting that mercy be extended to the Convict. He noted that the Convict's trusting nature and low self-esteem will likely make him a target in Prison. Hence, he is unsure of whether the

Convict will be able to survive the rigors of incarceration. He asked the Court to take into consideration his son's relatively young age, and the fact that he still has untapped potential.

[12.] The Convict's former girlfriend, Ms. Charlene Pharisen stated that they initially met while they were employed at Phluid Factory. They were intimately involved for four (4) years, and to date maintain a cordial relationship. Ms. Pharisen described the Convict as a kind, smart, family-oriented individual who would give his last to assist others. She deemed the Convict to be a positive male figure in the lives of her five (5) children. According to Ms. Pharisen, she trusted the Convict with her children, and he took care of them as if they were his own. She noted that activities such as movie nights, beach visits and church attendance were a common occurrence with the Convict and her children. In addition, she stated that her daughter who was fifteen (15) years old at the time of the incident never had any issues with him. Upon learning of the Convict's arrest, Ms. Pharisen was of the opinion that perhaps the Convict had committed a murder in self-defense. She expressed disbelief upon learning of the nature of the present offence, as such action is out of character for the Convict.

[13.] The Victim said that she had recently commenced employment at Phluid Factory when the incident occurred. She was terminated about one (1) month after reporting the matter. She said that after reporting the matter to Human Resources, she was met with 'coldness from her coworkers'. She stated that she never opened her home to the Convict and did not give any indication to him that she was interested in him. She described their working relationship as cordial and nothing more. The Victim, who refused to recount details of the incident to Mr. Boyd Jr., said that she experiences nightmares of someone being on top of her. She is of the view that she was targeted by the Convict, and questions how she became so inebriated. She described strong feelings of isolation and paranoia as a result of the incident. The Victim has since secured a new job, and finds it difficult to form relationships with her coworkers. She often turns down social invitations, and other group events. She worked at Phluid Factory because it was a better opportunity for her, but never foresaw being involved in a matter such as this, and her life is forever changed as a result. The Victim would like to see the Convict punished to the full extent allowable, and is of the view that the Jury's ruling vindicates her.

[14.] According to the Report, the Convict reported that on the night of the incident he was invited to a social outing with coworkers at Crazy Joe's Bar. The group, who were all consuming alcoholic beverages, consisted of the Convict, the Victim, Octavia Rigby, Felicia Thompson, and Dorell Cooper. At some point the Victim became inebriated and vomited. The group assisted her in getting her to her car. Ms. Rigby was driving and the Convict and the Victim were in the back seat. Other group members followed in another vehicle. They got the Victim safely in her home, after which the Convict placed a garbage can near the bed and left her car keys on a nightstand. The Convict reported that he and Mr. Cooper locked the home and returned to the bar. That sometime after 1:00 a.m. the Convict returned to Victim's home. He knocked on the door and asked if she was ok. According to the Convict she responded in the affirmative, and opened the door. The two spoke in her bedroom, and she became emotional and was comforted by the Convict. At this juncture the Victim reportedly said that she loved her coworkers, and gave him a hug. He claims that she then undid her pants and they kissed. They eventually had consensual sexual intercourse, during which the Victim allegedly stopped to use the bathroom and returned to continue. The Convict disclosed that he eventually ejaculated on the Victim's leg, and used a towel to clean it. He threw the towel in the garbage at her residence. He left, and was arrested the next morning, and indicated that Mr. Cooper was also in police custody.

[15.] The Convict said that he was placed in a confrontation interview with the Victim who said she would never let him in her home, and denied speaking with him. He apologized to the Victim, and is of the view that this decision sealed his fate; and that his honesty led him to his current predicament. The Convict admitted that he was not a heavy drinker and that he was "tipsy" on the night in question.

[16.] The Convict is still in disbelief at his current predicament, and stated that he is not a monster. He wishes that the Victim could remember exactly what happened, and says that participants' testimony were not consistent with their initial interviews with Police Officers. He is remorseful regarding the Victim's trauma, and maintains that his encounter with her was consensual. Both he and his mother referenced other possible sexual partners on the night in question.

[17.] The Concerned described himself as a man of God, a loner, and a helpful and giving person. He is a member of the United Fellowship Center and considers himself Christian. He is in good health and does not smoke. He consumes alcoholic beverages socially.

[18.] In summary, Mr. Boyd Jr. states that the Convict was raised primarily by his mother who instilled in him Christian values. His upbringing appeared normal and he endured the typical challenges, namely, the scarcity of resources experienced in single parent homes with multiple offspring. He described his upbringing as hard despite his positive relationship with his mother. He attributed this to the emotional and financial hardship he endured as a consequence of his father's absence. The Convict described his father as 'someone who does things that make you not want to deal with him.' He added that his father favored his daughter from another relationship over him and his brother. To date this remains a source of frustration to him. Despite this, reports are that his comportment remained positive throughout his teenage years and early adult life. The Convict also appears to have consistently displayed a positive work ethic, as evidenced by his promotions at Phluid Factory and positive reports from past employers.

[19.] Mr. Boyd Jr. states that the matter at hand is a serious one, with far-reaching and life-altering ramifications. The Victim must evidently struggle with the effects of this incident, and Court proceedings for the rest of her life. It is hopeful that she can receive the support necessary to move to a more positive mental capacity.

[20.] Mr. Boyd Jr. states that the consensus among interviewees was that the committal of the offence of the present nature is seemingly out of character for the Convict. Despite this, the Court has deemed the Convict guilty. Undoubtedly, the irresponsible consumption of alcohol, coupled with poor decisions led to this traumatic incident. The Convict expressed remorse for his involvement, and it is hoped that following his period of incarceration, he will be afforded the opportunity to resume professional endeavors.

Plea In Mitigation

[21.] Learned Defence Counsel, Mrs. Joyce Bowe submits that while it is unfortunate that the Prosecution desires the harshest possible punishment, it is now in the Court's hands and she

humbly asks the Court to consider this young man, his deportment and prior character. It is highly unlikely that he will ever be involved in anything like this in the future. Mrs. Bowe also invites the Court to consider the fact that there were no aggravating factors, no evidence of threats, break-in, force, abuse or coercion and no violence over and above the act itself. The Convict has no prior convictions and was of good character prior to this offence. His mother and others interviewed by the Probation officer confirm this. The Prosecution also agrees that he has no previous convictions and is relatively still a young man.

[22.] Mrs. Bowe submits that up to the time the Convict was charged with this offence, he worked two jobs, the first as a supervisor with Phluid Factory where he worked with the Victim and then drove taxi in his grandfather's business Forbes Charter on his off days. He assisted his mother with her living expenses and his now ex-girlfriend with her children saying he loved them like they were his own.

[23.] Mrs. Bowe asked the Court to be lenient in sentencing the Convict. She asked the Court to consider his blatant honesty and demeanour throughout this ordeal, his admission of having had sex with the Victim from the beginning of this unfortunate event until trial. She asked the Court to consider his humble demeanour, reputation as a hard worker, his commitment to his family and his church and the fact that he was one of the more positive young men in our society today. She argued that a lenient sentence can ensure that he can once again blend back into that society and continue that positive contribution. That as stated by the Probation Officer, if the Convict's sentence is lenient, he will be "afforded the opportunity to resume his professional endeavours." Any lengthy period of incarceration can negatively impact him, preventing this from happening.

[24.] Mrs. Bowe submits that the Convict has no previous convictions for rape or for any other offence and that he is a relatively young man who can contribute positively to his family and community.

[25.] Mrs. Bowe submits that both of the parties were drinking. It is possible that none was more drunk than the other. That the evidence did not show that the act was orchestrated or planned by the Convict but it shows that it was a random act done on the spur of the moment. The Victim

could not immediately identify her attacker. Even when given pictures by the police the Convict was the only person she could identify. She called her mentor Renee but did not tell her who the person was who had sex with her. Although she sympathized with the Victim who continues to experience nightmares of “someone being on top of her”, she continues to refuse the psychological help that she might need after having gone through such an ordeal. That her refusing to assist the Probation Officer in his investigation leaves serious questions unanswered.

[26.] Mrs. Bowe concluded by recommending that the Court considers the recommendation of the Probation officer and not impose a custodial sentence or if a custodial sentence is preferred, a lenient sentence of 2 years be imposed. That if there is even the very smallest of possibilities that because of the Victim’s lapse in memory, she may have forgotten or misconstrued any of the events of that night, she **urged the Court to consider the Convict’s regret and to also consider that there no aggravating factors, no serious injuries, no evidence of force, no use of weapons of any kind, no evidence that there was a break-in or any of the other factors that sometimes come with this type of offence.** She asked the Court to consider the fact that the Convict’s admission condemns him as the Victim could not immediately identify him as her attacker. That while the Convict will punish for his poor decision on that fateful night, he will have an opportunity to regain some semblance of normalcy and blend back into society to continue to make a positive contribution if his sentence is short. There is no doubt that he has learned a harsh lesson and will be hesitant to repeat it.

Submissions by the Crown

[27.] Learned Counsel Mr. Sean Norville Smith, Prosecutor for the Crown, referred the Court to Section 6 (a) of the Sexual Offences Act which states: *“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.*

[28.] That according to the Sexual Offences Act Section 3, **Rape is the act of any person not under the age of fourteen years of age having sexual intercourse with another person who is not his spouse (a) without the consent of that other person; (b) without consent which has been extorted by threats or fear of bodily harm.**

[29.] Mr. Smith submitted that in the case of **R v Roberts & Roberts (1982) 4 Cr. App. R. (S) 8** Lord Lane, Chief Justice, in his judgment outlined general guidelines as to the Sentencing for Rape when he stated:

“Rape is always a serious crime. Other than in wholly exceptional circumstances, it calls for a custodial sentence.... A custodial sentence is necessary for a variety of reasons. First of all to mark the gravity of the offence. Secondly, to emphasize public disapproval. Thirdly, to serve as a warning to others. Fourthly, to punish the offender, and last but by no means least to protect women. The length of the sentence will depend on all the circumstances. That is a trite observation, but those in cases of rape vary widely from case to case.”

He submitted also that general deterrence should be one of the primary aims in this particular case and the need to protect women in our society is paramount.

[30.] Mr. Smith referred the Court to **R. v Billam (Keith) [1986] 1 W.L.R. 349 at 351** where the Court speaking about sentencing for the offence of rape said: *“The crime should in any event be treated as aggravated by any of the following factors: where (1) violence is used 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 upon the victim, whether physical or mental, is of special seriousness. Where any one or more of these aggravating features are present, the sentence should be substantially higher than the figure suggested as the starting point.”* [Emphasis added]

[31.] Mr. Smith then drew the Court’s attention to the factors to be considered in sentencing:

Mitigating and Aggravating Factors

Mr. Smith invited the Court to give particular consideration to the following factors:

Mitigating:

- i. The Convict has no previous convictions for Rape;
- ii. The Convict is still a relatively young man, (a 34 year old).

Aggravating:

- i. The calculated manner in which the Convict who was the Victim's supervisor, orchestrated the offence of Rape knowing full well that the Victim was highly intoxicated and in a weak and inebriated state at the time;
- ii. As a result of this incident, the Victim continues to experience nightmares and is often overcome by feelings of isolation and paranoia;
- iii. While the Convict appears remorseful for the Victim's trauma, he is still in denial that he committed the offence of Rape.

[32.] Mr. Smith referred the Court to several authorities on rape and the punishment imposed by the Courts, namely:

- a) Henry Sean Darren Gay v. The Director of Public Prosecutions* SCCrApp No. 55 of 2020 – 20 years imprisonment;
- b) Anthony Penn aka Anthony Smith v. R* SCCrApp. No. 180 of 2012- 20 years imprisonment;
- c) Saunders v. R [2020]* UKPC 4- 14 years imprisonment.

Recommendation by the Crown

[33.] Having regard to all of the circumstances, (aggravating and mitigating factors, the aims of sentencing in crimes of this nature) the Crown humbly recommends a custodial sentence within the range of fourteen (14) to twenty (20) years for the offence Rape along with counseling.

Analysis and Discussion

Rape

[34.] Section 6 (a) of the Sexual Offences Act, Chapter 99 provides that any person who commits rape is guilty of an offence and liable to a term of imprisonment within the range of fifteen years to imprisonment for life. The law considers rape a most serious offence given that the

maximum sentence of life imprisonment is prescribed for that offence. Rape in my view is a grave offence.

[35.] In **Franklyn Huggins v The Queen** BVIHCR 2009/001 at paragraph 17 Charles J, as she then was states:

“Short of homicide, rape is the ‘ultimate violation of self’¹. 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.”

[36.] In **Billam (supra)**, the English Court of Appeal, in laying down sentencing guidelines for rape also cited a passage from the Criminal Law Revision Committee 15th Report on Sexual Offences, Command Paper 9213 of 1984, which they say, reflected accurately the views of the Court. It is as follows:

“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 equally 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. We do not believe this latter fear should be underestimated because abortion would usually be available. This is not a choice open to all women and it is not a welcome consequence for any. Rape is also particularly unpleasant because it involves such intimate proximity between the offender and victim. We also attach importance to the point that the crime of rape involves abuse of an act which can be a fundamental means of expressing love for another; and to which as a society we attach considerable value.”

[37.] In **Millberry**, Lord Lane CJ, referring to the general guidelines of sentencing for rape in **Roberts and Roberts** (1982) 4 Cr.App.R.(S) 8 had this to say:

¹ Byron E. White.

“Rape is always a serious crime. Other than in wholly exceptional circumstances, it calls for an immediate custodial sentence.... A custodial sentence is necessary for a variety of reasons. First of all to mark the gravity of the offence. Secondly, to emphasise public disapproval. Thirdly, to serve as a warning to others. Fourthly, to punish the offender, and last but by no means least, to protect women. The length of the sentence will depend on all the circumstances. That is a trite observation, but those in cases of rape vary widely from case to case.”

[38.] The maximum penalty for rape is life imprisonment. It is accepted therefore, that the sentence imposed must appropriately reflect the seriousness with which the society, the legislature and the Courts view this offence. However, the law has invested a wide discretion in the Court in sentencing to ensure that the punishment imposed reflects the justice of the case having regard to the particular facts of each case. In the Court of Appeal case of **Prince Hepburn v Regina** SCCRAApp. No. 79 of 2013 Adderley JA (Retired) offered the following guidelines as to sentencing at paragraph 36:

“In exercising 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 appropriate to the crime.”

[39.] On the issue of proportionality, the Court is guided by the Court of Appeal in **Jemaine Ramdeen v Commissioner of Police** (BS 2018 CA 114 where the Court stated: *“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 results. Properly understood, proportionality in sentencing entitles an offender ‘to a process entitles an officer ‘to a proceed 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.’

[40.] I am, as opined by Adderley, JA (Retired), also to be guided by the four classical principles of sentencing namely, retribution, deterrence, prevention and rehabilitation.

- (i) **Retribution** – in recognition that punishment is intended to reflect society’s and the legislature’s abhorrence of the offence and the offender;
- (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.

[41.] Which of these factors will be predominant in determining an appropriate sentence will depend on the particular circumstances of each case (See also Halsbury’s Law Third Ed. Vol 11 (2) at paragraph 1188).

Mitigating Factors

[42.] Mitigating factors may be offence-specific (such as lack of premeditation) or may be passed on personal circumstances such as remorse, good character or efforts at rehabilitation.

[43.] Both the Prosecutor and Defence Counsel submit as a mitigating factor that the convict is of a relatively young age. 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 JA 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 matured adult, and his age, was, at the 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.”

[44.] Both the Prosecutor and Defence Counsel refer to the fact the Convict has no antecedents as a mitigating factor. In other words, 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 and the Judgment of Archer-Minns, J in **The Director of Public Prosecutions v Spark Elvis Strapp** 2017/CRI/VBI/121/5 at paragraph 27).

[45.] Defence Counsel and the Probation Officer refer to the Convicts prospects of rehabilitation. While the prospects of 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. See the Judgment of Archer-Minns, J in **The Director of Public Prosecutions v Spark Elvis Strapp** (supra).

Aggravating Factors

[46.] The Crown lists **several factors as aggravating factors in this case. The Crown submits that the Convict executed the offence in a calculated manner.** That he orchestrated the offence of Rape knowing full well that the Victim was highly intoxicated and in a weak and inebriated state at the

time. I accept that the Convict knew that the Victim was extremely intoxicated. On his own admission he returned to her apartment an hour after having assisted her into bed in the state that she was in. He says she let him when he knocked on the door. She says she never would have done so. The jury, the finders of fact, rejected his account of what transpired upon his return to the apartment. I am satisfied that there was some planning involved by the Convict in the commission of the offence.

[47.] The Crown submits that the Victim continues to experience nightmares and is often overcome by feelings of isolation and paranoia as a result of this ordeal. This is confirmed by the Mr. Boyd Jr. I accept that this is an aggravating factor that the Court must consider.

[48.] The Crown submits that although the Convict appears remorseful for the Victim's trauma, he is still in denial that he committed the offence of Rape. Mrs. Bowe urges the Court to consider the Convict's regret about the incident. I do not accept the Convicts maintaining his innocence as an aggravating factor. I do accept genuine expressions of remorse as a mitigating factor.

[49.] Mrs. Bowe urges the Court to also consider that there no aggravating factors such as serious injuries, no evidence of force, no use of weapons of any kind, no evidence that there was a break-in or any of the other factors that sometimes come with this type of offence.

[50.] In individualizing this case to the present Convict, Mr. Forbes was 31 years old at the time of the offence and 34 years old at the sentencing hearing. By the accounts of his mother Ms. Williams and his father Mr. Forbes Sr. in the Report, he was not troublesome in his youth or young adulthood. His mother and father are in disbelief about what he has been charged and convicted of. His former paramour is also in disbelief about what he has been convicted of. The Convict before this incident appeared to be a model citizen. An Altar boy in his youth, a hard worker who has been gainfully employed since leaving high school, someone well-liked by persons he came into contact with in his mothers business. He has no criminal record of any kind. He has expressed remorse. These factors support Mr. Boyd's hope that after his incarceration he will be able to pursue professional endeavors. There is no evidence of excessive physical force, or threats or weapons of any kind having been used in the commission of the offence. But there was some

degree of planning involved in the commission of the crime and the Victim has been traumatized by the rape.

Comparative cases

[51.] The Crown referred the Court to 3 case authorities to assist the Court in determining the sentencing range in this case. In **Henry Sean Darren Gay v. The Director of Public Prosecutions (supra)** – 20 years imprisonment;

[52.] In **Anthony Penn aka Anthony Smith v. R** SCCrApp. No. 180 of 2012- On Monday, 25 April 2011, Shantavia Cooper was awoken from sleep by the appellant who held a gun to her head and told her not to move or he would kill her. The appellant raped Ms. Cooper after robbing her of her cell phone. After realizing that the gun was not in the appellant's possession and was not real Ms. Cooper called out for help. Family members came to her assistance and they were able to restrain the appellant until the police arrived. The appellant was charged and convicted and now appeals his conviction and sentence on the ground inter alia that the conviction was not safe and the sentence is unduly harsh. Held: appeals against convictions on all counts are dismissed; appeal on sentence for rape is modified from twenty-five years to twenty years.

[53.] In **Saunders v. R [2020] UKPC 4-** The complainant gave evidence at trial that on the 22 June 1993 she was grabbed in the street by a man who threatened her with a knife and dragged her into woods where he vaginally raped her. She did not look at him as he said he would kill her if she did. During the rape some of his sperm got onto her leg and the rapist used a tissue to wipe sperm from her legs and vagina. She was then bound and blindfolded, put in a car, taken to a beach where he orally and vaginally raped her. She was then driven back to a point close to where she had first been abducted where she was released. At no point did she see her attacker's face. She ran to the lobby of the resort where she was staying. The police were called and she and her husband went to the hospital. The Defendant was given 14 years imprisonment.

The Sentence

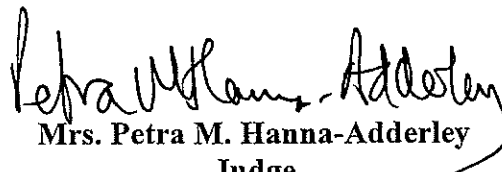
[54.] In this case, it seems to me that deterrence and prevention are at the forefront when determining an appropriate sentence. I am also of the view that the aggravating factors outweigh

the mitigating factors. Having taken all the circumstances of this case into account, the Report by the by the Department of Rehabilitative /Welfare Services, particularly the impact of the offence on the Victim, 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 and the recommendations for sentencing of Counsel for the Convict and Counsel for the Crown, I hereby sentence you, Jerome Forbes to 13 years imprisonment on the one count of Rape of which you are convicted. This sentence will run from the date of conviction which is the 4 November 2025.

[55.] In addition, during his incarceration, the Convict is to receive counseling on such terms and conditions as a clinical psychologist deems fit.

[56.] Parties aggrieved by the conviction and sentence may appeal to the Court of Appeal by filing and service of the required Notice.

Dated the 23rd day of March A.D., 2026


Mrs. Petra M. Hanna-Adderley
Judge