

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

CRI/VBI/180/7/2022

DEPARTMENT OF PUBLIC PROSECUTIONS

VS

CHRISTOPHER FORBES

SENTENCING

Before: Justice Jeanine Weech-Gomez

Appearance: Mr. Uel Johnson for DPP

Mr. Christopher Forbes Pro'se

Hearing Dates: 6th December 2023

18th January & 15th March 2024

On the 13th October 2023 Christopher Forbes (“the Convict”) was convicted by a jury for Rape (2 counts) pursuant to Section 6 (a) Sexual Offences (Amendments) Act 2011 and Robbery with Violence pursuant to Section 339 (2) Penal Code Chapter 84 respectively.

The matter was adjourned for sentencing hearing and regrettably it had to be adjourned on several occasions due to a number of delays.

On the 15th March 2024 the matter was again called up when the court not only had the benefit of the report dated the 13th March, 2024, from the Department of Rehabilitative &

Welfare Services but the maker of the report was also present and she was sworn in where she was extensively cross examined by the convict with respect to her report.

Having had the benefit of the report and the submissions of the Crown which was laid over on the 18th January 2024 and having heard the very brief submissions by the convict. I reserved my decision on sentencing to 26th March 2024.

The case of the crown which the jury unanimously convicted the convict on was that on the Friday, 6th May 2022 the complainant “DC” left her residence in the Southern District of New Providence to begin her morning walk when minutes into her walk on a main road she was approached by “the

convict” who grabbed her by the arm whilst wielding a cutlass and began to drag her into nearby bushes, The complainant began to scream and was told by the convict not to whilst waving the cutlass at her. He thereafter, demanded that she take her clothes off and thereafter raped her not once but twice. That after raping her he robbed her of two (2) cellular phones and a pair of ear pods valued at \$1,250.00.

The convict denies raping the victim and states that the sex was consensual. As it relates to the Robbery, he states that he did not have the cutlass in his hand when he took the complainant’s phone therefore the charge should be one of stealing.

Applicable Law

Section 6 (a) of the Sexual Offences (Amendment) Act, 2011
reads:

Any person who-

- a) **Commits rape;**
- b)
- c)

is guilty of an offence and liable to a term of imprisonment within the range of Fifteen years to imprisonment for life.

Section 339 (2) of the Penal Code, Chapter 84 reads:

339(1)

(2) whoever commits robbery, being armed with any offensive instrument, or having made any preparation for using force or causing harm, shall be liable to imprisonment for twenty years:

Relevant Considerations:

The Probation report prepared by Ms. Sharon Brennen was very detailed and the court found the same extremely helpful in its decision-making process.

The convict is now 27 years of age. He is single. By all account the convict was raised by his mother and maternal grandparents. At a very young age his parents divorced and his father abandoned his paternal responsibilities.

What is clear from the report is that the convict from an early age has had a troubled life and became known to the law very early when he on the 31st March, 2010 he was rendered uncontrollable after sleeping out the home without permission and smoking cannabis he eventually graduated to robbery and was convicted in the

Juvenile Court. In 2014 he was convicted and sentenced for rape.

The convict is said to be the father of a son whom he has not seen since 2013. He has expressed affection towards his sister and grandparents and whilst he has also expressed love for his deceased mother he has accused her of physically abusing him although when it was pointed out to him that he had never over the years mention that before, he accepted that he had never disclosed it but wished that he had. His father has entirely absented himself from the convict and when contacted by the Department he refused to be interviewed claiming that matter did not interest him.

The convict has been found guilty yet again of very serious offences. He denied the offences and had expressed absolutely no remorse. Instead has attempted to vindicate himself.

Having regard to the information provided it is very clear that the convict is a serious danger and a menace to society. His lack of remorse is extremely disturbing. The position he has taken is that the offences of the Robbery and Rape can be reduced to stealing and assault.

The Crown in its submissions has directed me to consider several authorities; I have found the case Anthony Penn and Regina SCCRAp No. 180 of 2012 to be particularly instructive.

Counsel in his submissions directed the courts attention to other factors in particular to the fact that prior to the incident the subject of this sentence the convict had only recently been released from prison on 12th April 2022 after serving a sentence for the offense of rape.

The Crown further submitted that the convict should be sentenced to a term of 30 years on the charge of

Rape and 20 years on Robbery with Violence respectively as the same will act as deterrence to other would be offenders.

The aims of sentence

In considering the appropriate sentence I must direct my attention to the aims of sentencing be retribution, deterrence, reformation and protection.

The retribution of element is intended to show public revulsion for the offence and to punish the offender for his wrong conduct.

Deterrence sentences are aimed at deterring not only the actual offender from committed further offenses but to pit potential offender from breaking the law.

The importance of reformation of the offender is shown by the joint emphasis laid upon it by much modern legislature.

However the protection of society is often the overriding consideration

In determining the appropriate sentence for any particular offence the court will take into consideration the nature of the offense and the circumstances in which it was committed, the degree of deliberation shown by the offender, the degree of preparation and planning involved, the prevalence of the offense, the violence used the degree of physical and mental harm inflicted.

Regard has to be paid to the interests of the defendant as well as to the account of the seriousness of the offender. The court must recognize the seriousness of harm caused to the victim and the proper interest of the public at

large, both in protecting others from serious harm from the individual offenders and deterring others from committed like offenses.

Should the court pass sentences that were out of line with proper sentencing practice would only cause public concern and affect the confidence of the public in the system.

In sentencing and individual the court must have regard to the facts as presented in each case entered individual's own set of circumstances. The court for instance was considered the circumstances in which the offense was committed, whether the convicted person showed any remorse for the acts of which he was convicted, whether the convicted to be a danger to the public, the likelihood of the convict being reformed. The

court must also consider in each instance the aggravating and the mitigating circumstances.

In exercising my discretion in sentencing I must consider any mitigating and aggravating factors with respect to both the offence and the offender.

The presenting report indicates that if the convict is released back into society he will continue to perpetrate violence upon women.

Mitigating factors

Sadly there is one little or no mitigating factors save for mention in the report where the convict sought to sanitize his actions and requested a “second chance” little or no request was made directly to the court by the convict during his sometimes incoherent submissions save and except that he be given adequate facilities at BDOC as his human right were being breached.

Aggravating factors

- a) The offences are very serious ones
- b) They were unprovoked and unwarranted
- c) The convict is not remorseful
- d) The convict committed these offenses months after being released from prison, another offence for rape.
- e) The convict used a cutlass to threaten the victim
- f) The convicts left the victim naked and bound in the bushes

The convict is behavior indicated that his previous incarceration did not serve to deter him and if released from the detention he will commit the offense again.

The convict's aggravating circumstances far out weigh his mitigating factors.

It is this court considered opinion having regard to all the circumstances that Christopher Forbes be hereby sentenced to a term of Twenty-five (25) years imprisonment on each of the two (2) counts of rape. As to Robbery with violence he is sentenced to a term of Fifteen (15) years imprisonment. The said sentences are to take effect and run from the 16th October 2023. Mr. Forbes is to be credited with the time of 23 months that he spent on remand prior to being convicted. The sentences are to run concurrently.

Dated the 25th day of March, A.D 2024

JMWG