COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

82/4/2025

B E T W E E N

THE DIRECTOR OF PUBLIC PROSECUTIONS

AND

DILLON SIMON

Before: The Honourable Madam Justice Renae McKay

Appearances: Ms. Davina Pinder, Counsel for the Prosecution
Mrs. Sonia Knowles, Counsel for the Convict

Hearing Date: 7th July, 2026

Background

1. On 28th April 2026, Dillon Simon ("the Convict") pleaded guilty to seven (7) counts of unlawful sexual intercourse, contrary to section 11(1)(a) of the Sexual Offences Act, Chapter 99.

2. The Convict began an unlawful relationship with SA ("the Virtual Complainant") in July 2024, while both were employed at a local restaurant. At the material time, the Convict was a cook and helper and the Virtual Complainant was a cashier, cook and server.

3. Before they engaged in sexual intercourse between October and December 2024, he and SA communicated via Facebook Messenger for approximately one month. Each unlawful sexual incident occurred at the Convict's residence.

4. At the time of that unlawful relationship, the Convict was twenty-two (22) years old and the Virtual Complainant was fifteen (15) years old.

5. No probation report was requested on his behalf.

6. On 23rd June 2026, I heard sentencing submissions from Counsel for the Convict and from the Prosecution, and thereafter reserved my decision.

The Law

7. **Section 11(1)(a) of the Sexual Offences Act, Chapter 99** provides that:-

> **Any person who —**
> **has unlawful sexual intercourse with any person being of or above fourteen years of age and under sixteen years of age, whether with or without the consent of the person with whom he had unlawful sexual intercourse; or (b) …**
> **is guilty of an offence and liable to imprisonment for life.**

Sentencing Provision

8. **Section 185 of the Criminal Procedure Code, Chapter 91 ("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.**

Submissions by Defence Counsel

9. Mrs. Knowles, Counsel for the Convict, submitted that the matter did not proceed to trial because the Convict pleaded guilty and expressed remorse. She further submitted that he had no previous convictions and that the sexual encounters did not involve violence. The Virtual Complainant was not adversely affected, having willingly participated in the same. At the time of the offence, the Convict was twenty-two (22) years old.

10. Counsel submitted that these mitigating factors outweighed the sole aggravating factor, namely, the commission of the offence itself.

11. Counsel relied on the authority of **Dwight Bethel v R SCCrim App No. 58 of 2015**, in which the Virtual Complainant was approximately 11 or 12 years old when the Appellant engaged in unlawful sexual intercourse with her. Counsel noted that the matter proceeded to trial and that the Court of Appeal upheld a sentence of twelve (12) years' imprisonment.

12. Counsel also relied on **Kenyatta Leslie Lewis v AG SCCrApp No. 19 of 2014**. In that case, the Virtual Complainant was an adult woman who accepted a ride from the Appellant. The Appellant later took her to a deserted place, attempted to grab her vagina, shouted profanities,

and struck her in the head. Following a trial, the Appellant was sentenced to seven (7) years' imprisonment.

13. Counsel submitted that both authorities are distinguishable from the present case. Mrs. Knowles concluded by submitting that a sentence of three (3) years' imprisonment, less time spent on remand, would be appropriate.

Submissions by the Prosecution

14. In response, Ms. Pinder submitted that the Convict is twenty-five (25) years old, has no previous convictions, and pleaded guilty at the first opportunity. She accepted that these are mitigating factors which the Court must take into account.

15. Additionally, Ms. Pinder also submitted that having regard to the seriousness of the offence, the fact that the Virtual Complainant was fifteen (15) years old at the time of the incidents, and that the prevalence of sexual offences in The Bahamas are aggravating factors.

16. Counsel placed reliance on the authority of **Benjamin v R (1964) 7 WIR 459**, where Wooding CJ set out the primary purposes of sentencing: retribution, deterrence, prevention, and rehabilitation.

17. Local authority of **Edwin Farfan v R CrApp No. 34 of 1980** emphasized that each sentencing objective will vary according to the facts of the particular case.

18. Ms. Pinder submitted that, for sentencing purposes, unlawful sexual intercourse should be treated with the seriousness of rape, since it involves sexual intercourse with a minor who cannot legally consent. She relied on **Dwight Bethel v R** (supra), where Isaacs JA stated that Parliament intended to protect victims of unlawful sexual intercourse and recognised the offence as being in the nature of rape. Counsel also referred to **Attorney General's Reference (No. 66 of 2010) R v W**, particularly Lord Judge's remarks on the seriousness of rape.

19. Counsel further cited **R v Oscar Ingraham** and **Franklyn Huggins v R BVIHCR 2009/001**, where Justice Charles JA described the offence of rape as a grave violation of personal integrity, autonomy, and self.

20. Counsel then referred to several authorities to illustrate the courts' firm approach to sexual offences, especially those involving children. These included **Albert Whyley v R SCCrApp No. 184 of 2011**, where a sentence of 30 years was substituted for unlawful sexual intercourse with a 9-year-old child; **Dwayne Gordon v R SCCr App & CAIS No. 74 of 2014**, where 25 years was imposed for incest; **Franky Eugene v R SCCr App No. 221 of 2015**, where the offender received 12 years' imprisonment for abduction and rape; **R v Frederick Green No.**

115/5/2013, where 20 years was imposed for the rape of a 16-year-old girl at gunpoint and **Andrew Bridgewater v R SCCrApp. No.8 of 2007**, where the Appellant was sentenced to 7 years for having sexual intercourse with a 6-year-old. She submitted that **Bridgewater** is distinguishable from the present case. In **Bridgewater**, the offender was sentenced on one count, whereas the Convict before this Court has pleaded guilty to seven counts. Counsel therefore submitted that the sentence in this case may properly exceed the seven-year sentence imposed in **Bridgewater**.

21. In conclusion, Counsel submitted that a sentence of 10 to 12 years is appropriate, as the aggravating factors outweigh the mitigating factors.

Principles of Sentencing

22. I am always reminded of the principles of sentencing in **Benjamin v R (1964) 7 WIR 459** (supra). Wooding CJ outlined these principles as follows:-

    i. **Retribution**: in recognition that punishment is intended to reflect society's and the legislature'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, thus protecting society; and

    iv. **Rehabilitation**: aimed at assisting the offender to reform his ways so as to become a contributing member of society.

23. I am guided by the above-mentioned sentencing principles in determining a sentence that is just, appropriate, and proportionate in all the circumstances of this case.

24. I am also mindful that sentencing is an individualised exercise, and that each case must be determined on its own facts. In **Prince Hepburn v R SCCrApp No. 79 of 2013**, Adderley J stated at paragraph 36:-

> **In exercising his sentencing function judicially the sentencing judge must individualize the crime to the particular perpetrator… so that he can in accordance with his legal mandate, identify and take into consideration the aggravating as well as the 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. Each case is considered on its own facts.

Decision

25. At the time of the offences herein, the Convict was twenty-two (22) years old, while the Virtual Complainant was fifteen (15) years old. Although the Convict's Counsel submitted that the Virtual Complainant was a "willing participant," that submission must be considered within the statutory framework governing sexual offences involving minors.

26. Section 11(1)(a) of the Sexual Offences Act makes it clear that a minor under the age of sixteen years cannot give valid legal consent to sexual intercourse with an adult. Accordingly, even if the Virtual Complainant appeared willing, her apparent willingness did not constitute consent in law.

27. The offence exists to protect minors, who are recognised as vulnerable to sexual exploitation, manipulation, and harm. I therefore treat the Virtual Complainant's age and her legal incapacity to consent as aggravating factors in this case.

28. The offence of unlawful sexual intercourse carries a maximum penalty of life imprisonment. That penalty reflects the seriousness with which Parliament views sexual offences against children and its clear intention to deter adults from engaging in sexual conduct with them.

29. I also take judicial notice of the prevalence of sexual offences committed against minors in this jurisdiction. The sentence imposed must therefore reflect the gravity of the offence, the need for deterrence, and the importance of protecting children from sexual harm. It must also send a clear message that offences of this nature will be treated with the seriousness they deserve.

30. I have also considered the mitigating factors. The Convict is still a young man. He is now twenty-five (25) years old and, in my view, can be rehabilitated. He pleaded guilty before the trial commenced, expressed remorse, and has no previous convictions.

31. However, these mitigating factors must be weighed against the seriousness of the offence. The Convict knew that the Virtual Complainant was a minor. He ought to have resisted any apparent willingness on her part to engage in sexual intercourse, as she could not consent in law.

32. Balancing the aggravating and mitigating factors, I sentence the Convict to nine (9) years' imprisonment on each count. The sentences shall run concurrently, less any time spent on remand.

Dated this 7th day of April, A.D., 2026

Honourable Madam Justice W. Renae McKay