



1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL DIVISION**
3

4 **Neutral Citation Number: [2026] CIGC (Crim) 13**

5 **INDICTMENT NO: 69 of 2025**
6
7

8 **R**
9

10 **V.**
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12 **WA**
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16 **Appearances:** **Mr. Martin Mulgrew, Senior Crown Counsel, Office of the Director of Public**
17 **Prosecutions for the Prosecution**
18

19 **Mr. Everton Dewar, Brady Law for the Defence**
20
21

22 **Before:** **The Hon. Justice Cheryll Richards KC**
23

24 **Submissions Heard:** **10th and 15th April 2026**
25

26 **Sentence Judgment:** **15th April 2026**
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31 ***Criminal Law*** – *Sentencing, Gross Indecency with a Child contrary to s.134 A(1) of the Penal Code (2019*
32 *Revision), Application of the Cayman Islands Sentencing Guidelines, whether breach of trust where there*
33 *is a family relationship and victim resides in defendant's home.*
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SENTENCE JUDGMENT

1. The defendant is before the Court for sentencing following his guilty pleas on the 28th November 2025 to three offences on the Indictment as follows.
2. Count 3 charges him with the offence of Gross Indecency with a Child contrary to s.134 A (1) of the **Penal Code** (2019 Revision). The particulars are that he on multiple occasions, between the 21st February 2020 and the 17th October 2024 committed an act of gross indecency, namely touching of the breasts, towards a child under the age of sixteen, namely LH, aged between 10 and 13 years of age. The note on the Indictment is that this is a specimen count in relation to 8 or 9 occasions that LH was taken to the bedroom and her breasts touched.
3. Count 5 charges him with the offence of Gross Indecency with a Child contrary to s.134 A (1) of the **Penal Code** (2019 Revision). The particulars are that he on multiple occasions, between the 21st February 2020 and the 17th October 2024 committed an act of gross indecency, namely digital touching of the vagina, towards a child under the age of sixteen, namely LH, aged between 10 and 13 years of age. The note on the Indictment is that this is a specimen count in relation to the 8 or 9 occasions that LH was taken to the bedroom and her vagina touched.
4. Count 9 charges him with the offence of Gross Indecency with a Child contrary to s.134 A (1) of the **Penal Code** (2019 Revision). The particulars are that he on multiple occasions, between the 21st February 2020 and the 17th October 2025 committed an act of gross indecency, namely touching of the vagina with his penis, towards a child under the age of sixteen, namely LH, aged between 10 and 13 years of age. The note on the Indictment is that this is a specimen count in relation to the 8 or 9 occasions that the defendant took LH to the bedroom and slapped his penis on LH's vagina.
5. The maximum sentence for the offence of Gross Indecency with a child is 12 years imprisonment.

- 1 6. The defendant first appeared in the Summary Court on the 1st July 2025 and in the Grand Court
2 on the 11th July 2025. After time was allowed to the defence and for discussions between the
3 parties the pleas as aforesaid were entered. The prosecution indicated that the pleas are
4 acceptable and that the application is for the other Counts on the Indictment, Counts 1, 2 4, 6,
5 7, 8, 10 and 11 to be left on file. These counts are ordered to be left on the file. Pre-sentencing
6 reports were ordered at the request of Counsel.



8 **THE FACTS**

- 10 7. The prosecution has provided a summary of facts which is not disputed. For about five years
11 between 2020 and 2025 the victim's mother resided with her children LH and another in the
12 home of her mother and the defendant, her step father.
- 14 8. The defendant is thus the victim's step grandfather. The home is a two bedroom, two bath
15 house. The victim slept in the living room on a mattress with other relatives.
- 17 9. The victim's account is that when she was around nine years old, the defendant began sexually
18 abusing her. On multiple occasions, he would enter the living room, gather the victim up in his
19 arms and carry her to an empty bedroom. There the defendant would sexually abuse the victim.
- 21 10. The sexual abuse began with touching of the victim's breast area under clothes. The first time
22 this occurred the victim recalled she was around nine years of age. [Count 3].
- 24 11. He would also rub the victim's vagina and backside with his hands. [Count 5].
- 26 12. The defendant's offending escalated to undressing the victim, taking out his penis and slapping
27 it repeatedly onto the victim's naked genitalia. [Count 9]
- 29 13. The victim recalled that this happened on around 8 or 9 occasions. The last time she recalled
30 this happening to her was when she turned thirteen.
- 32 14. The abuse ended when on the 17th October 2024, the victim revealed what had been happening,
33 to her mother via a series of WhatsApp messages.

1 15. The defendant was arrested on the 4th November 2024 and interviewed by the police. He denied
2 that he had ever touched the victim in a sexual manner.
3

4 **VICTIM IMPACT REPORT**

5

6 16. The Department of Community Rehabilitation (“DCR”) has provided a Victim Impact Report
7 which is dated the 29th of January 2026 (“VIR”). The victim shared that she has suffered
8 significant harm emotionally and psychologically. She stated that she is no longer trusting of
9 persons particularly in her own family as she was abused by someone who is a trusted family
10 member. She also shared that her academic performance has suffered as a result of her not being
11 able to remain focused at school and that she constantly replays the abuse in her mind and tries
12 to block out painful memories.
13

14 17. The Social Worker states that the victim has been suffering from the actions of the defendant
15 since she was nine years old, that she was stripped of her innocence by someone who was
16 entrusted to help care for her and her family. The Social Worker also states that initially the
17 victim was not open to engaging in therapeutic intervention services that could help her manage
18 her emotions and process her sexual trauma. However, recently she has expressed her desire to
19 start her healing journey by accessing services from the child psychologist. It is recommended
20 that there should be no contact between the victim and the defendant to avoid re-traumatisation
21 or further disruption in the victim’s life. It is said that her ability to function and flourish as an
22 adolescent will rely heavily on her ability to feel safe in her environment.
23

24 **ANTECEDENT HISTORY**

25

26 18. The defendant has no previous convictions recorded against him.
27



28 **SOCIAL INQUIRY REPORT**

29

30 19. The DCR has provided a Social Inquiry Report in respect of the defendant which is dated the
31 26th of February 2026, (“SIR”). The defendant is sixty-one years old. He is married with one
32 child who is an adult.

- 1 20. The defendant shared a background in which he was raised in a home with humble financial
2 means but his basic needs were met. He did not observe any domestic violence in the home.
3 He reports that he himself was sexually assaulted at a very young age, but he denied that this
4 sexual abuse played any role in this offending. He said that at the time he did not feel any way
5 about it and he carried on as normal. The defendant migrated to the Cayman Islands for work
6 purposes in 2006 and has lived here ever since.
- 7
- 8 21. He was educated to high school level but left school one year before graduating due to financial
9 needs. Thereafter he was gainfully employed in his chosen field for some twenty years and for
10 all of his time in the Cayman Islands up until he was arrested for this offending. He retired at
11 that time and has been struggling financially since then.
- 12
- 13 22. He states that he has known the victim for her whole life but denied having a close relationship
14 with her and her mother.
- 15
- 16 23. A community contact describes the defendant as very helpful, respectful and always quick to
17 help.
- 18
- 19 24. Under the heading Attitude Towards the Offence, the defendant is recorded as maintaining
20 throughout that he has no explanation or reason for his behaviour. He is said by the Probation
21 Officer to demonstrate poor insight in exhibiting empathy and minimising his actions.
- 22
- 23 25. He was assessed to be at low risk of sexual re-offending and at medium risk of overall re-
24 offending.
- 25
- 26 26. One recommendation by the Officer is that he needs to take the necessary steps in order to
27 address the reason he acted upon his thoughts and what occurred. The Officer notes that
28 challenging his pro-criminal thoughts and replacing them with pro-social ones could lead to a
29 reduction in his risk of committing a further offence. The Officer states that a sex offender
30 rehabilitation programme is not offered in the community but is recommended should he be
31 incarcerated in order to address his thinking and behaviour in order to reduce his risk of
32 reoffending.
- 33





THE SUBMISSIONS

27. Counsel for the prosecution submits that under the *Cayman Islands Sentencing Guidelines*, for the offence of Gross Indecency, this offending is at the level of Category 2 A with a starting point of 8 years imprisonment and a range of 6 to 9 years custody. Counsel submits that it is Category 2 harm because the victim was particularly vulnerable because of her age and circumstances. This was a family which had temporarily lost their home. They had sought shelter and the child was sleeping on the floor of the defendant's home. It is said to be culpability A because of the factor of abuse of trust.
28. It is submitted that given that these are multiple occasion counts, an upward revision to the starting point is required.
29. Counsel for the defence disagrees with the proposed categorisation. The primary area of dispute is whether the defendant was in a position of trust. Counsel submits that the defendant had no parental responsibility towards the child given that the mother of the child was also residing in the home at the time.

SUBMISSIONS IN MITIGATION

30. In mitigation, Counsel for the defence submits that the defendant has no previous convictions and is a man of previously good character. Counsel notes that the defendant has been assessed as being at low risk of re-offending which is a significant mitigating factor. Counsel submits that the Court may wish to consider that the defendant himself was a victim of sexual abuse at an early age. This provides relevant context in understanding his background. Counsel said that the defendant has an exemplary and consistent work history and expresses deep appreciation for his employment. He is presently unemployed and is in a precarious financial position. His savings have been exhausted and he is without income. His wife, who continues to be supportive of him is also unemployed and in a vulnerable financial position. The Court is asked to consider the impact of any custodial sentence upon her.

1 31. Counsel submits that the defendant entered guilty pleas at the first reasonable opportunity. He
2 spared the victim the trauma and distress of testifying at a trial, demonstrated acceptance of
3 responsibility for his actions and a willingness to face the consequences. Counsel said that
4 while he has stated that he does not understand what caused him to act in the way he did and
5 the limited nature of his insight into his offending behaviour must be acknowledged, that his
6 acceptance of responsibility is a genuine and relevant mitigating factor. Counsel said that the
7 defendant is aware of the harm his actions have caused. He told his wife of the offences and
8 has not sought to escape accountability.

9
10 32. The summary mitigating factors listed by Counsel are as follows: -

- 11 i. No prior convictions — the defendant is a man of previous good character with a
12 very low criminal history risk score.
13 ii. Low risk of sexual reoffending — as assessed by the Risk Matrix 2000.
14 iii. Acceptance of responsibility — the defendant admitted to the offences and
15 cooperated with the DCR.
16 iv. Positive work history — over twenty years of consistent, law-abiding employment
17 in the Cayman Islands.
18 v. Personal vulnerability — the defendant himself suffered childhood sexual abuse,
19 which is offered as context and not as an excuse.
20 vi. Difficult personal and financial circumstances — the defendant is currently
21 unemployed, without income, and is in a current state of financial hardship at best.
22 vii. Willingness to engage in rehabilitation — the defendant has expressed willingness
23 to participate in treatment programs to address his offending behaviour.
24

25 33. Counsel refers the Court to three cases: -
26

- 27 • R v Devon Alanzo Stewart¹
28 • R v Tony O'Connell Ebanks²
29 • R v Conrad Clint Mendoza³



¹ Grand Court Unreported Judgment dated 2018

² Cayman Islands Court of Appeal (Criminal- No 0004 of 2022 - Unreported Judgment dated 12th December 2023

³ Grand Court Unreported Judgment December 2022

1 34. In **Stewart** the defendant was sentenced to 4 years and 9 months imprisonment following his
2 conviction after trial for a single act of gross indecency on a seven year old child. The defendant
3 had placed his finger in her vagina. The child had become infected with a sexually transmitted
4 infection and had been severely traumatised as a result of the assault. In the absence of local
5 Guidelines at that time, the sentencing judge applied the **United Kingdom Sentencing Council**
6 **Guidelines** for the offence of sexual assault on a child under 13. In light of the lower maximum
7 sentence in the Cayman Islands, of 12 years instead of 14 years, the judge applied a starting
8 point for a category 1A offence of 5 years rather than 6 years.

9
10 35. Counsel noted that this was a sentence imposed after trial, the defendant had been on bail for a
11 previous offence of a similar nature and had been found to be in a position of trust.

12
13 36. In **Ebanks** the defendant was sentenced to 8 years imprisonment after trial for the offence of
14 Indecent Assault. He digitally penetrated the vagina of a naked five year old child. He had a
15 history of sexual offending.

16
17 37. In **Mendoza** the defendant was convicted after trial for offences of Indecent Assault. The victim
18 was about 13 years old. The defendant was sentenced to 4 years imprisonment. He had been
19 in a position of trust because being a friend of the family, the child had been left in his care on
20 certain occasions. The child was severely impacted by the assault.

21
22 38. This Court notes the distinctions between the instant case and the cited cases. Indecent Assault
23 carries a maximum sentence of 10 years imprisonment. Gross Indecency carries a maximum
24 of 12 years imprisonment. This case does not relate to a single act but to multiple offending
25 over a period of years. The child in this case was about 10 years old when the activities began.

26
27 **ABUSE OF TRUST**

28
29 39. I have considered the issue of Abuse of Trust about which the parties disagree. The assertion
30 of the prosecution is that the family relationship, the defendant being the step grandfather of
31 the victim, is sufficient for this offending to be categorised as an abuse of trust. I have drawn
32 to Counsel's attention the cases referenced below. Counsel have been given an opportunity to
33 make submissions thereon.

1 40. In *Forbes*⁴ the appellant had committed offences against two boys who had been frequent
2 visitors to his family home. The English Court of Appeal said this: -
3

4 “It is evident from the appeals that one issue that has caused difficulty is “abuse of trust”
5 as an express aggravating factor and as used in respect of culpability extensively in the
6 definitive guideline.

7 Whilst we understand that in the colloquial sense the children's parents would have trusted
8 a cousin, other relation or a neighbour (as in the case of *Forbes* – see paragraph 47 and F
9 — paragraph 208) to behave properly towards their young children, the phrase “abuse of
10 trust”, as used in the guideline, connotes something rather more than that. The mere fact of
11 association or the fact that one sibling is older than another does not necessarily amount to
12 breach of trust in this context. The observations in [54] of *R v H* should be read in this light.
13 The phrase plainly includes a relationship such as that which exists between a pupil and a
14 teacher (as in the case of *Clark* who grossly abused his position of trust as a teacher at a
15 boys' preparatory school by a sustained course of conduct over 7 years – see paragraphs 70
16 and following), a priest and children in a school for those from disturbed backgrounds (as
17 in the appeal of *McCallen* — see paragraphs 86-92 and 97) or a scoutmaster and boys in
18 his charge (as in the case of *Warren* to which we have already referred). It may also include
19 parental or quasi-parental relationships or arise from an ad hoc situation, for example,
20 where a late night taxi driver takes a lone female fare. What is necessary is a close
21 examination of the facts and clear justification given if abuse of trust is to be found.”
22

23 41. The line of authorities following on from *Forbes* makes clear that a familial relationship for
24 that reason alone does not amount to an abuse of trust. Each case must be examined on its own
25 facts.
26

27 42. In *R v AH*⁵, the appellant appealed a sentence of 8 months custody imposed for one count of
28 inciting a child to engage in sexual activity. The appellant had sent sexual messages to his niece
29 by social media. The English Court of Appeal identified three possible situations where the
30 issue of trust may arise: -

⁴ [2016] EWCA Crim 1388

⁵ [2017] EWCA Crim 117



1 “In our view, however, care needs to be taken to distinguish between three different
2 situations; (a) being placed in a specific position of the trust vis-a-vis a child (and exploiting
3 that position); (b) being generally “trusted” by a child because of a particular familial or
4 other relationship (and exploiting that relationship) and (c) simply using the opportunity
5 for association with a child that a familial or other relationship affords.”
6

7 43. The Court found that in the evidence in the case on appeal there was nothing to suggest that
8 the family relationship played a significant role in the abuse. It did no more than give the
9 appellant the opportunity to initiate an inappropriate social media conversation with the child.
10

11 44. In contrast in the case of *Attorney General’s Reference (R v W)*⁶, the Appellate Court held that
12 the sentencing judge had erred in not concluding that the offending had the element of abuse
13 of trust. This was in circumstances where the offender who was thirty-three years old had
14 sexually assaulted his eight year old niece over a period of ten months. The Court said that in
15 circumstances where the parents of the victim left her in the offender’s care and trusted him to
16 look after her when she visited his home, there was undoubtedly a parental or quasi parental
17 relationship between offender and niece. All the counts therefore fell into category 2 A or 3 A
18 of the relevant guidelines.
19

20 45. Counsel for the defence in the instant case has also drawn to the Court’s attention a number of
21 cases. These include *R v ZBT*⁷ where the charge was rape of a stepsister. Although the incident
22 occurred within a family setting, the Court in that case held that the phrase abuse of trust is
23 intended for relationships such as teacher/student, or parent /child and not step siblings. There
24 was no evidence of formal caregiving or supervisory relationship.
25

26 46. In the case of *R v Razvan-Dumitru Oprea*⁸, the appellant who was then thirty-one years of age
27 had pleaded guilty to offences of rape and sexual assault against a fifteen year old child. He
28 was a family friend who had been staying in the home of her parents. The English Court of
29 Appeal identified the relevant principles in light of a number of authorities to be as follows: -

⁶ [2018] EWCA Crim 265

⁷ [2013] 1 Cr. App. R. (S) 85

⁸ [2021] EWCA Crim 1695



1 “22... 1. Abuse of trust has a particular meaning when used in the guideline and is not to
2 be equated with what might colloquially be termed a breach of trust or an abuse of trust.
3 2. What is necessary for an abuse of trust in the sense used in the guideline is a relationship
4 between the victim and the offender involving an inequality of power, by virtue of which
5 the offender has assumed a significant level of responsibility for the welfare of the victim,
6 upon which the victim is entitled to rely.
7 3. This may arise from many different relationships, including those identified in *Forbes*.
8 It may sometimes arise where someone is left in a home with the victim; for example where
9 the relationship is between child and childminder. However, it will not generally arise
10 merely by virtue of the fact that the offender has been invited into the family home and left
11 alone with the victim.
12 4. A question whether there has been an abuse of trust is fact-specific. What is required is
13 a close examination of the facts and clear justification if abuse of trust is to be found.”
14

15 47. The Court held that the appellant had been trusted by the family to be left alone with the victim
16 but he was not trusted to a look after her or her welfare. One of the four aggravating factors
17 identified by the Court was *“the serious betrayal of goodwill and hospitality which enabled*
18 *him to be in the house alone with her of which he took advantage to make the uninvited entry*
19 *into the privacy of her bedroom.”*
20

21 48. In the instant case, other than the family relationship, there is no other evidence which is relied
22 upon in proof of the element of abuse of trust. Counsel for the prosecution suggests that the
23 defendant having invited mother and child to live in his home, that this is also an added element
24 to be considered. However, there is nothing to suggest that the victim was placed into the care
25 of the defendant. There is no specific placement of trust. There is no evidence of any significant
26 level of responsibility which was imposed upon the defendant for the victim. The circumstances
27 at hand appear to fall into the situation of access to the victim because of the family relationship.
28 It is proposed therefore to consider this under the heading of aggravating factors.
29

30 49. The culpability is thus at Level B.
31
32



1 50. In the Court's view the offending falls into Category 2 harm due to the particular vulnerability
2 of her age being about 9 years old and her personal circumstances as outlined by the
3 prosecution.



4
5 51. The starting point is thus 6 years custody.

6
7 52. This is offending of a repeated nature on the same victim over a number of years. The victim's
8 account is that the assaults began when she was nine years old and stopped when she was
9 thirteen years old. The defendant has pleaded to three counts. The multiplicity of the offending
10 serves to increase the starting point from 6 years to 8 years.

11
12 53. By way of aggravating factors, this offending took place in the victim's home where she was
13 entitled to feel safe. The defendant exploited the fact of his access in the home due to his
14 relationship in order to take advantage of the victim. This serves to increase the sentence to one
15 of 9 years or 108 months.

16
17 54. In mitigation, everything said and written in the defendant's favour is taken into account. He
18 has no previous convictions and is of good character. He is genuinely remorseful and has taken
19 responsibility for his actions. He is willing to participate in rehabilitative programmes. He was
20 a victim of sexual abuse at an early age. He has been a productive and hardworking member of
21 society for an extended period and is now facing financial hardship. He is sixty-one years old.
22 Incarceration will affect him at his age and will also affect his wife who will be left without
23 financial support. He is at low risk of sexual re-offending. All the mitigating factors taken
24 together serve to reduce his sentence by 18 months to one of 90 months.

25
26 55. He is given the full one third credit for his guilty plea for a sentence of 60 months.

27
28 56. The Court has considered whether the proposed sentence is proportionate to the offending. The
29 serious nature of the offending means that it firmly passes the custody threshold. This
30 defendant was more than forty years older than the victim. He was related to her by marriage
31 and knew her for all her growing years. He must have planned the assaults to take place after
32 the household had retired to bed and the victim was asleep and thus in a vulnerable position.

1 Rather than providing shelter and protection as her step grandfather, he took advantage of the
2 access which he had to her during the night hours. This was not a one-off incident, but he
3 repeated the assaults over a period of years. The full impact on and the harm to the victim is
4 yet untold. She has only recently begun to access the services of a child psychologist, but it is
5 evident that she is already much disturbed and affected by what has occurred. The Court
6 considers that the proposed sentence is proportionate to the offending in this case.

7
8 57. The Court is mindful of the gravity of the conduct and of the principles as to totality and
9 concurrent and consecutive sentences:

10
11 58. Paragraph 6 of the ***Cayman Islands Sentencing Guidelines*** with respect to concurrent and
12 consecutive sentences provides as follows:

13
14 ***“6.1 Concurrent Sentences***

15 *It is wrong in principle to impose sentences to run consecutively where*
16 *those offences, though distinct in law, arose out of a single act so that the*
17 *overall criminality for the offender can be represented by concurrent*
18 *sentences.*

19 *Concurrent sentences will ordinarily be appropriate where:*

20 *a) Offences arise out of a related incident or facts.*

21 *b) There is a series of offences of the same or similar kind especially when*
22 *committed against the same victim.*

23
24 *Where concurrent sentence are passed, the sentence should reflect the overall*
25 *criminality involved. The sentence should be appropriately aggravated by the*
26 *presence of the associated offences and thus the court may increase sentence for*
27 *the principal offence to reflect the gravity of conduct:*



1 **6.2 Consecutive Sentences**

2 *Consecutive sentences will ordinarily be appropriate where:*

- 3 *a) Offences arise out of unrelated facts or incidents.*
- 4 *b) Offences are of the same or similar kind but where the overall criminality*
- 5 *will not sufficiently be reflected by concurrent sentences for example:*
- 6 *i. Where offences are committed against different victims.*
- 7 *ii. Where sexual offences or domestic violence are committed against*
- 8 *the same individual.*
- 9 *iii. Where the offender commits the same or similar offence after*
- 10 *being arrested for the original offence.*
- 11 *iv. Where the maximum penalty available for the most serious offence*
- 12 *is too low to enable the court to reflect the overall seriousness of*
- 13 *the offences taken as a whole.*
- 14 *... ”*

15

16 59. Having taken into account the multiplicity of the offending at the stage of the starting point,

17 the sentence of 60 months is considered to be reflective of the overall criminality. Sixty (60)

18 months imprisonment is thus imposed on each Count to run concurrently.

19

20 60. Time served is to be taken into account.

21

22 61. While in custody the defendant is to receive sexual offender management treatment as

23 recommended by the Probation Officer.

24

25 **SEXUAL HARM PREVENTION ORDER**

26

27 62. The prosecution has applied for a sexual harm prevention order for an indefinite period. The

28 defence do not oppose the making of such an order but say that this should be for a limited

29 period only.



1 63. The Court finds that such an order is necessary to protect the victim and children from the
2 defendant and makes the order in terms of the revised draft which has been agreed by Counsel.
3 The order is to be in place for five years following the release of the defendant from prison.
4

5 **Dated this the 15th day of April 2026**

A handwritten signature in blue ink, appearing to be 'Cheryll Richards', written over a faint horizontal line.

6
7 **The Hon. Justice Cheryll Richards KC**
8 **Judge of the Grand Court**