

1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL SIDE**

3
4 **Neutral Citation Number: [2025] CIGC (Crim) 74**
5 **IND. No: 108/2024**
6

7
8 **REX**

9
10 **V**

11
12 **ORLANDO ROY SIMPSON**
13



14
15 **Appearances:**

Mr. Orrett Brown for the Crown
Ms. Crister Brady for the Defendant

16
17
18 **Before:**

Justice Dale Palmer (Actg.)

19 **Judge Alone trial:**

20th, 21st, 22nd and 23rd January 2025

20
21 **Written closing submissions:**

24th January 2025

22
23 **Verdict Judgment:**

28th March 2025
24
25

26 **HEADNOTE**

27 *Criminal Law – Trial by Judge Alone - Assault – Rape – Threats to Kill – Issue*
28 *of Consent – Honest Belief*

29
30 **VERDICT JUDGMENT**



COMPLAINANT'S ANONYMITY

1. By virtue of section 31 of the **Criminal Procedure Code** (2021 Revision) ('CPC') the publishing or broadcasting of the case in a way to cause the public to identify the complainant is restricted as follows:

"31. (1) After a person is accused of a rape [etc.] offence, no matter likely to lead members of the public to identify a woman as the woman against whom the offence is alleged to have been committed shall be published in a written publication available to the public or be broadcast, except as authorised by a direction of the court.

(2) ...

(3) ...

(4) ...

(5) If any matter is published or broadcast in contravention of subsection (1), the following persons

(a) in the case of a publication in a newspaper or periodical, the proprietor, editor and publisher of the newspaper or periodical;

(b) in the case of any other publication, the person who publishes it;

(c) in the case of a broadcast, any person having functions, in relation to the programme in which it is made, corresponding to those of an editor of a newspaper,

commit an offence and are each liable on summary conviction to a fine of one thousand dollars. "

2. Accordingly, it is hereby ordered that no matter shall be published in any written publication available to the public or be broadcast relating to this case that could lead members of the public to identify the complainant in this case.

BACKGROUND

3. Orlando Roy Simpson (hereafter "the Defendant"), was charged on an indictment containing three counts arising from events occurring in July and August of 2024 involving his former girlfriend, TM, (hereafter "the Complainant"). The charges were as follows:

- **Count 1 – Assault Causing Actual Bodily Harm:** Contrary to section 216 of the **Penal Code** (2024 Revision). This count relates to an alleged violent incident in July 2024, during which the Defendant is accused of physically assaulting the Complainant.



- **Count 2 – Rape:** Contrary to section 127 of the *Penal Code* (2024 Revision). This count concerns an incident on August 30, 2024 in which the Defendant allegedly forced the Complainant to have sexual intercourse without her consent.
- **Count 3 – Threats to Kill or Cause Serious Harm:** Contrary to section 88C of the *Penal Code* (2024 Revision). This count involves an allegation that during the August 2024 incident, the Defendant threatened to kill the Complainant or cause her serious harm, intending to instil fear that the threat would be carried out.

4. It is common ground that the Defendant and Complainant had been in an intimate relationship for approximately nine years prior to these events. They originally met in Jamaica and maintained a long-distance relationship for some time, with the Defendant traveling between Jamaica and the Cayman Islands. About 1½ years prior to the incidents in question, the Defendant assisted the Complainant in moving to the Cayman Islands by helping her obtain employment and a work permit. Initially, she worked for the Defendant’s sister (a short-lived arrangement) and later found work with another employer. The evidence indicates their relationship was tumultuous, with prior break-ups and reconciliations. They agreed that at least once before, the Complainant had moved out of the Defendant’s residence after a quarrel, only for the couple to reconcile weeks later.

5. According to the Complainant, a significant rift occurred in July 2024, when she alleges that during an argument the Defendant accused her of infidelity and became violent: punching her in the face, pushing her to the ground, spitting on her, and stepping on her chest, injuring her eye and breast. As a result of this incident, the Complainant says she was in pain and missed work for two weeks, due in part to the obvious injury to her eye. Following this altercation, she moved out of the Defendant’s home and found her own accommodation, deliberately not disclosing her new address to him. Their communications continued intermittently by phone after the July incident, but the Complainant maintains that the relationship was effectively ended at that point.

6. The allegations in Count 2 (Rape) and Count 3 (Threats to Kill) stem from events alleged to have occurred on the night of August 30, 2024 and the ensuing weekend. In essence, the Complainant claims that the Defendant tracked her down to her new



1 residence, confronted her outside her apartment while armed with a sharp object,
2 threatened to kill her if she moved or made noise, and then engaged in sexual
3 intercourse against her will. She further claims that the Defendant effectively held
4 her captive through the remainder of that weekend – taking away her phone and
5 keys, staying in her apartment overnight, and accompanying her or keeping her under
6 observation during various outings – until she was able to report the matter to police
7 on Monday, September 3, 2024.

- 8
9 7. The Defendant’s defence is a complete denial of criminal wrongdoing. Regarding
10 Count 1 (July 2024 assault), he admits there was an argument but categorically
11 denies assaulting or injuring the Complainant. As to Counts 2 and 3, he
12 acknowledges that sexual intercourse occurred between them on the night in
13 question (and indeed on multiple occasions that weekend) but insists that all their
14 encounters were entirely consensual. He denies ever using or brandishing a
15 knife/blade or threatening the Complainant’s life. On his account, the Complainant
16 willingly spent the weekend with him as the two attempted to reconcile. The defence
17 has placed great emphasis on evidence of the Complainant’s own prior statements in
18 which she apparently denied being raped; notably as reflected in recorded phone
19 conversations after the incident, to argue that her trial testimony is not credible.
20

21 JUDGE ALONE TRIAL

- 22 8. The Defendant elected to proceed by Judge Alone trial, pursuant to the provisions
23 section 129 (1) of the **Criminal Procedure Code** (2019 revision). In such cases, the
24 judge must apply the same principles of law and fact-finding as a jury would, while
25 also providing reasoned findings. Guidance can be found in the Cayman Islands
26 Court of Appeal decision of in **K. Richards v R¹**, where Rowe JA, stated:

27 *“When a trial judge sitting alone has advised himself to the applicable*
28 *principles of law, and given himself any necessary warning, he must*
29 *indicate clearly in his judgment his reasons for acting as he did in order*
30 *to demonstrate that he has acted with the requisite degree of caution in*
31 *mind and has therefore heeded his own warning. No specific form of*
32 *words is necessary for this demonstration, what is necessary is that the*
33 *Judge’s mind upon the matter should be clearly revealed.”*

- 34 9. Similarly, in **Randy Martin v R²**, Mottley JA stated as follows:

¹ 2001 CILR 496

² CICA Crim. Appeal No. 2/2010 (Ind. 27/2009)



1 *“A judge sitting in a criminal case without a jury, in rendering his*
2 *decision and giving his reasons for so concluding is not required to*
3 *review every fact and to detail each argument on which the prosecution*
4 *and defence rely as if he were summing up to a jury. The judge must set*
5 *out the conclusion reached and make clear the reasons for arriving at*
6 *that conclusion. He is required to have regard to any difficult or*
7 *unusual points of law and to show how those points of law has in any*
8 *way impacted the conclusion that he has reached.”*

9 10. In line with this guidance, I have kept in mind all necessary legal principles and
10 directions to myself while evaluating the evidence. The burden of proof in criminal
11 cases is always on the prosecution to prove the case against the Defendant to the
12 tribunal of fact beyond a reasonable doubt. Anything short of that means that at least
13 a reasonable doubt exists, and this doubt must be resolved in favour of the Defendant.
14 He is presumed to be innocent unless by my verdict I find him to be guilty, but there
15 is no burden on the Defendant to convince me of his innocence or prove anything to
16 me. Of course, if his case convinces me that he is innocent, or leaves me unsure as
17 to whether or not he is guilty, then the prosecution would have failed to discharge its
18 burden. Even if I disbelieve him, he cannot be convicted because of such disbelief.
19 Instead, I must return to the case of the prosecution to determine if they have proven
20 the case to me beyond a reasonable doubt.

21
22 11. I will address my mind to the important and prominent aspects of the evidence, and
23 while I will not recite all the evidence in my review, will certainly consider all the
24 evidence as determine the critical issues of this case. I will not decide on every point
25 in this case but only those that are required to determine whether the prosecution has
26 proven the charges as stated on the indictment as proffered. I also consider the
27 evidence that relates to each count against the Defendant separately and determine
28 whether the prosecution has proven its case against him.

29 30 **THE LAW**

31 **ASSAULT OCCASIONING ACTUAL BODILY HARM**

32 12. Section 216 of the Penal Code (2024 Revision) states:

33 *A person who commits an assault occasioning actual bodily harm*
34 *commits an offence and is liable to imprisonment for five years.*

35 13. To prove this offence, the Prosecution must establish that the Defendant intentionally
36 or recklessly applied unlawful force to the Complainant (an assault or battery), and
37 that this assault caused actual bodily harm to her. In the context of this case, the

Crown alleges the Defendant punched the Complainant in the eye and stomped on her chest in July 2024, causing a swollen black eye and injury to her breast. There is no suggestion of any lawful excuse (such as self-defence) being raised for this count. The Defendant's position is a denial that he ever struck or harmed her, thus putting in issue whether any assault took place and caused the alleged injuries.

RAPE



14. Section 127 of the ***Penal Code*** (2024 Revision) states:

(1) A person who rapes another commits an offence

(2) A person commits rape if-

(a) the person has unlawful sexual intercourse (whether vaginal or anal) with another person who at the time of intercourse did not consent to it; and

(b) at the time the person knows that the other person does not consent to the intercourse or the person is reckless as to whether the other person consents

3)...

4) If, at a trial for a rape offence, the jury has to consider whether a person believed that the person was consenting to sexual intercourse, the presence or the absence of reasonable grounds for such belief is a matter to which the jury is to have regard in conjunction with any other relevant matters in considering whether the person is believed.

5)...

6) for the purposes of this section, a person is deemed not to have consented to sexual intercourse if that person's acquiescence is obtained-

a) by threat of force or use of force;

b) by means of threats or intimidation of any kind;

c) by fear of bodily harm;

d)...

7)...

15. In short, the elements are: (i) sexual intercourse (whether vaginal or anal); (ii) that it occurred without the consent of the complainant, and (iii) the Defendant's knowledge of or recklessness as to that lack of consent. The Penal Code further



expands on the issue of consent and the effect of the defendant's belief. Section 127(4) provides that if the tribunal of fact has to consider whether the defendant believed the complainant was consenting, the presence or absence of reasonable grounds for such belief is relevant in determining whether the defendant did genuinely believe in consent. In other words, a genuine or honest but unreasonable belief in consent is not a defence; the reasonableness of any claimed belief must therefore be evaluated. Section 127(6) states that the law deems that a person does not consent to intercourse if her apparent agreement is obtained by force, threats, intimidation, or fear of bodily harm. Consent must be freely given; submission induced by fear is not true consent.

16. Because the defence of honest belief in consent has been raised, I remind myself that the Crown must prove not only that the Complainant did not consent, but also that the Defendant did not honestly and reasonably believe that she was consenting. The Crown relies on the circumstances, particularly of the alleged threats and use of a knife/blade, as evidence that not only didn't the Complainant not consent, but the Defendant could not reasonably have believed she had. The Defence points to the Complainant's behaviour before, during and after the encounter (such as her prior promises to return, apparent cooperation and appearing to enjoy herself) as giving rise to a belief that she was consenting.

THREATS TO KILL OR CAUSE SERIOUS HARM

17. Section 88C of the Penal Code (2024 Revision) states:

(1) a person who without lawful excuse makes to another person a threat, intending that person would fear it would be carried out, to-

(a) kill,

(b) cause serious harm to,

that person or a third person commits an offence and is liable to imprisonment for ten years.

(2) A threat may be committed in a public or a private place.

(3) ...

18. For the Crown to succeed on this count, it must prove: (i) that the Defendant made a threat to the Complainant to kill her or cause her serious bodily harm; (ii) that he had



no lawful excuse for making such a threat; and (iii) that at the time, he intended the Complainant to fear that the threat would be carried out. The Crown's case is that when the Defendant accosted the Complainant outside her apartment, he pressed a knife/ blade to her neck and told her he would kill her if she moved or made a sound, thus explicitly threatening to kill or seriously harm her on the spot. The defence flatly denies any such threat was made (whether with or without being armed with a weapon). Intent may be inferred if the circumstances show the threat was uttered in a manner likely to instil fear, and the presence of a weapon could strengthen such an inference. There is no lawful excuse advanced in this case. The issues are simply whether the threatening words were uttered as alleged, whether the Complainant genuinely feared their execution and whether he intended to cause her to fear it.

INCONSISTENCIES AND DISCREPANCIES

19. In a case of this nature, which largely hinges on the conflicting testimony between that of the Complainant versus that of the Defendant, the Court must carefully evaluate credibility and reliability. It is well established that I may accept all, part, or none of a witness's testimony. Discrepancies or inconsistencies in a witness's account do not automatically mean the core of the testimony is false; people may honestly forget details or confuse sequences of events, especially under trauma or with the passage of time. However, if there are serious inconsistencies on important points, the Court must consider whether these undermine the particular witness's overall credibility, and if so, whether only on that issue or on that witness's evidence as a whole. Is there a plausible explanation for these inconsistencies or discrepancies coming from the witness or the evidence as a whole? These issues go to the witness's credibility.

20. In this case, a notable feature is that the Complainant made statements after the alleged incident which conflict with the allegations as recounted to the police and at trial. Evidence was presented through recorded phone calls (two of which are accepted by the Complainant as featuring her and another that she rejects), that the Complainant told members of the Defendant's family that she had not been raped and downplaying the seriousness of the report made to the police. The Complainant explained that she was pressured by the Defendant's relatives to retract her allegations, as they had been persistently calling her; essentially, that she only said what she did on the phone to appease them and stop their harassment. I will weigh whether the inconsistencies in the Complainant's statements are significant and

whether her explanations for them are convincing. If key parts of her testimony prove unreliable, I must treat her evidence with caution and look for any independent support for it.



PROSECUTION CASE

TM

21. The Complainant testified that in mid-July 2024 she and the Defendant had a heated argument. The Defendant was accusing her of infidelity and, according to her evidence, the argument escalated into a physical altercation during which she says the Defendant punched her to the eye, pushed her to the ground, spat on her, and stomped on her chest (specifically on her left breast). She recalled that she was left with a swollen eye and her left breast was bruised and painful. According to her, the beating was intentional, fuelled by the Defendant's anger over his belief that she had been unfaithful. She claimed that the injuries were severe enough that she did not go to work for approximately two weeks afterward, out of embarrassment and pain.

22. The Complainant mentioned that she had taken photographs of her injuries at the time; however, notably, no such photographs were produced in court. She did not provide a reason why those photos were not shown to the police or presented as evidence. Nonetheless, she maintained her account of the July incident, that the Defendant had assaulted her causing actual bodily harm.

23. After this July assault, the Complainant testified that she left the Defendant's residence and rented a room elsewhere. She did not disclose to the Defendant where she was living after she moved out, but despite the breakup, she admitted that she continued to speak with the Defendant occasionally by telephone in the weeks that followed.

24. By late August 2024, the Complainant was living independently and usually commuting by bus to get to her new residence. On August 30, 2024, she was on her way home from work and stopped at a convenience store. Upon exiting the store, she spotted a car she associated with the Defendant and says that she immediately turned around and went back inside, where she remained for about an hour, hoping the Defendant would leave. Eventually, after staying inside the shop for a prolonged time, she called a male friend for help, who took her home.



1 25. The Complainant's apartment was in a small complex, and she recounted that it was
2 dark when she arrived home that evening. As she approached her apartment door,
3 she suddenly felt someone grab her from behind, and shortly afterwards realized it
4 was the Defendant. She testified that the Defendant placed a knife to her neck from
5 behind and pinned her against the wall outside her apartment. As evidence
6 progressed she was equivocal as to whether she actually saw the knife or simply felt
7 a sharp object. It was dark, and she could not see the entire knife, but she saw what
8 she believed to be the blade near her throat. According to her, the Defendant, while
9 restraining her, uttered a threat that if she moved or made a sound, he would kill her.

10
11 26. At that moment, another tenant of the apartment walked by them in the corridor. The
12 Complainant recalled that this person looked in their direction but did not intervene
13 or say anything. The Defendant's back was to the passerby. The Complainant did
14 not cry out for help, explaining that she was fearful at the earlier threat. With her
15 mind on her 14-year-old disabled son home in Jamaica, she says she complied and
16 the Defendant as she then ushered him inside her apartment room.

17
18 27. Once inside her bedroom, she recounted that the Defendant began talking to her in
19 an emotional manner, apologizing for what he happened saying he was sorry and
20 that he loved her. He expressed a desire to get back together with her while at the
21 same time he also berated her, accusing her of coming to Cayman just to "disrespect"
22 him and insinuating she was involved with another man. He had accusations relating
23 to a man named 'Oral', who owned the property where she was renting her room,
24 and whom the Defendant accused her of being involved with her, which she denied.

25
26 28. During this confrontation in the bedroom, the Complainant was extremely frightened.
27 She testified that although she could not see the knife at this point, the threat he had
28 made moments before still operated on her mind. She says she believed that if she
29 did not comply with his demands, he would carry out the threat and possibly kill her,
30 leaving her 14-year-old son motherless.

31
32 29. The Defendant then told the Complainant that he wanted to have sexual intercourse
33 with her, telling her undress as he took off his clothes. The Complainant testified that
34 she felt she had no choice but to comply and removed her clothing as instructed.
35 According to TM, they engaged in sexual intercourse on the bed in her room entirely
36 without her consent. She admits that she did not resist out of fear relating to the
37 earlier threat of violence. She also pretended to reciprocate his affections and even



1 acted as though she was enjoying the sex out of fear that he would carry out his
2 earlier threats.

3
4 30. She explained that to bolster the ruse that she was consenting, she said she faked an
5 orgasm; mirroring, it seems, how she would normally react during her consensual
6 encounters with him, trying not to betray her actual feelings. Due to his view that
7 she was involved with someone else, she intimated in evidence that to resist might
8 confirm this in the mind of the Defendant and possibly enrage the Defendant.
9 According to her evidence, even the 'hickey' that the Defendant placed on her neck
10 was his way of placing a visible mark on her for the attention of any man that may
11 have been pursuing her.

12
13 31. After the sexual act, the Complainant says that she went into the bathroom, and once
14 in the shower, out of the Defendant's immediate presence, she began to cry. A short
15 time later, the Defendant joined her in the bathroom but despite the later suggestion
16 in cross-examination that they showered together, TM insisted that she came out by
17 the time he was entering the bathroom. TM says that he refused to leave and spent
18 the night at the apartment. He also took possession of her mobile phone and the key
19 to her apartment, effectively controlling her ability to leave or call for help, and the
20 cause that she barely slept that night.

21
22 32. It is notable that during the night and over the weekend that the Complainant says
23 she was forced to remain with the Defendant, there were several instances that she
24 was either alone in a public place or together with the Defendant at a public place or
25 amongst others, but she made no alarm. Additionally, she believed the Defendant's
26 son was also afraid of his father, so even asking the boy for help (like to call 911)
27 did not seem feasible, though she says she attempted to by slipping a note under the
28 bathroom door to Assani over the weekend.

29
30 33. TM stated that he spent the night there as he did not want to leave and kept her phone
31 and key for the apartment. She said that she could hardly sleep the night and says
32 that she went with him to the beach the following day because she was fearful and
33 went swimming with the Defendant, during which she says that the two had a further
34 sexual encounter. She says that he indicated a desire to have sex with her while they
35 were in the water, which she says she resisted but that he still placed his finger in her
36 vagina while they were in the water. She claims she clung to him because she feared
37 he would drown her.



1 34. TM stated that she was familiar with the Defendant's family members, and he seems
2 to have had a close relationship with her family as well. After the August incident
3 TM had also spoken to the Defendant's sisters about the incident, namely Jodi-Ann
4 Simpson, Kerry-Ann Simpson and Stacey-Ann Hall, and spoke with the Defendant
5 himself. She says that Defendant would call and complain as to what she had done
6 to him and if she was going to let him go to prison. She denied that much more was
7 said in the conversation. She said that the last time that she recalled speaking to him
8 was about a week after the incident on the 5th or 6th of September.

9
10 35. In cross-examination TM denied telling several members of the Defendant's family
11 that the Defendant did not in fact rape her. She agreed that she had spoken to the
12 Defendant's sister, Jodi Simpson, on more than one occasion by telephone, but could
13 not recall ever telling her that he had not raped her. She identified the telephone
14 number shown on a video recording as hers and agreed that the voices on the
15 recording were her and Jodi-Ann Simpson. When confronted with the recording, she
16 maintained her position that she had never said to Ms. Simpson that the Defendant
17 had not raped her. She identified the recording as a telephone call that she had with
18 the Defendant on the night in question. Ms. TM agreed that the recording reflected
19 their conversation, and in it she is heard to say that she did not say to the police that
20 he had raped her. When directly asked if the Defendant had raped her in the 2nd
21 recording, her response was that he had not.

22
23 36. TM agreed that the apartment that she now rents is owned by Oral and that the
24 Defendant accused her of having a relationship with him, which she denied. She also
25 denied that she and the Deft went to Oral's business place the day after the alleged
26 sexual assault. She denied that the faking of an orgasm in the August 30, 2024
27 encounter was interpreted by the Defendant that she was consenting. It is the
28 Defendant's position that the rental charged for the room was in his view unusually
29 low based on the expected market value in that area, but TM could not say whether
30 the amount she was charged was reflective of its true market value.

31
32 37. TM explained that she had not expected to see the Defendant on the night when he
33 showed up. She denied that she told him that he could stay because she did not have
34 a man that would be coming by. To the contrary, she insisted that the Defendant
35 prevented her from leaving and she could not leave as he retained her phone and
36 apartment key, though she agreed that he eventually went to sleep with him there.
37 Rather than her definitive position in her evidence in chief that she was leaving the



1 bathroom when the Defendant was entering, she stated in cross-examination that she
2 could not recall if they had showered together after the incident that she described
3 but maintained that she had been crying in the shower.

4
5 38. To support the Defendant's case that TM had several opportunities to seek help had
6 she truly been there against her will, TM gave evidence that the Defendant called
7 her brother while at the premises, though she could not recall him complaining about
8 her having another man. She agreed that he had encouraged them to work out their
9 differences. She denies calling her father that night or the following morning. It
10 seems in line with the contention that the Defendant's grievance was concerning his
11 suspicion of her having another man, she stated that her phone rang repeatedly that
12 night and one of the calls was from a male. She denied that she abruptly ended the
13 call because the Defendant was holding the phone, and told the male that she could
14 not speak, presumably because the Defendant was there.

15
16 39. She admitted to going to Foster's supermarket that night with the Defendant who sat
17 in the car as she went inside. The Defendant's son, with whom she shares a very
18 good relationship, went inside shortly before and returned to the car before her;
19 effectively leaving her inside Foster's on her own. She admits also that she was
20 inside Foster's speaking to someone during the 10 – 15 minutes that she was inside,
21 but did not ask for help as she was afraid. Though she did not ask for Assani's help
22 on that night, TM claims to have sought his help by pushing a note under the door
23 when at the Defendant's home the following day.

24
25 40. TM agrees that on the Sunday she went with the Defendant to a work site where she
26 stated that she did not seek help because she was afraid. She claims that when they
27 went to the beach the Saturday that she did not wear a swimsuit and on the instruction
28 of the Defendant she removed her jeans and went into the water anyway. TM had
29 not mentioned the fact of this visit to the beach in her initial ABE interview and that
30 the two had a sexual encounter with the Defendant. She denied the extent of the
31 encounter but says that she had forgotten to report it at the police. She claims that at
32 that beach visit Mr. Simpson had wanted to have sex with her but instead inserted
33 his finger inside her vagina. TM admitted that she pretended to enjoy the Friday
34 encounter just as they did before the breakup, and feared that to do otherwise would
35 cause him to believe that she did in fact have someone else and carry out his earlier
36 threat.



1 41. TM was confronted with a recording purported to be her and the Defendant, which
2 she rejected as involving her, though from a telephone number that she agreed was
3 hers. The female on the recording was referring to the male as Orlando and the male
4 referred to the female by TM's first name, but she maintained that it was not a
5 recording of a phone call between herself and Mr Simpson in November of 2024.

6
7 42. TM rejected that she had concocted the allegations raised in this case in order to
8 foster a relationship with Oral, whom the Defendant claims to have visited while
9 they spent time together that weekend. She denied that she has now outgrown Mr
10 Simpson who helped her to finance her education in Jamaica, because Oral could
11 provide more. She also rejected the suggestion that the true reason she could not
12 leave her phone that weekend was because she feared Oral or another male with
13 whom she was involved, might call while he Defendant was there. She admits that
14 she asked Assani to call her sister to have her delete messages her sister had sent to
15 her, rather than come to her aid, though she was quite protective of her. She
16 explained in re-examination that she had asked Assani to call her sister to remove
17 messages her sister had sent to her.

18
19 43. Much revolved around the perception that Oral was involved with TM and the
20 genesis of this view being in the discovery of an image of him in a collage seen on
21 her phone in March 2024, causing the Defendant to take her phone. She had created
22 an image from the photo that placed her beside him. It seems to have confirmed in
23 the mind of the accused that at very least she had some interest in Oral and together
24 with the fact that she was now renting premises under market value from him, added
25 fuel to the fire of his suspicions.

26
27 44. While she agrees that she had told the police that the reason she had sex with the
28 Defendant was because she didn't want him to say that she had someone, she
29 explained that she only did so because she believed he would kill her if suspected
30 this or resisted. It is in the same vein that she agreed that she referred to the 'nature'
31 of the sexual intercourse was like make up sex.

32
33 45. Regarding the use of the knife on her, she agreed that she did not see the whole knife
34 but saw the blade. Her co-tenant passed them in the corridor when accused man had
35 the knife on her, but that he looked at her and walked out without saying anything.
36 By the time that they got into the room, she could not say where the room was.



1 46. Admittedly, the telephone number used in the recording of the call between the
2 female and Orlando was TM's but she contended that she no longer used the number
3 and had not since 2023. She maintained that it was not her in the recording. Her
4 smiling as the recording was played, a event pointed by Counsel in cross-
5 examination, did not aid her credibility on this issue, and was in part what informed
6 the Defendant's submission that she ought not to be believed at all.

7
8 47. TM held fast to her contention that the Defendant held a knife to her neck, threatened
9 her to kill her and raped her. Her action in remaining with him all weekend, despite
10 opportunities at escape or to raise alarm or seek assistance, she says was due to her
11 fear of him.

12
13 48. It is not in issue that the Defendant helped her financially to further her studies while
14 she was in Jamaica, though she did join issue with the extent to which he helped.
15 She denies that she is been encouraged to report a falsehood to further the
16 relationship with Oral because she has outgrown the Defendant who cannot read or
17 read well.

18
19 49. TM maintains that she considered that their relationship was ended and admits that
20 she did not expect him at the apartment as he did not to her knowledge know where
21 she lived. She denied that this explained why she was protecting her phone. She
22 explained in re-examination that she was not expecting the Defendant that evening
23 as they were no longer in a relationship and to her knowledge did not know where
24 she lived and did not want him to know.

25
26 50. TM did not mention in her initial ABE interview that she had gone to the beach with
27 the Defendant and explained that it was because she forgot and does not know why
28 she forgot to say this to the police. In re-examination she explained that she told the
29 Defendant's sister that she had not been raped in the September 5, 2024 recording
30 but explained that it was due to the harassment of numerous calls from the
31 Defendant's family as they made numerous calls to her harassing her. She says their
32 only concern was about him going to prison and she says that she said she had not
33 been raped her simply to get her off her back.

34
35 51. In one recording she is heard to be complaining of feeling unwell, crying, feeling
36 depressed and having come just from counselling. She stated that she would
37 sometimes get calls from the Defendant's relatives when having a headache and on



1 medication. One sister offered her money to leave the Cayman Islands to go to
2 Jamaica to 'cool out' for a while, she alleged; the inference being that she would be
3 paid to abandon the prosecution of this case.

4
5 DC Chryl Badoo-Harrison
6

7 52. DC Badoo-Harrison is the investigator in the matter and conducted the ABE
8 interview with TM. She claimed to have observed an injury to her cheek, but she too
9 could not locate photographs taken of it. She recounted reticence on the part of the
10 Complainant as to whether she would proceed with the complaint, but after she made
11 her decision, took the decision to have her placed in a safe place. The detective
12 contacted the Defendant on behalf of TM to recover her personal items for delivery
13 to the Georgetown police station. While this was never done, she confirmed that she
14 eventually received her personal items. The detective visited the apartment of TM
15 where in addition to recovering the bed linen, took photographs of the room.
16

17 53. Curiously, she stated that she had been informed of the allegation of use of a knife
18 but recovered no knife from the property, though it would be revealed in cross-
19 examination that a knife was seen in one the photographs taken by the detective of
20 the communal kitchen area. She did not take possession of the knife for analysis as
21 she did not think that was necessary or prudent because to her understanding that the
22 Defendant did not use the kitchen.
23

24 54. She also stated that while she could not recall a report referring to the bleached-faced
25 man at the apartment (the co-tenant), she did not return to try to speak to anyone to
26 corroborate any portion of the Complainant's account. The detective stated that she
27 did at some stage of her investigations become aware of recordings involving the
28 Defendant's sister and TM but TM was not comfortable with contact being made
29 with the Defendant's sister, saying that she was unlikely to give a statement against
30 her brother, so she did not pursue the matter. The detective stated that she had
31 recovered and submitted the Defendant's cell phone for analysis, but that nothing of
32 evidential value was recovered.
33

34 55. Commenting on what she heard in the recordings, the detective disagreed that it did
35 not mean that TM was denying that she was raped as she could not recall TM using
36 the term 'rape' during the interview. With her over 8 years of experience with this
37 type of complaint, and specified training over the period, she expressed the view that



victims like TM were regarded as high risk and often express fear. They sometimes don't trust the family members of the alleged perpetrators and it is for that reason that she sought TM's permission to speak to the Defendant's family members, and respected TM's negative response in relation to all of his family members except his son with whom she shared a good relationship.

DEFENCE CASE

56. The Defendant gave evidence and I am reminded that he has no duty to say anything, nor to convince me of his innocence, but if his case does convince me of his innocence or causes me to have a reasonable doubt as to whether not he is guilty, that doubt must be resolved in his favour with an acquittal. Even disbelief of his account is not sufficient basis on which to convict him; I must return to the Crown's case and determine whether it has discharged its burden to prove the case against the Defendant beyond a reasonable doubt. I am also reminded that the evidence in proof of each count must be examined separately to determine whether the elements required for each count has been established to the requisite standard.

57. Mr. Simpson is a 46 years old construction worker who hails from Jamaica but has been travelling to the Cayman Islands since 1999. He has been involved with TM for nine (9) years, having met her in Jamaica after an introduction by TM's brother, with whom he was (and still is) friends. He would travel to Jamaica to visit her in three months to one year intervals over the period. The Defendant assisted in the Complainant eventually coming to the Cayman Islands, a desire that he had long had, through a work permit obtained by his sister for TM to work with her. That arrangement is short-lived and another permit was obtained by her current employer, someone it seems that the Defendant also knew. TM has since been in the Cayman Islands for the last year and a half.

58. Together with arranging for her permits, TM also lived with the Defendant up to the events alleged in July 2024. He denied spitting on her, pushing her to the ground and stepping on her breast as alleged against him for the July incident. He said that since her arrival in the island, they have had disagreements, and on one occasion the two did not speak for a month, but soon afterwards reconciled, though he could not recall who contacted whom first. On that occasion she stayed with her current employer.



1 59. He says that he noticed a change in TM's attitude upon her return however, which
2 prompted him to once again inspect her phone and was the time he learned the
3 interaction between TM and 'Oral'. He discovered conversations bordering between
4 them that he interpreted as flirtatious and explicit, and which were demonstrative of
5 the fact that it was TM was the 'bad one', instead of the Defendant as he believes
6 everyone thinks of him. TM denied the existence of a relationship with Oral or that
7 the conversations meant anything. He also sent information he observed on TM's
8 phone to his device but believes that she gained access to his phone and deleted them.
9 TM assured him that she and Oral had spoken once and regarding a collage made of
10 an image of her and one of Oral, admitted that the image was retrieved from the
11 internet. The Defendant's suspicions persisted and were fuelled by things he claimed
12 to be hearing 'on the street'.

13
14 60. The Defendant stated that TM had been promising to return to his home up to the
15 day before he went to 'retrieve' from the apartment. By the time he went to her
16 apartment, TM had already left. Though he claims to have spoken to her on several
17 occasions after she left, an assertion that TM rejects, on none of those occasions as
18 he alleged, did she tell him where she lived. He asserted that TM also visited during
19 the three weeks of her absence on that occasion and the two became intimate
20 sexually, but this was never suggested to TM.

21
22 61. When the two had their dispute in July, the Defendant had assumed that like on the
23 prior occasion, TM was staying with her boss. He discovered that this was not so
24 when he requested a video call from her and realised that she was not there, due to
25 his familiarity with her boss's home. So affected was he at this discovery, that he no
26 longer wished to remain in the Cayman Islands, which TM discouraged him against,
27 promising that they could reconcile. This conversation and his threat to return to
28 Jamaica was never put to TM, but he claimed that she encouraged him to remain and
29 complete construction of his apartment.

30
31 62. When he eventually visited her boss's home his suspicion that she was not living
32 there was confirmed when he was informed that she had not been there for some
33 time. He concluded that she had been at the apartment from the beginning of her
34 departure from his home. He also claims that they were talking regularly on the
35 phone during which she repeatedly told him that she would come back 'home', as
36 recently as the day before he presented himself to the Complainant's apartment.



1 63. It seems that upon discovering that she was not at her employer and kept promising
2 that she was coming back to him, the Defendant co-opted help from his friend to find
3 out where TM was living and the two waited until she disembarked from her usual
4 bus and followed her to her apartment. The two drove around with the Defendant
5 concealing himself in a tinted portion of his friend's vehicle where he would crouch
6 as they drove around without being easily seen. Upon determining where she went,
7 he made inquiries of a lady he saw at the apartment, who confirmed Oral as the
8 owner.

9
10 64. The Defendant then complained to TM's brother about what he believed to be
11 happening especially in view of all the things that he had done for her over the years,
12 to include sending money to help her with her studies and taking her to the Cayman
13 Islands. TM's brother was contacting her to encourage her to return, according to the
14 Defendant, and had assured him that he should be patient as she told him that she
15 would return on the Thursday. When she didn't TM's brother further assured the
16 Defendant that she would return on the Friday and that he should be patient.

17
18 65. He recounted that on the Friday he laid in wait on her to leave work and borrowed
19 the same friend's car (which he had been crouched in earlier that week) and they
20 watched her when she went into the supermarket. It seems from the account given
21 by TM, she saw through the ruse and recognised the vehicle as one she had seen
22 before as it followed her. This seems to coincide with the evidence of TM that, upon
23 seeing the vehicle that she recognised, she returned inside the Supermarket and
24 remained there for some time as the Defendant watched for her to exit. After waiting
25 there for some time and not seeing her exit, and having already discovered her likely
26 destination, the Defendant says he spoke with his friend, and they made their way to
27 her apartment where they waited for TM to return. Frustrated with waiting, he told
28 his friend to drive around to see if he saw her while he waited in the darkness for her
29 to arrive. When she eventually arrived home and walked inside and he followed her
30 inside. He walked from his vantage point in the darkness to where she was and
31 approached her in the dark where he called her name. According to him, she seemed
32 to have been startled and jumped. When he identified himself to her, he said to her
33 that he thought that she said she was coming back 'home'. She assured him that she
34 was in fact in the process of packing to do same.



- 1 66. He denies that he ever approached her with a knife or threatened or assaulted her and
2 that he does not even walk with a knife, a fact with which TM concurred in her
3 evidence. He says that's he turned on the light and opened the door and they both
4 stepped inside. Despite her assurance that she was packing up to return, it was clear
5 to the Defendant upon an inspection of her closet and the room that this was untrue.
6
7 67. He says that they were there talking for a bit when he said to TM that he wanted to
8 make love to her and began to take off his clothes. She also took off her clothes and
9 according to him, completed undressing before him, without touching her clothing.
10 He says that she then performed oral sex on him and afterwards they engaged in
11 what he described as make up sex. He says that he wanted to video record their
12 encounter, which she did not agree with. He says that then went on to have sexual
13 intercourse on several occasions that night. The details of the frequency with which
14 they engaged in sex that night would otherwise have only at best been a salacious
15 detail but for the fact that none of the events – the oral sex or the multiple instances
16 of sexual intercourse, were ever put to TM in cross-examination. He went further to
17 say that the fact of multiple engagements in sex, made the evening all the more
18 memorable because this had never before happened in their relationship.
19
20 68. He says that afterwards, they took a shower together during which he says they had
21 sex for what would have been a fourth time that night. He says that it is a lie that she
22 was inside the shower crying afterwards or that she had gone inside the shower alone
23 before he came in. He insisted that they entered and showered together.
24
25 69. Afterwards they called TM's brother, Cardo, and informed him of his suspicions
26 regarding TM and Oral, which she denied, and that the apartment belonged to Oral.
27 When she informed him of the amount paid monthly for the room, the low cost
28 provided additional fodder in the mind of the Defendant to fuel his suspicion that
29 TM could only afford it if she was given a favourable rental rate by its owner, whom
30 he was convinced is Oral. While surveying the contents of the cell phone he says
31 that he saw a message in which Oral had offered to install internet for the room,
32 which he asked her about and she responded frightened as he asked.
33
34 70. After the conversation with Cardo, he stayed the night, and claims that he told her
35 that if she wanted him to leave, he would leave. That was never put to TM. After
36 they showered, they went to the corner shop and he remained in the car as she went
37 in for the food. This was close to 12 midnight and as late as it was, another patron



1 was at the shop with TM. They went back to the room where they ate and spoke
2 about how tasty the food was.

3
4 71. The following day the Defendant went with the Complainant to Oral, but TM did
5 not enter the premises with him. He returned to the car and told her that Oral
6 confirmed that they were involved, but she continued to refute the accusation. He
7 said to her that despite what had occurred with Oral, if she wanted to work it out,
8 they could. They packed up her things and left the apartment.

9
10 72. That Saturday they went to Fosters Supermarket along with the Defendant's son,
11 Assani, and TM went inside alone. His son returned first, and TM returned
12 afterwards. They returned to the Defendant's home where he says they stayed the
13 night. On the Sunday morning, they again had sexual intercourse, which was never
14 put to the Complainant. They went to his boss's house where she waited and watched
15 him as he worked and even remarked at seeing a box of adult toys. They cooked
16 together and then went to the beach, where he says that they had sex, achieving yet
17 another 'first' in having intercourse at the beach. Where she said that he only inserted
18 his finger into her vagina, he said that that was a lie, and they indeed went further.

19
20 73. After the beach they went to the pharmacy to purchase preventative pregnancy
21 medication and later that night they stayed at his home. They left his home together
22 on Monday, and he spoke to her about the possibility of them having lunch together.
23 He bought a patty for her and gave her at about 9 am and she gave him the key to
24 her place to get the rest of her things, which he says that he in fact did later that day.
25 He received the call from the police later that day directing him to return the items
26 to the police station, which came as a shock to him. He says when he was informed
27 by the police as to what was being alleged against him, he was shocked and shook
28 his head as he was being taken into custody by the police.

29
30 74. He informed his sisters whom he confirms began to call TM. The recording of one
31 of these calls in which TM denied to Jody that the Defendant raped her, was admitted
32 into evidence. He denies that she was under his restriction that weekend, though he
33 agreed that he did, at times, have her phone to see if anyone would call her. He insists
34 that he gave her the phone on the Friday night. It seems that his need to 'monitor'
35 her calls bore some fruit on Friday night when he says that a male called and it seems
36 she abruptly ended the call saying that her boyfriend was there. This alleged
37 occurrence was never put to the Complainant.



1 75. The Defendant tendered for admission into evidence a recording that he says is of
2 him and TM in conversation. According to him, TM called him three times and that
3 he was given a recorder by his sister which he used to record their conversation in
4 November.

5
6 76. He maintained that he never prevented TM from leaving the house and recounted
7 that on the Friday when he was in the room a ‘guy’ called him and he left her in the
8 room as he went to speak to him. He said that she could easily have come out of the
9 room and left. He expressed the belief that at the genesis of this allegation is Oral,
10 whom it seems he suggests, TM is seeking to appease in lying on him. He stated that
11 there is nothing that she did that caused him to believe that she was not consenting
12 and had she said no it would have been no.

13
14 77. He recounted that during the weekend he also spoke to her father to complain about
15 TM and what he believed to be happening with Oral. Her father thanked him for all
16 that she had done, and when the call ended, he began to quiz her as where she got so
17 much money to send to her father. This was again fuel for his suspicions regarding
18 her infidelity. The Defendant denies the allegations about him having a knife or sharp
19 object, that he threatened her life and that he had sex with her without her consent.
20 He says TM responded to him that he would not love her if she dropped the charges
21 in response to his requests that she do so. He maintained that TM is motivated by
22 financial benefits he believes that she stands to receive from Oral.

23
24 78. He disclosed in cross-examination that he had known Oral since 2004, and while he
25 was not actually a friend they would buy each other a drink from time to. He agreed
26 that by August 2024, TM was not living with him, she was paying her own rent,
27 earning her own money and had grown independent of him. The discovery of TM’s
28 deception as to where she was living after leaving in July 2024, marked the
29 beginning of his search to find her actual location.

30
31 79. He indicated in cross-examination that he lived by the philosophies of not spending
32 money to send a woman to school and never to bring one to the Cayman Islands. He
33 departed from he lamented. His fears were realised in his view as he believes that
34 she has found more than one man since he took her to Cayman. He was also sending
35 money back to Jamaica on her behalf.



1 80. He admits to not believing her that she was not involved with Oral and blamed his
2 own prior infidelity and perhaps motivating her to move on. Mr. Simpson denied
3 being aware that TM had said to Jody in one of the exhibited recordings that he had
4 pulled a knife on her to which Jody responded to say that if it was true she could not
5 support that. He however knew that his sisters were calling the Complainant, as was
6 her own brother. He had also heard that even his mother had contacted TM, though
7 he could not confirm it.

8
9 81. Mr. Simpson admitted that he borrowed his friend's Honda Fit motor car and was in
10 the vicinity where she worked watching to see where she went. He did not know that
11 TM was aware that he was there. When went there that Friday, he went there and
12 waited for her to arrive in a location that he could not readily be seen as he did not
13 want her to see him when she arrived. He did not reveal himself when she the car
14 arrived. He admitted that he approached her as she approached the apartment, with
15 her back turned while she walked up the passageway. He agreed that she was
16 frightened when he approached her because she did not expect him and did not know
17 that he knew where she lived.

18
19 82. He denied that he held her from behind with a knife/ blade at her throat. He did not
20 see that person he said as his back would have been to anyone who would have been
21 there, but he denied pinning her to the wall. He also denied threatening to cut her
22 throat if she screamed. He denied that when they entered the room that he directed
23 her to take her clothes off as he removed his. He insisted that he was still in an active
24 sexual relationship with TM, them having had sex two weeks prior. He did not view
25 the relationship as over as she was still calling him. He said that they were trying to
26 work out their relationship, during which they were calling each other said had they
27 not been, why would she be calling him and saying that she is coming back.

28
29 83. He admitted that while at the apartment he took her phone, but denies that he had it
30 the whole time. He justified his need to keep the phone in order to see if anyone
31 would call her, which while he agreed this was not normal behaviour he wanted to
32 find out. He also explained that she would take his phone too (a reference to events
33 during their relationship) and that when he would take her phone and send things to
34 his phone she gained access to his phone to delete them.

35
36 84. He stated that it was his belief that Oral had given her money and a room in premises
37 owned by him. When he went to see the Oral that day, he told him that he had slept



1 at the apartment that night and he observed the look on Oral's face. He theorizes that
2 because of her need to justify to Oral why another man had slept in the room that he
3 had rented her, the allegations the subject of this trial are a contrivance for Oral's
4 benefit.

5
6 85. Regarding the July incident, he denied that it got physical and that any of the injuries
7 that TM attributed to him were in fact inflicted at all and certainly not by him.
8 Regarding any injury to her eye, he said that she told him it was from an auto part
9 that fell into her eye. This assertion as to how she came by at least one of the injuries
10 that she claimed to have received in the July incident, was never put to the
11 Complainant. He admits however, that despite the incident not being physical, that
12 it was after this altercation that she left without telling him. In fact, she even cooked
13 Sunday dinner but left without eating. He agreed when asked in cross-examination
14 that he felt like he had been taken for a fool.

15
16 86. He agreed that though he was given opportunity to say how things went he never
17 mentioned in his interview that they had gone to the corner shop on the Friday night
18 after they had left the apartment. Neither did he mention that she accompanied him
19 to deliver money to a friend. Neither did he mention that they had had sex in the
20 bathroom on the Sunday while at his home. He agreed that when he went to the
21 apartment that he went there to confront TM and in fact did so, but denies that how
22 she states it occurred is how it occurred.

23 24 **PRIVATE RECORDINGS**

25 87. Apart from the police interview recordings of the Complainant and the Defendant
26 which, save as already outlined, remains consistent with their evidence, there were
27 recordings of telephone conversations. Two of the conversations are of discussions
28 held between TM and the Defendant's sister, Jodi, in which she denied telling the
29 police that Mr. Simpson had raped or and then outright said to Jodi that the
30 Defendant had not raped her. The final recording involved a conversation between a
31 male and a female. TM accepted that the male was Mr. Simpson but denied that the
32 female speaking was her. This despite the female calling from a number that she
33 admitted is her number, but which was no longer in use, who referred to the male as
34 Orlando, and to whom he responded referring to her "T-----".

35
36 88. The phone call recording that the Defendant says is between him and TM does not
37 have her outright denying that he was guilty of what she alleged. In it, the female



sounds to be very emotional and the two were speaking about their relationship and the fact that things had escalated to this extent. In it the Defendant is heard to be repeatedly asking how she could do this to him, the ramifications of the charges and more importantly, of a conviction. The female is heard to be insisting that beyond telling the police about him keeping her away from her phone, the female seems to be denying that allegations were raised in line with those raised at trial.

89. She insisted at trial that this recording was not of her. Apart from the fact that she denies this, she was observed smiling as the recording was being played in Court. It seems implied in the phone call, which was eventually admitted on the Defendant's case, that the female acknowledges having called the Defendant from the number before and recently from the number. Given that the number is acknowledged by her to have been her number (though she claimed it was no longer in existence) and the names used by the male and female in the call, it is either that some significant effort was put into creating this ruse or TM is not to be believed when she says she had not called him after the incident. It is evident that the account of the Defendant as to the persons on the call, that is; that it was in fact he and TM speaking, is to be preferred.

SUBMISSIONS

Crown's Submissions

90. Counsel for the Crown invited the Court to find that the Complainant's account was truthful and reliable in its essential features. The prosecution acknowledged that the Complainant had made inconsistent statements (the phone call denials) but urged the Court to consider her explanation that those were made under duress from the Defendant's family. The Crown argued that the fear was pervasive: from the moment the Defendant ambushed her in the dark with a knife or sharp object, the Complainant was in survival mode. Her subsequent behaviour – not screaming, not escaping when chances arose, and even feigning consent – was, the Crown submitted, entirely consistent with a terrified victim obeying her assailant to avoid harm.

91. The prosecution emphasized that a lack of physical resistance or an outward appearance of compliance does not equal consent when a threat has been issued. They pointed to the Penal Code's provision that acquiescence obtained by threats or fear is not consent. Here, according to the Crown, the Defendant's initial act of putting a blade to her neck and saying "don't make a sound or I'll kill you" would



1 cause any reasonable person to submit, and submission due to fear is not consent.
2 Everything that followed, even if superficially appearing loving (gentle intercourse,
3 showering together, etc), was under the shadow of that threat. The Crown argued
4 that the Complainant's ability to recount so many details (the ambush, the specific
5 sex acts, the beach incident, etc.) and her immediate report to police on September
6 3rd all bolster her credibility.

7
8 92. As for the recorded phone calls where she denied being raped, the prosecution
9 suggested these were the product of undue influence and pressure. They reminded
10 the Court that the Complainant's unchallenged testimony was that the Defendant's
11 sisters and mother called her incessantly, even offering money to drop the case. Thus,
12 it was submitted, those denials should not be taken at face value as her true feelings.
13 The Crown noted that such behaviour by the Defendant's family was highly
14 inappropriate and could itself intimidate a complainant.

15
16 93. The Crown also submitted that the Defendant's own admissions corroborate critical
17 parts of the Complainant's story: he admitted lying in wait, approaching from behind
18 in the dark, taking her phone, being overwhelmingly focused on her possible
19 infidelity, and effectively stalking her. These actions, the prosecution argued, are not
20 those of an innocent, wrongfully accused lover, but of a controlling partner willing
21 to instil fear. Even without a knife, confronting someone in the dark unexpectedly is
22 threatening. The Crown contended it was simply not plausible that the Complainant
23 would, after weeks of avoiding him, suddenly consent to multiple instances of sex
24 and then resume accusing him only when he was out of sight. It made far more sense
25 that she pretended to reconcile out of fear and then as soon as she felt safe (away
26 from him on Monday/Tuesday), she reported the truth.

27
28 94. Regarding Count 1, the Crown conceded there was no direct corroboration (no
29 photos, no medical records), but argued that it fits a pattern of abusive behaviour by
30 the Defendant and that the Complainant had no reason to invent a prior assault if her
31 main grievance was the rape. They suggested it explained why she moved out. They
32 asked the Court to accept her testimony on that point as truthful, noting that even the
33 Defendant admitted she had a swollen eye (albeit offering a dubious alternative
34 cause).

35
36 95. On Count 3 (Threats), the Crown argued that the presence of a knife was not
37 disproven by the lack of physical evidence. The Complainant consistently



maintained a knife or blade was used. The fact that the Defendant went to such lengths to hide and surprise her indicates a nefarious intent. It's unlikely, the Crown posited, that he would go through all that trouble just to talk – rather, it was to confront and, if necessary, force her to comply. The threat can also be inferred from her compliance: if he hadn't threatened her, why would she, simply surrender to him after avoiding him so steadfastly? The logical inference is that she was in fear for her life.

96. The Crown also pointed to the implausibility of parts of the Defendant's story. For example, if things were so amicable between them, why did the Complainant go to the police at all? She had nothing to gain by falsely accusing him; in fact, it brought her a lot of stress: sitting twice through the ABE interviews; attending counselling, harassing calls from family members of the Defendant and her own family member, etc. If she truly regretted making a report as suggested in the calls, she could have actually withdrawn it – yet she pursued it to trial. The prosecution argued that the "Oral made her do it" theory was speculative and unsupported by any evidence (Oral did not testify; it's unknown what their relationship really was, if any).

97. In summary, the Crown submitted that the Defendant's narrative was a self-serving fabrication designed to cast ordinary events out of context. They implored the Court to focus on the key question: was the Complainant acting under duress induced by the Defendant's actions? They say yes, and thus all elements of rape and threats are satisfied beyond reasonable doubt. They asked for convictions on all counts.

Defence's Submissions

98. Defence counsel urged the Court to scrutinize the Complainant's credibility with great caution, arguing that her testimony was riddled with inconsistencies, improbabilities, and evidence of ulterior motive. The defence characterized the case as essentially a "he said, she said" in which the "she" had repeatedly contradicted herself.

99. It was submitted that the recorded phone calls were, devastating to the Complainant's credibility. In not one, but two separate conversations, a week after the events, she categorically denied being raped. These denials weren't made in the immediate presence of the Defendant (where one might say she feared him) but over the phone to third parties. The defence asked the question: if she were truly raped, why would she tell Defendant's sister, who had been friendly with her, that it never



happened? The explanation of “pressure from family” was unconvincing to the defence and to be rejected on the submission of Counsel. They noted that there is no evidence that she ever reported this supposed harassment to the police or sought their help to stop the calls, which one would expect if it was so unbearable. It seemed more likely, it is contended, that she was telling the truth on those calls and later changing her story.

100. The defence underscored the lack of corroboration for any of her claims: no injuries documented, no knife found, no witness testimony (the “fellow tenant” was never identified), no prompt complaint to friends or family (she spoke to her brother and father that weekend and said nothing). They argued that while corroboration is not legally required, this case cried out for a caution because the Complainant’s story is extraordinary (claiming to be essentially a captive for three days in public view).

101. On the issue of opportunities to escape, the defence argued the Complainant’s behaviour was inconsistent with that of a person under constant threat. They listed every instance: alone in a supermarket for nearly an hour, talking to a stranger there, going to a beach with families around, being at a worksite with other people, being alone in a store at midnight, speaking to her father on the phone, etc. In none of these did she even attempt to pass a message or seek help (except for the dubious bathroom note to Assani, which resulted in asking to delete messages, not call police). If truly held against will, the defence contended, a person would seize at least one of these many chances. Her claim that fear stopped her every time was, they suggested, an excuse that stretched credulity given how many chances there were.

102. Motive to lie: The defence advanced that the Complainant had a strong motive to fabricate the rape and threat allegations. They painted a picture of a love triangle: the Complainant wanted to secure a future with Oral (who provided her lodging and perhaps financial support). When the Defendant discovered her and even informed Oral of their intimate weekend, she panicked that Oral would reject her. So, she concocted a story that the Defendant forced himself on her, to save face and preserve her relationship with Oral. The defence argued this theory neatly explained why she was so insistent that the Defendant not find out about other men (deleting messages, guarding her phone) – she was indeed juggling another relationship. It also explained why she called the Defendant in November: possibly feeling guilty or trying to reconcile conflicting emotions, but ultimately, she picked Oral’s side. Essentially, they suggested she sacrificed the Defendant to maintain her standing with Oral.



103. The defence also pointed out how detailed and sensible the Defendant's testimony was on many points, and how it aligned with the Complainant's in non-criminal aspects. For instance, both agree they had sex that night (the dispute is consent), both agree they spent the weekend together, went places, cooked, etc. Many of the Complainant's own admissions (like faking an orgasm) could be interpreted in the defence's favour: if she was capable of acting like she enjoyed it, maybe she did enjoy it, but later regretted it. The defence argued the Complainant's behaviour was more consistent with remorse or conflict about cheating than with trauma from rape. The term "make-up sex" which she herself used is telling – it suggests a scenario of reconciling lovers, not rape at knifepoint.

104. Regarding Count 1 (July assault), the defence noted the complete absence of any supporting evidence. No report was made at the time, no one saw her injuries, and she resumed the relationship afterward. They argued this allegation might have been exaggerated or invented to paint the Defendant as a violent person. The Defendant flatly denied it and even had an alternate explanation for the black eye. The defence suggested the Court could not safely find this count proved when it rests solely on her word which is in question.

105. On Count 3 (Threats), the defence emphasized the uncertainty about the knife. The Complainant at times said she saw a blade, other times said she only "glimpsed" something. There was no knife recovered. If the fellow tenant really walked by during a life-threatening situation, why wouldn't she call out for help? They argue it's because no one had a knife on her; the tenant saw nothing amiss, which is why he just walked on. The defence contended the Complainant perhaps added the knife detail to justify her choices that weekend. They urged that without physical or third-party evidence, and given her credibility issues, the threat allegation is not proven beyond reasonable doubt.

106. Ultimately, defence counsel submitted that the Crown had not discharged its burden. At the very least, the plethora of inconsistencies and unexplained behaviours should raise a reasonable doubt in the Court's mind about what truly happened. They argued that this case exemplified why one must be careful when there is no corroboration – because it might turn out the allegations are false or at least not proven to the high standard required. They invited the Court to acquit the Defendant on all counts.



1 **DISCUSSION AND FINDINGS**

2 107. This case required a careful and deliberate assessment of credibility, particularly in
3 light of the fact that the case for the Crown rises or falls on what I make of the
4 evidence of the Complainant. It is incumbent upon the Court to determine whether
5 the Prosecution has discharged its burden of proving the Defendant's guilt beyond a
6 reasonable doubt on each of the three counts in the indictment, failing which, the
7 verdict must be one of not guilty for which ever count that applies.

8
9 108. In making these findings, I remind myself of the legal principles concerning the
10 burden and standard of proof. The Defendant is presumed innocent unless and until
11 the Crown proves his guilt beyond reasonable doubt. There is no obligation upon the
12 Defendant to convince me of his innocence or disprove any allegation. However, if
13 his account leaves the Court convinced of his innocence or nor sure of his guilt, the
14 verdict must be one of not guilty. Having chosen to testify, the Defendant's evidence
15 must be assessed like that of any other witness, and I am entitled to accept or reject
16 it, wholly or in part. Even if I do not believe him however, it is what I make of the
17 prosecution's case that is important in determining his guilt.

18
19 **COUNT 1 – ASSAULT CAUSING ACTUAL BODILY HARM**

20 109. The Complainant's evidence regarding the incident in July 2024 was punched in the
21 eye, spat upon, pushed to the ground, and stomped on her chest. She described the
22 pain she experienced, and the state in which the injury left her such that she remained
23 out of work for two weeks, no doubt due to embarrassment of what would have been
24 an obvious physical injury. The Defendant in his own evidence recalled that she had
25 this eye injury but says that it was from an auto part falling on or in her eye and
26 denied having a physical confrontation with her of causing her injury.

27
28 110. There is a lack of photographic or medical documentation of her injuries, but I accept
29 that the absence of such corroboration is not fatal where the evidence is otherwise
30 credible and reliable. The Complainant's description of the injuries, and the manner
31 in which they were inflicted, was detailed and plausible.

32
33 111. I reject the Defendant's assertion that the Complainant's injuries were the result of
34 an auto part falling on her face. That explanation emerged only during his trial
35 testimony and was not put to the Complainant in cross-examination. Moreover, it
36 defies credibility in the context of his admitted jealousy and the Complainant's



1 immediate departure from his home after the July incident. She was heard in the
2 phone calls to have said that had her jealousy over his own infidelity been a factor,
3 she would have left long before. I believe her that there was this something more
4 that resulted in her leaving. Also, he seems to acknowledge that she had this injury
5 at or around the time of the July argument, a remarkable coincidence.

6
7 112. It is evident that the Complainant still had feelings for the Defendant, and I believe
8 that it was easier for her simply to leave, hide away and never return, rather to remain
9 at his home. She also seems to abhor confrontation generally, and in particular, with
10 the Defendant. She says that she fears him, which might explain why she chose to
11 leave a day before his return, but continue to communicate with him by phone. The
12 Complainant's departure from the relationship, her securing of alternative
13 accommodation, and her continuing to conceal her new address from the Defendant
14 are actions entirely consistent with someone fleeing a violent and controlling partner.
15 These actions bolster the truthfulness of her account. I am satisfied so that I am sure
16 that the Defendant assaulted the Complainant in July 2024 in the manner described,
17 and that this assault caused her actual bodily harm. I accordingly return a verdict of
18 guilty against the Defendant on Count 1.

19
20 **COUNT 2 – RAPE**

21 113. Central to the determination of this issue, is the issue of consent, ; more precisely,
22 whether the belief in the Complainant's consent to have sexual intercourse on the
23 Friday night, was honest and importantly, whether it was reasonable in the
24 circumstances. The Defendant admits to having sexual intercourse with the
25 Complainant on the night of August 30, 2024, and he claims to have had a number
26 of sexual encounters during the course of the weekend, which he says evidences that
27 on August 30, 2025 their interactions were that of a couple seeking to reconcile. The
28 majority of these alleged encounters were not put to the Complainant but it does not
29 appear to be disputed that they spent the weekend in each other's company. The
30 Complainant's position was that she did not consent to intercourse on that night or
31 during the weekend but rather submitted to it out of fear for her life following a threat
32 from the Defendant, made while brandishing a knife or blade.

33
34 114. The sequence of events leading up to the encounter, from the perspective of the
35 Claimant is that after leaving his house in July, she believes she saw him earlier that
36 week following her in a friend's vehicle. On the evening of August 30, 2024 as she



1 made her way home, she knew the Defendant was there and retreated into the store
2 that she was exiting, where she waited for some time in the hope that he would leave.
3 She got the help of a male friend to take her home. When she arrived to her
4 apartment, she disembarked from the vehicle, unaware that the Defendant was
5 waiting in the darkness of the yard.

6
7 115. She got to the door and there she was accosted by a man with a knife at her throat
8 threatening her life. It is evident from her account that she did not initially know it
9 was the Defendant but the threat was so convincing that even after she realized it
10 was him, she says it continued to operate on her mind. With the thought of her 14-
11 year-old dependent son on her mind, she strictly complied with his instructions.
12 Knowing that he was jealous and with the fact of his accusations on the spot, when
13 he told her to undress as he wanted to have sex with her, she promptly complied. To
14 do otherwise or appear not to be as willing as she would be normally, she feared
15 would be taken as evidence of another man or men, which cause him to carry out the
16 threat or harm.

17
18 116. It is evident that the Defendant's suspicion about Oral existed even before the July
19 incident. Surely, she could have made up a story then or spoke of the swollen eye to
20 get rid of him. She was also no stranger to his violent tendencies. I believe that she
21 is being truthful when she says that what made this occasion different was the
22 escalation in the presence of the knife or blade. Notwithstanding their tumultuous
23 relationship, it seems that he had never used a weapon and she stated in cross-
24 examination that she did not know him to normally carry a knife.

25
26 117. From the Defendant's perspective, he says TM had spoken to him on several
27 occasions after she left his home in July, and that she had come to his home and had
28 sex with him. The fact of them meeting up and having intimate relations after she
29 left his home in July, was never put to TM. Why didn't they reconcile then, so that
30 she could stop paying rent if that was true? He says she kept promising that she
31 would return and that when she did not, he made efforts to find out where she lived.
32 If he truly believed that she wanted reconciliation why the subterfuge? Why having
33 to hide in the back of his friend's vehicle to even know where she lived? It seems
34 evident that she gave him the impression that she was staying at her employer's
35 house when she knew he could easily find out that she wasn't, to bide time. The
36 Defendant was heavily integrated into her life in the Cayman Islands and she knew
37 his tendencies.



1 118. But in the mind of the Defendant he knew she had deceived him as to where she was
2 living, deceived him as to whether she would be returning and rather than accept that
3 she did not want to be with him, determined that he had to find her. In his evidence
4 he disclosed that he knew that she was hiding in the store. What about that could be
5 interpreted as her being desirous of resuming the relationship. He admits that when
6 she took a long time to exit the store, he left and went to her apartment, the location
7 of which he obtained clandestinely as TM lied to him as to where she was living. He
8 also admits to her utter fright when he approached her in the darkness.

9
10 119. With that in mind, confronting her in the darkness of her home, he says he believed
11 when he said to her that he wanted to make love and she began to remove her clothes,
12 that was because she consented. In fact, she got undressed before he did, because of
13 how eager he says she was. Was this eagerness or terror? It seems that the Court
14 should accept that TM's leaving of his house; repeatedly promising to return but
15 staying away; hiding from him earlier that evening; lying about packing up to join
16 him when she clearly had packed nothing; were all her way of showing how much
17 she wanted to engage in lovemaking with the Defendant. The truth is, I believe that
18 he genuinely and honestly thought, in his warped perspective, that this woman that
19 he had punched and spat on a month or so before, had stalked and pounced on in the
20 darkness, had accused and confronted in her room and ceased her phone, was eager
21 to have sexual intercourse with him. So eager was she that she didn't make the first
22 move to kiss or show any affection to him. But as soon as he said he wanted to make
23 love to her, that she could not get her clothes off fast enough.

24
25 120. His belief may have been genuine and honest from his perspective but was it
26 reasonable in all the circumstances? The inescapable inference from her evidence,
27 which would have been evident to any reasonable and right-thinking person, is no.
28 So used is he to the controlling behaviour that he spoke openly in court about
29 routinely taking away her phone and taking screen shots of its contents. He boldly
30 spoke of it in evidence and cross-examination because in his mind, he is entitled to
31 have kept her phone away from her. It was not reasonable in the circumstances for
32 him to believe that she was consenting to having sexual intercourse with him.

33
34 121. The circumstances contemplated by the provisions of the Penal Code (2022
35 Revision) section 127 subsections 6 (a), (b) and (c) are present here. Consent cannot
36 be said to exist if a victim acquiesces due to a "threat of force or use of force";



1 “threats or intimidation of any kind”; or “by fear of bodily harm”. Notwithstanding
2 her evidence of fearing him, I believe that had it not occurred with the threat of
3 violence and her belief that he was armed with a sharp object, as she states in
4 evidence, she would not even have reported it, though it would not be any less rape.
5

6 122. The Complainant was visibly frightened when the Defendant accosted her outside
7 her apartment. Her testimony that the Defendant approached her from behind in the
8 dark and pressed a sharp object—identified as a knife or blade—against her neck
9 was credible and she was unshaken in cross-examination. Her response—freezing,
10 remaining silent as a neighbour passed, and then entering her apartment under his
11 direction—is wholly consistent with a victim immobilised by fear. I reject the
12 Defendant’s suggestion that she welcomed him and consented to the sexual activity.
13

14 123. The Complainant’s testimony that she pretended to enjoy the intercourse, including
15 faking an orgasm, in order to survive the harrowing ordeal, was persuasive. Her
16 explanation for feigning consent—to avoid provoking the Defendant, whom she
17 feared would kill her—was consistent with the psychological responses commonly
18 observed in victims of sexual violence. In my assessment, the Complainant was
19 credible in her assertion that the sexual activity was non-consensual and that she was
20 compelled to submit due to fear instilled by the Defendant’s prior threat, and that he
21 reasonably ought to have known that she was not consenting.
22

23 124. The Defendant’s conduct leading up to the incident—his covert surveillance of the
24 Complainant, his concealment in the back of a friend’s vehicle, and his laying in wait
25 outside her apartment—strongly supports the inference of a premeditated
26 confrontation. His admitted jealousy, and his belief that the Complainant was
27 romantically involved with another man, provides a powerful motive for control,
28 coercion, and ultimately, non-consensual sexual encounter.
29

30 125. I also consider the subsequent conduct of the parties. The Complainant remained in
31 the Defendant’s company throughout the weekend. While this might at first appear
32 inconsistent with her claim of non-consent, her detailed explanations—grounded in
33 fear, coercion, and survival instincts—were entirely credible. It is also of note that
34 while he has been in the Cayman Islands for a number of years, she had only been
35 there for just over a year. Her only means of two consecutive employment
36 opportunities were due to his intervention or with persons personally known by him.
37 He was friends with her family members. His family members also called her after



1 the incident, playing on the fact that she clearly still had feelings for him. It is not
2 unusual for victims of intimate partner rape to maintain superficial cooperation or
3 even intimacy with their assailants, particularly where threats have been made.

4
5 126. Although the Complainant made recorded denials of rape to members of the
6 Defendant's family shortly after the incident, I accept her explanation that she did
7 so under emotional pressure, fatigue, and intimidation. I must admit that her
8 credibility was impacted, though not fatally, by her denial that the recording with
9 her and the Defendant was her. I believe it was her, but that she feared in admitting
10 it, with the emotion she displayed in the call and her clear continuing regard for the
11 Defendant, that it would paint her in a bad light.

12
13 127. It is an issue that caused me to reject her evidence that she had not been in contact
14 with him after the incident as he tried to persuade her to discontinue it, but I believe
15 her that the incident occurred and that because of the unusual factor of the weapon
16 being present, that she decided to proceed. It does not make sense that this is solely
17 about Oral and while I cannot be sure whether she is in fact involved with Oral, I do
18 not believe that she is lying when she speaks of the events that occurred on the Friday
19 night. Her consistent account to the police shortly thereafter, and her unwavering
20 testimony at trial, restored the reliability of her earlier claims. I find that those denials
21 were not genuine recantations but survival strategies in the face of familial pressure,
22 expressed by a traumatized victim of a sexual assault who had just attended
23 counselling when one of the calls occurred and also seems to dislike confrontation.

24
25 128. Based on the foregoing, I am therefore satisfied beyond reasonable doubt that the
26 Defendant raped the Complainant on 30 August 2024. My verdict on that count is
27 therefore one of Guilty to that count.

28
29 **COUNT 3 – THREATS TO KILL OR CAUSE SERIOUS HARM**

30 129. The elements of this offence require that the Defendant, without lawful excuse, made
31 a threat to kill or cause serious bodily harm, intending that the Complainant should
32 fear that the threat would be carried out. I find that the Defendant, upon confronting
33 the Complainant outside her apartment, placed a knife or sharp object at her neck
34 and said words to the effect of, "Don't make a sound, or I'll kill you." The
35 Complainant was clear in her evidence that the threat was accompanied by the
36 presence of a blade. While the actual weapon was not recovered, and there was no
37 forensic evidence tying a specific knife to the Defendant, I find that the evidence of



1 TM on the point was. The Complainant had no apparent motive to fabricate the
2 threat, and her actions immediately afterward—compliance, silence, and fearful
3 behaviour—satisfy me that the threat was made and are consistent with the fact that
4 she took the threat seriously.

5
6 130. It is also of no moment that she cannot say that she saw a knife or blade. It could
7 have been a long fingernail. Whatever it was, was utilized to convince her however
8 that there was a sharp object at her neck, capable of giving harming her, to lend
9 credence to a threat to kill her if she made a sound. Also, when one thinks of the
10 circumstances, in his mind, the Defendant believed that she was either seeing or
11 living with a man. A male had just taken her home. It is not incredible that he did
12 not wish to raise an alarm so as to alert anyone who could interrupt the interrogation.

13
14 131. The Defendant's conduct—lying in wait, approaching from behind, restraining the
15 Complainant, and directing her into her apartment— evidence that I accept, leads me
16 to the inescapable conclusion that the threat was not an idle remark, but a deliberate
17 act designed to induce fear and assert dominance. It certainly was utter with the
18 intention of causing her to believe that he was serious about it. The circumstances of
19 the case and facts as I have found existed, exclude the possibility of lawful excuse.

20
21 132. I find that the Crown has proven beyond a reasonable doubt that the Defendant made
22 a threat to kill or cause serious harm, with the intent that the Complainant would fear
23 that it would be carried out.

24
25 **VERDICT**

26 133. For the reasons stated above, I am satisfied beyond reasonable doubt that the
27 Defendant is guilty on all three counts on the indictment.

28
29 Count 1 – Assault Occasioning Actual Bodily Harm:
30 Guilty.

31
32 Count 2 – Rape:
33 Guilty.

34
35 Count 3 – Threats to Kill or Cause Serious Harm:
36 Guilty.
37

1 134. The case is adjourned for a sentence hearing on the 23 May 2025 at 2 p.m. and the
2 Defendant is remanded in custody pending that hearing.

3
4 135. Orders are herein made for the Department of Community Rehabilitation (DCR) to
5 produce a Social Inquiry Report (SIR) and a Victim Impact Report (VIR) prior to
6 the sentence hearing. The Prosecution is to provide, for the sentence hearing, an
7 antecedent report.

8
9
10 **Dated this the 28th March 2025**

11
12
13 

14 **JUSTICE DALE PALMER**
15 **ACTING JUDGE OF THE GRAND COURT**