



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL DIVISION**

Neutral Citation Number: [2026] CIGC (Crim) 17

Case Number: IND. 97 of 2025

THE KING

V

SAMIRR NEPALI

Appearances: **Mr. Ben Brown, Counsel for the Prosecution**
 Mr. Oliver Grimwood, of Samson Law, Counsel for the Defence

Before: **Hon. Justice Emma Peters**

Sentence Ruling: **9th June 2026**

SENTENCE RULING

Background

1. Mr Nepali, a 31-year-old Nepalese national, is to be sentenced having pleaded guilty to a single count of indecent assault, contrary to section 132 of the Penal Code (2024 Revision).



The Facts

2. The victim, NE, was at the time an 18-year-old young woman on an internship with a local construction company who was at this particular property development on that day in January 2025. Her father had dropped her off at the development for work. Her duties for that day included inspecting various aspects of the ongoing construction of a ten-storey building. The defendant was also employed by a local electrical contractor on the same construction site.
3. At around 10:30am, NE was inspecting one of the units. The defendant was undertaking electrical work on one of the panel boxes in the same unit. Those two people were alone in the laundry area of one of the units.
4. They chatted and the defendant told NE that she was hot and approached her. NE described the defendant as “bracing” himself on her. NE stepped back and asked the defendant why he was so close to her. The defendant did not reply and was smiling.
5. NE began to walk away and as she did so, the defendant grabbed her right hand and asked her where she was going. NE told him to let go, but the defendant continued to pull her and asked why she was standing so far away from him. The defendant told NE that he liked her and asked if she liked him. NE told him she did not.
6. At this point there were noises coming from downstairs. The defendant let go of NE but used his foot to kick the door closed. He told NE that no one was coming in as there was no one working on that floor. He continued to tell NE how much he liked her and asked if she liked sex. NE attempted again to pull away from the defendant and at this point the defendant grabbed her, touched her breasts, and kissed her on her cheek.
7. Another noise came from outside of the unit and at this point the defendant let go of NE and she was able to open the door. She exited the unit, and the defendant pursued her and put his hand around her. NE told the defendant to let go, but the defendant continued to pursue her.



8. NE immediately went to a co-worker and reported what had happened to her and telephoned her father. The police were subsequently called. When police attended, the defendant initially denied touching NE, then admitted grabbing her wrist and hugging her, and apologised saying: “I made a mistake, I’m sorry, my brain wasn’t working.”
9. The defendant was interviewed under caution by police. He told police that he was present, that he had a conversation with NE, they were alone, but that he asked for a hug and she consented. He stated that whilst they were hugging NE was moving and as a result, his hand accidentally made contact with her breast. Mr Grimwood, on behalf of the defendant, confirms that by the defendant’s plea of guilty he accepts the full facts of the prosecution case, and that the touching was deliberate.

Credit for Plea

10. The defendant entered a plea of not guilty and subsequently pleaded guilty on the morning of (his second listed) trial. Mr Grimwood accepts that, on the defendant’s behalf, he cannot ask for more than 10% credit.

Sentencing Guidelines

11. The maximum sentence for indecent assault is imprisonment for ten years.

Harm and the Victim Impact Report

12. The Crown submits that this case sits within Category 2 Harm, given there is clear evidence of psychological harm which goes beyond transient distress. The VIR, (at page 4), sets out:

“... she described experiencing a significant psychological impact as a result of the offence. She reported ongoing feelings of anxiety and reduced feelings of safety within workplace environments. While she no longer works in the same capacity, she indicated that the incident has contributed to continued

fear and discomfort while at work. She expressed that she may benefit from trauma therapy.”

13. At page 5 of the VIR, the author notes:

“The victim experienced psychological distress, including anxiety and reduced feelings of safety at work...” and “Overall, the offence has had a notable psychological and financial impact on (NE), despite the absence of physical injury. The incident appears to have affected her sense of safety and well-being within professional settings.”

14. The Crown submits that there is clear evidence of psychological harm going beyond transient upset, including ongoing anxiety, reduced feelings of safety in workplace environments, absence from work, and potential need for trauma therapy.
15. The Defence, on the other hand, submits that harm should be categorised in this case as Category 3.
16. Mr Grimwood points to the opening words of paragraph 3 of the Sentencing Guidelines for Sexual Offences (April 2020).

“All sexual offences where the activity is non-consensual, coercive, or exploitative result in harm.”

17. A criterion for Category 2 Harm is “some psychological or physical harm”. It is submitted that this requires then something beyond that which is inherent, and expected by, such offending (as paragraph 3 of the Guidelines confirms that there will be).
18. He suggests that the Crown have implicitly set an assumed baseline for the expected psychological harm as mere “transient upset/distress”, such that anything above this imagined threshold must mean there is “some psychological harm” to warrant as assessment of Category 2 harm. Whereas, Mr Grimwood submits that, were that to be the test, then almost all offenders would be caught by it.



19. Mr Grimwood cites the well-known case of *R v Forbes* [2016] EWCA Crim 1388, in which Lord Thomas CJ, at paragraph 25, whilst acknowledging that the effect on victims can be devastating, cautioned against double accounting:

“However, it must be borne in mind, so that double counting is avoided, that the starting points and sentencing ranges provide for the effect on the victim which is the inevitable effect of this type of serious criminal behaviour. There has to be significantly more before harm is taken into account as a distinct and further aggravating factor.”

20. He submits that the Court should note, when considering the victim impact report, that the use of the word “significant” is an opinion of the author, it does not come from the victim. Whilst in no way seeking to minimise the harm to the victim, Mr Grimwood submits that the evidence does not establish harm beyond that which is inherent in an offence such as this and is not already reflected in the significant starting points.

Culpability

21. It is agreed by both the Prosecution and the Defence that there are no factors which place the offence in Culpability A.

Aggravating Factors

22. The Crown submits that the appropriate sentence before credit is above the category 2B starting point of 4 years on the basis that this was not a fleeting or opportunistic touch. The defendant was alone with an 18-year-old woman in a workplace setting. He closed the laundry door with his foot after hearing noise from outside, thereby isolating NE and reducing the prospect of interruption. He persisted despite NE repeatedly making clear that she did not welcome his conduct. He asked sexualised questions, grabbed her, touched her breasts, kissed her, and pursued her after she had managed to leave the unit.



23. The Defence submits that none of the aggravating features, as codified at Section 8 of the Cayman Islands Sentencing Guidelines, apply (or are implicit in the offence).

Mitigating Factors

24. The Crown and the Defence both accept and observe that the defendant has no previous convictions, he was a man of good character.
25. It is noted by Mr Grimwood that he has no history of sexual offending, and has not faced allegations of this nature before, nor are there any further allegations or investigations into the conduct of the defendant. As such, it is submitted by the Defence that these offences can be said to be out of character.

Social Inquiry Report

26. The defendant's parents, wife, and young 17-month-old son all live in Nepal. They are unaware of these proceedings.
27. He appears to have enjoyed a happy childhood in Nepal where he was brought up with good values and educated until the age of 20. He then moved to work in Dubai in 2017, and then to the Cayman Islands in 2024. He was married in Nepal in 2021.
28. The defendant's attitudes to sex and women were explored by the DCR, and he related that he respected women and would not intentionally violate another person's boundaries. He is well, both physically and mentally. He is spoken of highly by his roommate, with whom he grew up.
29. It is accepted by Mr Grimwood that his client resiled from his guilty plea when interviewed for the SIR, and it is said that was due to embarrassment. It is regrettable that the defendant took that approach, that may make the assessment of risk inaccurate through no fault of DCR.



30. Furthermore, given that he maintained throughout the interview his denial that his actions were intentional or sexually motivated, it is difficult to accept his assertion of remorse as being as genuine and worthy of consideration as it might be, but I accept that it still has mitigating value, especially when considered in combination with his guilty plea, which avoided the need for a trial albeit at the last minute.

Personal Mitigation

31. Mr Nepali is a hardworking individual who supports his wife and child, who reside back home in Nepal. Those that know him speak highly of him, and state that offending such as this is out of character. His overall risk of re-offending was assessed by Probation as very low, and the combined risk as medium.

The Court's Conclusions on Harm

32. An assessment of the proper sentence in a case like this requires the Court to reach conclusions on culpability and harm. There is no dispute about culpability but there is clearly a significant divide between the parties in relation to the issue of harm.
33. When considering harm within the Indecent Assault sentencing guidelines, I note that the following categorisation applies:

Category One Harm – Severe Psychological or physical harm

Category Two Harm – Some Psychological or physical harm

Category Three Harm – Factors in categories 1 and 2 not present

34. Mr Grimwood cites the extract from paragraph 3 of the Introduction to the Cayman Islands Sexual Offences Sentencing Guidelines which makes the point that all sexual offences result in harm. He therefore submits that this case is category 3 harm as there is insufficient evidence to justify its elevation from that point.



35. Harm must be assessed on what is a continuum. Some offences may result in upset that last just a few days and is of a mild character. That might be said to be the kind of harm that would be inherent in any such offence, as is observed at paragraph 3 of the Guidelines.
36. It is my conclusion that, to find Category 2 harm to exist, I must be satisfied that the psychological harm caused is beyond that inherent in such an offence.
37. This offence took place in January of 2025 and was reported to the police that same day. The victim was interviewed for the Victim Impact Report on the 21 April 2026, some 16 months after the offence was committed.
38. Even at that stage, she described that she now only feels partially safe in her work environment and that she still has ongoing feelings of anxiety and fear relating to being at work. She believes that she could still benefit from trauma therapy.
39. The Probation Officer assesses her reaction to the offence as demonstrating that what happened was deeply distressing and has had a lasting impact on her emotional well-being.
40. She was isolated, cornered, kissed, touched, and grabbed against her will. She is assessed as having experienced “a significant psychological impact as a result of the offence” and having “ongoing feelings of anxiety and reduced feelings of safety”. Taking account of all of this, some 16 months after the offence, I conclude that that must amount to some psychological harm which is beyond that which would be inherent in the offence. This 18-year-old young woman experienced a frightening and distressing offence at work and, in my view, it is clearly a Category 2 harm offence.

The Court's Sentence

41. Every person has a right to feel safe in their workplace. Every woman has the right to physical and sexual autonomy over her own body. A young woman of 18, embarking on her career as an Intern on a construction site, has the absolute right to feel that she will be physically and sexually respected by her



colleagues when she does so. It is rare enough for women to enter into the construction industry. They must feel able and safe to do so, and if young women of 18 on internships are treated in this way by their male colleagues on site, it is hardly surprising that women are put off from being involved in such an industry. That is an important consideration when it comes to the issue of deterrence, especially on an island such as Grand Cayman, where the construction industry is so significant.

42. Having concluded that this is a Category 2B offence, that carries a start point of four years' custody within a range of three to seven years of imprisonment. The Crown suggests that the incident was sustained and prolonged and asserts that that amounts to an aggravating factor. Such a factor, were it to be relevant, is already within Category 2 harm, not an aggravating factor as such. The incident certainly lasted minutes rather than seconds but, thankfully, the bravery and resilience of the victim was such that she escaped and sounded the alarm more quickly than might have been the case.
43. The victim was touched over clothing on her breasts and was kissed. She was also manhandled and restricted from her freedom of movement. Those facts lead me to conclude that a starting point within Category 2B, but at the lower end of that range, is appropriate. My starting point prior to mitigation is therefore 3 years and 8 months.
44. I accept that the defendant has no previous convictions and his previous good character (such as he is described by his roommate as being a very decent man), is to his credit. He has shown some remorse, although the benefit that he gains from that remorse would, in my view, have been more significant had he chosen not to resile from his acceptance of the facts when interviewed by the DCR.
45. This young woman was grabbed and pulled, and sexually touched on her breasts over clothing, and kissed in an incident that also involved the defendant kicking shut the door in a bid to isolate her further from help. This must have been a terrifying event for this young woman, just embarking on her career, and it is clearly and incident that has had a psychological impact upon her.
46. Given the defendant's previous good character, the fact that he has hitherto been a hardworking man seeking to provide for his wife and child back in Nepal, (from who he will now be separated for some

time to come whilst he serves his sentence) whilst living a decent and quiet life here in Cayman (save for this offence), I accept that his personal mitigation as set out by Mr Grimwood and in the SIR justifies a reduction from my start point down to three years, (or 36 months).

47. When I thereafter apply the 10% discount that the defendant is entitled for his guilty plea, albeit on the day of trial, that reduces the sentence to one of 32 months' imprisonment' or otherwise expressed as two years and eight months' imprisonment.

Ancillary Orders

48. At the conclusion of that sentence, the defendant will be deported back to Nepal. In those circumstances, he will have no ability to contact the victim and no means with which to pay any compensation; and in those circumstances, I do not make any ancillary orders, as I cannot conclude that orders such as a SHPO are necessary and proportionate.

Dated the 9th day of June 2026



**The Hon. Justice Emma Peters
Judge of the Grand Court**