

COMMONWEALTH OF DOMINICA

IN THE COURT OF APPEAL

CRIMINAL APPEAL NO. 14 OF 1991

BETWEEN:

DORIAN PACQUETTE

Appellant

and

THE STATE

Respondent

Before: The Honourable Chief Justice Floissac - President
The Honourable Mr. Justice Byron J.A.
The Honourable Mr. Justice Redhead J.A.(Acting)

Appearances: Mrs. Zena Dyer for the Appellant
Mr. David Harris for the Respondent

1992: March 9th and 13th.

JUDGMENT

FLOISSAC, C.J.

On the 28th May 1991, after a trial before Adams J. and a jury, the appellant was convicted of unlawful and carnal knowledge of a girl eight years old of under the age of 12 years contrary to section 3 of the Criminal Law Amendment Ordinance (Cap.33) and was sentenced to imprisonment for a term of 10 years. He appealed against his sentence only.

When the appeal came up for hearing on the 9th March 1992, Counsel for the appellant advised the Court that she had only recently been instructed to appear for the appellant. She requested and was granted a short adjournment to study the record in order to form an opinion as to whether it disclosed an arguable statutory ground of appeal.

This morning, counsel for the appellant requested a further adjournment to procure and study the notes of evidence in order to form the same opinion. The application for the adjournment was refused because it was in effect an application to embark on a fishing expedition which is unlikely to be productive.

However, Counsel sought to persuade the Court to reduce the sentence on the grounds that at the time of the commission of the offence the appellant was under 23 years of age, was gainfully employed, had a family dependent upon him and had no previous convictions.

Regrettably, the victim was only 8 years old and was the niece of the appellant. These are powerful aggravating factors which militate against any clemency to the appellant and defy interference with the sentence.

This appeal is therefore dismissed.

(Sgd.) V.F.FLOISSAC
CHIEF JUSTICE

(Sgd.) D.BYRON
JUSTICE OF APPEAL

(Sgd.) A. REDHEAD
JUSTICE OF APPEAL (AG.)