

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)

CASE NO: ANUHCR 2023/0051

BETWEEN:

THE KING

and

HAROLD MICKLE

Appearances:

Mrs. Shanonn Jones-Gittens, Crown Counsel

Mr. Wendel Alexander, Counsel for the Defendant

2025: July 7th, 8th, 9th, 10th, 17th;
September 15th, 16th, 17th, 18th, 22nd, 24th;
October 24th, 31st;
November 5th.

SENTENCING REMARKS

Background

- [1] **SMITH, J.:** On 24th September, 2025 the prisoner Harold Mickle was found guilty of sexual intercourse with a female under the age of 14 and indecent assault. The facts elicited during the trial revealed that the prisoner had the opportunity to violate the complainant when she came to overnight at the home he and his girlfriend (at the time) shared. It was one morning when the girlfriend had left the complainant and young child at home in the company of the prisoner that he pulled the complainant from the shower and had sexual intercourse with her. He had also touched her bottom. A report was eventually made to the police about 1-2 weeks later. At the time of this offence the complainant was 12 years old and the prisoner was 45 years old.

The Law

- [2] The offence of sexual intercourse with a female under the age of fourteen is governed by section 5 (1) of the **Sexual Offences Act, 1995**. It provides a maximum sentence of life imprisonment.

Sentencing Guidelines

- [3] The Sentencing Guidelines of the Eastern Caribbean Supreme Court, 2019 reissued on 6th January, 2025 provide guidance for sentencing in sexual offences. The following is set out how the said guidelines relate to the categories and calculations which the Court will utilize in this matter.

Sexual Intercourse with a Female under the Age of Fourteen

First Stage

- [4] In assessing the consequence of this offence, it falls into category 2 – High as there was serious psychological harm to the victim where the trauma inflicted caused her to have behavioural issues. This is borne out in the Victim Impact Statement presented to the Court at the Sentencing Hearing.

Second Stage

- [5] In this stage, the offence is suitable for Level A as there was a significant disparity of age and to a lesser extent an abuse of position of trust. While the complainant was not left in his direct care, as the partner of her caretaker, it would be expected that he would also care for her and not abuse her.
- [6] Based on these two stages, the offences, there would be a starting point of 65% which is equivalent to 19 years 6 months imprisonment with a range of 15 to 24 years imprisonment. The Court will use the starting point of 16 years.

Indecent Assault

- [7] For the offence of indecent assault, in the first stage, this offence may be placed in Category 3 – Significant as category 1 and 2 factors are not present. However, for the second stage, the aforementioned factors are applicable placing the seriousness into Level A-High.
- [8] Based on those two stages, the starting point is 20% which is 1 year imprisonment with a range of 3 months to 1 year 9 months imprisonment. The Court will use a starting point of one year for this offence.

Aggravating Factors

- [9] The Court finds that there are no mitigating factors in relation to the offences and an aggravating factor is the prevalence of these types of offences. The Court has taken judicial notice of the high number of cases on its docket of a similar nature.
- [10] There are no further aggravating factors relating to the offender and the sole mitigating factor is his previous good character.

- [11] The Court will make the relevant adjustments for the aggravating and mitigating factor.
- [12] In this case, concurrent sentences are appropriate when one considers they occurred on the same day within a short space of time. Also, when one considers that the conduct involved in the indecent assault is on the lower end of offending.
- [13] The sentence imposed will deduct the time of 37 days (as at 31st October, 2025) spent on remand.

Mitigation and Probation Report

- [14] The prisoner maintains his innocence and so refuses to express any remorse. He is obviously concerned that his incarceration will have an adverse effect on his young son, his other children with his wife and his construction business. Interviews with his estranged wife and other community residents paint a picture of a quiet individual who keeps himself to himself. His current partner describes him as a kind and loving individual especially in his role as a father. Counsel indicated that the probation report is indeed favourable to his client and I agree. Counsel also requested time for "him to come back into society to reintegrate himself". Counsel also noted that in his research none of the materials he has read are ever in the favour of the accused men. He also pointed out the poor investigations of the police in matters of this nature. The Court tends to agree with this observation of Counsel.

Victim Impact Statement

- [15] The complainant was interviewed via electronic means as she currently resides in the Commonwealth of Dominica. She indicated to the probation officer that since the incident she has become reclusive and rebellious. The mother, paternal grandmother as well as the complainant herself have described what they describe as pre-and-post levels of conduct. The conduct prior to the incident was happy and compliant while after the incident she became combative and aggressive with the behaviour manifesting itself in engaging in school fights and a refusal to listen to authority. Her grandmother in Dominica also described her behaviour when she came to reside with her as being rebellious and angry. Her mother also attested to this behaviour after the incident. Currently things have settled down with the complainant focusing on her upcoming CSEC examinations and her new life in Dominica.

Construction of the Sentence

- [16] In relation to the indecent assault count the Court will use the starting point as one year in prison. The aggravating factors will bring it up to one year and six months with a reduction of 3 months for his previous good character, bringing the time to 1 year and 3 months.

- [17] In relation to sexual intercourse with a female under the age of 14, the Court as already indicated will use the starting point of 16 years. In taking into account the victim impact statement, the age disparity of the parties, the prevalence of these types of cases in this jurisdiction and the lack of remorse of the prisoner, the starting point will be increased to 17 years. The prisoner has no previous convictions and so he will be given credit of one year which will bring the figure down to 16 years. The Court will also deduct a further year to take into the account the fact that he is the father of a young child. This will bring the sentence to 15 years.
- [18] The Court finds, despite what Counsel has said about the complainant, his client seized on the opportunity to violate this girl who had come to spend time at his home. Perhaps, he knew about the complainant's relationship with Jalon and he used this to his advantage. This offending is of an opportunistic nature, and I order that the prisoner avail himself of any programs or rehabilitation schemes for sexual offenders available at the correctional facility.
- [19] Both sentences are to run concurrently.
- [20] The prisoner is sentenced to 15 years in imprisonment. The time spent on remand will be deducted.

Ann- Marie Smith
High Court Judge

By the Court

Registrar