

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT (CRIMINAL JURISDICTION)
SKBHCR2025/0043

REX
v
CLEON CARTY

APPEARANCES

Ms Azuree Liburd for the Crown.
Mr Jason Hamilton for the defendant.

2025: OCTOBER 30

SENTENCE

For buggery of male aged 14

- 1 Cleon Carty aged 43 (dob 01.06.82) is to be sentenced for buggery on a date between 10 and 24.05.24 of X¹, a male aged 14. On 28.10.25, there was an application for a *Goodyear* indication of sentence, which on hearing argument and the relevant mitigation and materials, was assessed as 5 years imprisonment, and then Carty pleaded guilty. There has been no application for a social inquiry report in light of the full discussion about the sentence, it being accepted it will not mitigate further, and so the sentence will be passed today, 30.10.25, with the remarks reduced to writing owing to the sensitive nature of these proceedings, and to capture the challenges of this sentencing exercise.

¹ The complainant shall remain anonymous, and described only as X, as he is entitled to anonymity, while in addition the court has been informed by both counsel because the events concern homosexuality there is particular sensitivity about his being identified in the small island community.

- 2 Carty and X had known each other for a time, and on a date about a week prior to 24.05.24, X was sent by his mother to the supermarket, but took the opportunity to visit Carty, where Carty pressed his penis into the anus of X, who stood leaning against a table, the event lasting about 60 seconds, there having been similar activity on an earlier occasion, with X then going to the supermarket after to complete his errand. His mother was alerted to X having visited Carty, and after questioning him, took him to police on 24.05.24, whereupon he reported his activities. In interview, Carty denied sexual activity, though admitted he knew X and who had been to his premises.
- 3 The sexual activity was consensual, meaning with no force, though X being 14, his consent is vitiated by his being a minor, under 16. Carty is of good character.
- 4 Buggery, which is penetrating the anus with the penis, of a male or female, is an offence under **s56 Offences against the Person Act**, cap 4.21, passed in 1873, equating it with bestiality, describing it in Victorian language as ‘abominable’, implying its origin contrary to Common Law, and making its action illegal:
- Sodomy and bestiality.**
56. Any person who is convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.
- 5 Of note, the maximum sentence is only 10 years, and the offence is irrespective of consent or age.
- 6 In a decision on 29.08.22 of Ward J, as he then was, in **Jamal Jeffers v AG 2022**², it was ruled unconstitutional for consensual buggery to be illegal between consenting adults.

² See SKBHCB 2021/0013 at <https://www.eccourts.org/judgment/jamal-jeffers-et-al-v-the-attorney-general-of-st-christopher-and-nevis-2>.

- 7 The gravamen of the instant case is X being 14 his consent is vitiated, not being an adult, and so the sexual activity is illegal, akin to 'unlawful carnal knowledge' of a female, where, as intercourse, the penis is placed into the vagina of a female under 16, contrary to **s4 Criminal Law Amendment Act** cap 4.05. However, on St Kitts, such an offence on a female carries a maximum of life imprisonment, which for the purposes of ECSC sentencing guidelines is treated as 30 years. It follows the legislation on St Kitts treats as far less serious sexual activity per anum with a minor male than per vaginum with a minor female, being the difference of a maximum 10 years versus a notional maximum of 30 years (though in theory which could be even higher).
- 8 There is no sentencing guideline for buggery, as it is a rarely reported offence, defence Counsel Hamilton reporting in 24 years of practice he has not encountered it. If applying the perhaps analogous guidelines for unlawful sexual intercourse (usi), equivalent to unlawful carnal knowledge, then the offence would fall within category 2A, as such activity with a minor male along with the local attention the report of the offence will create is likely to cause 'significant psychological harm', and there is a 'significant disparity of age', creating a starting point of 40% the maximum, which if 30 years means 12 years. This would be further reduced for there being no force, and being of good character, meaning arguably a reduction by 18 months, to 10.5 years, and with one-third discount for early plea would mean a sentence of 7 years. But the maximum for buggery is 10 years, and so at 40% 4 years would be the starting point, with arguable reduction by one year for good character and no force, to 3 years, and then with one-third discount for plea, would mean a sentence of 2 years, which may or may not be suspendable on St Kitts under **s6 Alternative Sentencing Powers Act** cap 3.20, as being less than 3 years. From discussions with counsel, such a 2-year sentence would be scandalous to local sensitivity, particularly in contrast to what would be the sentence if intercourse with a female, and so I will step outside the rubric of the sentencing guidelines, as applied to usi, as they do not work in this case, with such a low maximum, to deal with the seriousness of buggery of a 14 year old male.
- 9 This court has reported before on the anachronism of the buggery maximum being limited to 10 years, in the case of **R v Abkim Bryan 2024**³, and by this decision, also to be published, invites

³ See 12.02.24 at <https://www.eccourts.org/judgment/rex-v-abkim-bryan>.

the government please to deal with it, which may be imminent, as there is expected new legislation concerning sexual offences to fit better within the context of the 21st century, updated from 150 years ago.

- 10 Here, the approach the court will take is this: buggery of a boy aged 14 is a most serious offence, meriting a starting point of toward the maximum, being 9 years. With there being no force and good character, the sentence can be reduced by 18 months to 7.5 years, and reduced further by one-third to 5 years, as contemplated above in the *Goodyear* indication. Given the maximum, mitigation, and credit for plea, this flawed legislation means it cannot be longer.
- 11 Time on remand of 1y3m27d will count, to be deducted by the prison when calculating the earliest date of release⁴.
- 12 *Cleon Carty please stand up.* For the offence of buggery of X about 24.05.24, who was 14 when you were 42, following your plea of guilty, for the reasons I have explained, the sentence will be 5 years imprisonment. Time on remand will count, and you shall be eligible for remission of one-third of your sentence if of good behaviour. You may go with the gaoler.

The Hon. Mr. Justice Iain Morley KC
High Court Judge
30 October 2025

⁴ See **R v Anthony Adams 2025** on 07.04.25 and para 12 in <https://www.eccourts.org/judgment/rex-v-anthony-adams-2>.