

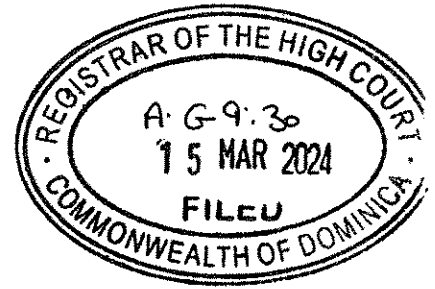
IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

(CRIMINAL DIVISION)

COMMONWEALTH OF DOMINICA

CASE NO: DOMHCR: 2024/0001



BETWEEN:

THE STATE

V

LOIC GEORGE

APPEARANCES:

Ms Sherma Dalrymple, DPP, and Ms Marie Louise Pierre Louis, State Counsel, for the State

Mr Bernard Pacquette for the Defendant

2024: March 6th, 12th

SENTENCING

1. **COLIN WILLIAMS J:** The prisoner, Mr Loic George, was convicted on Tuesday the 5th of March 2024 following a jury trial for the offence of unlawful sexual connection with a minor, contrary to the provisions of section 4 (1) (c) (i) of the **Sexual Offences Act, Chapter 10.36** of the 2017 Consolidated Laws of the Commonwealth of Dominica.
2. According to the legislation, 'sexual connection' means "the introduction, to any extent, into the vagina... of any person of any part of the body of any other person."
3. Pursuant to section 4 (1) (c) (i) of the Sexual Offences Act: "A person is guilty of unlawful sexual connection with another person if that person has sexual connection with that other person with the consent of the other person if the consent is obtained from a person under the age of sixteen years"

4. The maximum sentence for this offence is fourteen years.
5. The State's case was that on a date unknown, between the 31st day of October 2021 and the 1st day of March 2022, Mr George had unlawful sexual connection with a minor girl (she was 11-years-old at the time), in a named place in the Commonwealth of Dominica.
6. Following the majority 7-2 jury verdict, Mr George was remanded into custody. His sentencing hearing was held the following day.

Sentencing Hearing

7. Counsel, Mr Bernard Pacquette, mitigated on behalf of Mr George at the sentencing hearing. Mr George remained silent and he called no character witnesses.
8. Mr Pacquette noted that Mr George was now 30 years old. Mr George had no previous convictions. Although Mr George attended Secondary School, he exited the formal school system in Third Form. Mr George worked in construction and has a specialty for doing what is referred to as "finishing work." Mr George has two brothers and three sisters. He lived with his uncle. He was a member of a football team in his community.
9. According to Mr Paquette, Mr George is contrite.
10. Counsel asked that mercy be extended to Mr George. Counsel submitted that a non-custodial sentence be imposed. Counsel noted that there was no violence used in the commission of the offence and Counsel was of the view that there were no significant aggravating factors. Counsel noted that Mr George was a young man with a future ahead of him.
11. Mr Pacquette urged that the entire circumstances be considered, as Mr George may have acted by what he knew or did not know of the law.
12. State Counsel Ms Marie Louise Pierre Louis submitted, correctly, that there were no exceptional factors to take this matter outside to the Sentencing Guidelines.

Computing the sentence

13. The **Compendium Sentencing Guideline of the Eastern Caribbean Supreme Court** for sexual offences was re-issued on the 8th of November 2021.
14. The Guideline uses the broad term for offences of this nature under the broad rubric of "indecentry." An offence called unlawful sexual connection would not be found in the Guideline.
15. The Guideline is a general document for all member states of the Eastern Caribbean Supreme Court, ECSC. It is noted at page 26 of the Guideline:

"In the nine member states and territories of the ECSC, offences of indecency have different maximum sentences. For the purposes of this Guideline, the word 'indecency' will be used to cover all types of offences involving indecent assault, and gross or serious indecency falling short of sexual intercourse."

16. The first stage in constructing the sentence for the offence is to consider the consequence by assessing the harm caused by the offence. This includes an assessment of the evidence. There are three categories at this stage: Exceptional; High and Significant. This matter fits into Consequence Category 2 - High. This is because the victim in this matter was under the age of 16 years.
17. The next stage is to determine the Seriousness Level the offence; whether it is High or Lesser. In this case, it is Seriousness Level A – High. This is because in addition to it being a case of indecent assault involving contact with the victim's genitals, it was also a case of serious indecency, since there was on the evidence penetration of the vagina by Mr George's digits.
18. The intersection of the Consequence Category 2 - High with Seriousness Level A - High on the sentencing grid, places the starting point for the computation of the penalty for the offence in the range 30% to 60% of the maximum sentence with a recommended starting point of 45% of the maximum fourteen-year sentence.
19. A starting point of 45% of the maximum sentence, or six years and three months, is used.
20. The next steps in constructing the sentence is to do an evaluation of the aggravating and mitigating factors in relation to (1) the offence and (2) the offender, and adjust the starting point depending on the weight of the factors.
21. The aggravating factors with regard to the commission of the offence are:
 - It was perpetrated at the premises of the victim's mother. Children must be allowed to be safe and secure in their parents' property.
 - At the time the offence occurred, Mr George guided the young lady away from where she was, in an area visible to her mother, indoors to an area away from the mother's scope of observation.
 - There was a breach of trust. Mr George was friends with the victim's mother and even assisted in the small business the victim's mother operated; the victim also assisted at the mother's business sometimes.
 - The evidence showed that there was a degree of planning, grooming and enticement by Mr George. Prior to the incident that is the subject matter

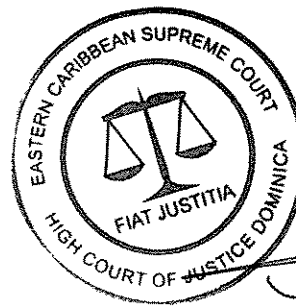
of this offence, Mr George communicated with the minor indicating to the minor that he liked her and inquired of her whether she liked him

22. As far as mitigating factors of the offence are concerned, it is noted that no violence was used by Mr George.
23. When both factors are considered, the aggravating factors of the offence out-weigh the mitigating factors and three months is added to the starting figure. That increases the sentence to six years and six months.
24. With regard to aggravating factors of the offender, it is noted that none of the generally noted aggravating factors are present: he has no previous convictions for sexual offences, or any offences at all; the offence was not committed while he was on bail; neither was there the incidence of any sexual transmitted infection. However, it is noted that:
 - There was a significant disparity in age; Mr George was 28 years old at the time and the victim a primary school student. Mr George was more than two and a half times the victim's age.
 - Mr George exerted a negative influence on the victim and conducted inappropriate conversations with a child of tender years.
 - Following the index offence, Mr George continued to communicate, unknown to others, with the victim for a period of time using several digital platforms
 - The evidence at trial was that Mr George continued to request of the minor that she send nude pictures of herself to him; and he also sent nude photographs of himself to her.
25. On the mitigating side, it is noted that the fact that Mr George was previously of good character. However, the bare suggestion from Counsel that Mr George was remorseful, or as Counsel termed it "contrite," was unsupported by any evidence.
26. The aggravating factors with regard to the offender far outweigh the mitigating factors. As a consequence of this preponderance of aggravating factors, the computation of the sentence is increased by a further six months, taking the figure to seven years.
27. Mr George was convicted following a full trial. He therefore cannot get any reduction of his sentence for an early guilty plea.
28. No further adjustment of the figure is required.

Sentence

29. Mr Loic George, for the offence of unlawful sexual connection for which you have been found guilty, you are sentenced to a term of seven years with effect from the date of your conviction - the 5th of March 2024.

Colin Williams J
High Court Judge



By the Court


Registrar (Ag)

