

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

ON ANTIGUA

CASE ANUHCR 2019/0005

REGINA

V

LEE CRAMP

APPEARANCES

Mrs Shannon Jones-Gittens and Ms Rily Adams for the Crown.

Mr Warren Cassell, Dr David Drosett, and Mr Pete McKnight for the defendant.

2019: JULY 11

SENTENCE

For rape by using a drug to render the victim incapacitated

- 1 **Morley J**; Lee Cramp falls to be sentenced for the rape of KH¹ overnight on 23.05.15 in her apartment in Falmouth, Antigua, following conviction by a jury on 23.05.19. In order to inflict sexual intercourse, he drugged her so she became incapacitated.
- 2 In May 2015, KH was a student nurse aged 22 from the US, a virgin, and Cramp aged 22 (dob 11.01.93), was a serving London police officer on holiday, attending a wedding at the Pineapple resort. They met online on island on Tinder on Friday 22.05.15. Text messages on whatsapp show their mutual interest develop, with Cramp often talking about how much they

¹ The complainant will not be identified, nor her family, as she is entitled to anonymity.

would drink when they would meet, though she had explicitly said there would be no sex, and with it being expected he would stay over on her sofa, He won her trust by showing pictures of himself in police uniform, and in one picture playing football with children. On Saturday 23.05.15, at about 9.15pm, they met at Baileys supermarket in Falmouth, had a bottle of wine in historic Nelson's Dockyard, and went to KH's home, where they had more wine on her balcony, KH changed into more comfortable clothing, and they began to watch a movie in her lounge.

- a. On her version, given in evidence on 16 and 17.05.19, and which has been accepted by the jury, KH took a further sip of her wine, thought it tasted strange, Cramp said he had put vodka in it, which he pretended was a British fashion, she tried another sip, and then felt dizzy. She remembers little else until she woke up next day, naked in bed with Cramp, except a few days later recalling she had fallen off the bed, banging her head, with Cramp on top of her while she was shouting no.
- b. That next day, Sunday 24.05.15, she had visible bruising on her neck, which she called 'hickeys', and with no memory of the night she drove Cramp to his hotel, and was in further text correspondence, arranging to go to a fete. On the Sunday he was saying by text: *'I say have sex...let's go the whole way tonight'*, and on Monday said, *'Before I go I want to have sex'*, by implication meaning he was saying to her there has been no sex yet, (though she was still refusing).
- c. Notwithstanding he seemed still interested in her, he never saw her again, and he went back to England on Wednesday night 27.05.15.
- d. However, going back to the Sunday, 24.05.15, she was in pain, with vaginal bleeding and became conscious of pain on defecation, and with time passing into Monday 25.05.15, and Tuesday 26.05.15, she noticed bruising popping up on her arms and thighs, and mentioned in texting a bruise on her bottom.

- e. By Wednesday 27.05.15, in confusion (because inexperienced as to sexual intercourse), she was pressing Cramp for details of what had happened that Saturday night, asking: *'I was just wanting to know if you remember everything in full from when you came over and we drank because as a few days have past I've realized a few things...I've had a lot of bruises pop up and I'm in a lot of pain...It's kinda left me shaken up because I can't remember what all had happened. We definitely didn't have sex right?'* He replied, *'No, we definitely did not, I know that much.'* She pressed him further, saying, *'I do remember falling off the bed at least twice...I genuinely don't recall the entire night, like I don't even remember being bit hard enough to have the huge ass hickey I have...I just wanted clarity because I have been a bit panicked the past few days'*, to which he replied, *'sitting here thinking, I remember you getting on top of me and I was hard, you said let's do this, then you started bouncing up and down for a bit, not sure what happened after that, if we carried on or if I finished or what'*. She then complained, *'what the fuck is wrong with us, if that happened there was no protection or anything, and we just met and you're going back to England'*, and he replied, *'I didn't cum, I'm 10000000000% sure...we definitely had sex...you jumped on top, I was hard, you put it in you, started bouncing, we then fell off the bed, that was it, no cum...it's all a big blur, but I promise you I didn't cum'*. KH then told him, *'if all this is true then you took my v-card'*, and he replied, while at the airport, *'well I can't give it back...just pretend it never happened...I'm about to leave and get on this aeroplane'*.
- f. Later that Wednesday night, 27.05.15, KH went to the hospital, and on 02.06.15 was formally examined by Dr Rasheeda Gilbert Charles, where she was found to have: global erythema of the vulva; multiple shallow ulcerations to the labia majora, labia minora, introitus and vagina; purulent bloody discharge from the vagina; 4-6 ulcers around the perianal region, severe tenderness to digital examination of the vagina and also of the rectum (suggesting thrusting to the anus and possible buggery); and her hymen was not intact. In evidence on 17.05.19, the doctor said these injuries would require 'very rough sex'.

- g. Once he landed in the UK on the Thursday 28.05.15, having flown overnight, the evidence showed he blocked her everafter on whatsapp, and she could not contact him again.
- 3 Cramp was the subject of an extradition request from the UK to Antigua filed on 16.10.17. This was a 'legal first', it not having occurred before in relations between Antigua and the UK. The police and lawyers on this case, in both countries, are to be complimented on their important hard work, which took several years to bring Cramp back.
- 4 Cramp had sight of KH's statement, dated 02.06.15, and he prepared a typed written response of 169 lines dated 09.01.18. In it, he admitted to sexual intercourse with KH, said he had put on a condom, which later ripped, and that before sexual activity he drank only four glasses of wine with a shot of vodka, while KH drank at most only three glasses of wine with a shot of vodka. He denied spiking her drink, saying during sexual activity KH was fully sober, in control of herself, not drunk, was making full sense, she was consenting to all of what was happening, leading, the sex lasted in total 5-10 mins, and throughout there was joking, while the activity was a bit stop-start. He arrived under extradition on Antigua on 16.09.18, and when interviewed by police on Antigua on 17.09.18 Cramp offered his prepared statement as his version of events and declined to comment after, as is his right. During the trial, when making an unsworn statement from the dock on 21.05.19, preferring not to give sworn evidence (as is also his right on Antigua), he stood by his prepared statement, though could not be the subject of cross-examination. By his conviction his version has been rejected as rehearsed lies.
- 5 From the evidence heard from KH, it was quite clear the issue was whether Cramp put something in her drink. Both agreed she had not been drunk. So either she was drugged or she was lying. With the agreement of counsel, the issue was left to the jury in these terms.
- 6 In a sense the case turned on this text exchange on Wednesday 27.05.15: KH asking '*We definitely didn't have sex right?*', with his replying, '*No, we definitely did not, I know that much.*' The implications were inescapable. If he agreed she had not drunk much so that she had been sober, then he could not possibly tell her they did not have sex unless he knew she would not remember as he had drugged her. Thereafter he started to change his story to her because it

became clear to him as she continued texting she might be remembering more than he had hoped.

7 By the jury's verdict, there can be no mistake they were sure he drugged her.

8 Concerning deliberately drugging a woman to commit rape, this court is aware that in the UK, from where Cramp comes, there is frequent complaint anecdotally and often in the press, well known to the police there, Cramp being a police officer, that a drug called rohypnol² (colloquially often called 'the date-rape-drug'), is widely used, criminally, to render a woman utterly incapacitated, by spiking her drink, so that sexual intercourse, and worse, may then be inflicted on her, about which she has little or no memory of events the night before, and the drug is quickly expunged from the victim's body so that it is rarely traced. This is pernicious wicked calculated behavior which places any rape in these circumstances toward the highest category.

9 Though like anywhere Antigua has its share of troubles, nevertheless this is a happy proud island, with perhaps the best beaches in the world and abundant sealife, full of honeymooners, sailors, and sunburnt tourists, among lively friendly local folk, given to early rising, often hard work and busy socializing, with much international music and cricket talent. There has been no date-rape-drug problem here. This has been confirmed to me by senior prosecution counsel Jones-Gittens, long in her role. I strongly suspect the drug used to incapacitate KH, whatever it was, was brought with Cramp from London, either by him or by a friend in the wedding party and given to him on learning of his Tinder date. This suspicion grows knowing from Cramp's testimony he did not leave his resort except to meet KH, so that it seems he would not have known where to find such a drug locally, even if he could, which the court doubts. However, though the court has its strong suspicions, there has been no evidence offered as to the type or origin of the drug used and so I make no formal finding it was rohypnol brought from London. That said, this court will protect the community from the horror of date-rape-drugs. Cramp can expect a deterrent sentence to warn others against following in his steps, thinking they might drug and rape a woman, and then fly away.

² See eg <https://www.drugs.com/illicit/rohypnol.html>.

10 For the trial, KH returned from the US with her whole family. As part of assessing the impact of the rape, after the conviction I heard moving testimony on 23.05.19 from KH, her mother J, her father D, and her sisters T and E.

- a. KH explained: *'There isn't any aspect of my life free from the impact of the traumatic rape I've experienced...I would consider myself as having been a very spiritual person. I wanted to do missions work after completing school and was deep in my faith as a Christian...The damage done to me physically did not just hurt my body, it destroyed my faith. It made me a trapped prisoner, disgusted by my own body...I was torn up physically and emotionally, with three stds, HPV, herpes and Chlamydia...my PTSD was so vivid I was continually looking for a rapist over my shoulder. I kept seeing someone who wasn't there, I never felt safe, even now I do this. I didn't sleep, I didn't eat, I lost 30lbs...I cried myself to sleep every night for an entire year. I typed many suicide letters on my phone, and then after deleted them, just to write another...Trusting people continues to be an issue to this day. Attacked by a police officer who sent me photos of him in uniform, kicking a soccer ball with children, what a disgusting abuse of power. If there was anybody I would trust at first instinct, it would be someone like this. Do you know how that messes with me now. Trust is almost completely non-existent....I felt as though God betrayed me...I still do not understand why he allowed this trauma to happen to me and my heart breaks as I continually wonder why bad things happen to good people.'*
- b. J explained: *'When KH called to tell us that she had been raped, our family was forever changed. We are all different now, especially KH....We are so proud that KH was able to pick up the shattered pieces of her life and continue on with school, it was excruciatingly hard for her. I am incredibly thankful that the Antiguan police dept helped us through the process....We were treated with kindness and professionalism throughout. It has been a juggling act of being strong for her and so sad that I can't take the pain away.'*
- c. D explained: *'You should be able to trust a police officer. My daughter Taylor is a police officer. KH was very upset and in pain....to book a flight for her mom Jill to go to Antigua I remember my hands shaking just trying to type. This experience shattered KH's faith, and not just hers but all of ours. This was traumatic for her and for our entire family. He had*

taken so much from her...Her dream of being a missionary nurse vanished overnight. As for me this was the single most devastating moment of my life...As a father I am supposed to protect my kids. How can I fix this? As fathers we are fixers, but I can't fix this. I could not provide her relief or comfort and I could not provide it to my wife or other daughters, much less to myself....Something like this can bring out the feeling of vengeance for a father. I've thought about it over and over. Thankfully the judicial system of Antigua and the UK has allowed me not to act on these feelings...I am truly thankful to the Antigua police and government authorities as well as the London metropolitan police dept for misconduct and the UK government for making this trial a reality....There is nothing in the world that can restore my family to what we once were.'

- d. T, who is a police officer, explained: *'Nothing is more disgusting to me than an officer who is expected to be trustworthy, to abuse that trust and destroy someone else's life, someone who is supposed to be a protector and a voice of the voiceless, to do such a thing is truly vile.'*
 - e. E explained: *'My heart sunk to the bottom of my chest when I was told he was a police officer in the UK. Police officers are supposed to be people you can trust. Everyone in the family changed after that, you could see how drained we all were and how broken we felt, anytime a conversation came to an end there was this eeire feeling in the air, it was devastating.'*
- 1 In addition, Sgt Steven Linton addressed the court. He was from London, from the police misconduct dept, often called 'internal affairs', and spoke as to the impact of a rape such as this by a police officer on the standing of the police service. He explained: *'Taylor has said there is a lot of pride in being a police office. The police oath is "I, do solemnly, sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable with fairness, integrity, diligence and impartiality, and that I will uphold fundamental human rights and accord equal respect to all people, according to law"'. At this point, Sgt Linton stopped speaking as he became visibly upset, but then added: 'It's hard for an officer of 22 years to comprehend the damage to the police service as a whole, as the public find out... The story of*

this case in the UK press will be read by millions, in print and on the internet. We police by consent, we need public trust to do our job, to maintain law and order, I believe people will believe from the story a lot of us serving officers are like that, like Mr Cramp. But the vast majority do a fantastic job, in hard circumstances, you do not need to sully their good name. There are 30000 police officers in metropolitan police alone, maybe 120000 other police, plus there is staff, all of them will be affected.'

- 11 In his pre-sentence report dated 10.07.19 by Denfield Phillip, Cramp continues to protest his innocence, which I make plain will not aggravate his sentence, though the absence of any remorse or contrition cannot mitigate it. He was briefly in the army at 18, and joined the police in 2013 when aged 20. He has current health issues, having been eight times to the doctor on Antigua, with a uti and kidney infection, plus a nasty festering boil on his left buttock. His mother Vanessa and girlfriend Jacqueline describe him as a moderate person, not given to drinking much, or smoking. In addition, character references speak well of him, from friends at the Glynde and Beddington Cricket Club, being Jill Baker, Graham Baker, David Clark, Deborah Silvester, and Karen Thyer. I am quite satisfied this offence was wholly out of character and were he finally to admit the offence he would express astonishment at what he did. That his actions seem so very out of character renews my suspicion he was given the drug by someone in his wedding party, as it seems unlikely he would have brought it or looked for it by himself, though as I have earlier said I will make no such formal finding. However, the picture does emerge he built up a strong expectation of sexual relations with KH, having met on Tinder, it being agreed he could stay over, there being texts about drinking a lot and how he might try to initiate sexual activity though she was warning him off, and in this context, when it became clear back in her apartment there would be no sex, he then calculated he should use the drug he had to get his way, knowing he would be flying away within four days. Viewed this way, though it might be said he did not set out to rape her, there came a time in her apartment he made a deliberate decision he would, believing he would get away with it. This is how I shall approach the offence.

Constructing the sentence

- 12 On Antigua & Barbuda, the maximum sentence for rape contrary to **s3(1) Sexual Offences Act No. 9 of 1995** is life imprisonment.
- 13 In assessing the offence, I have chosen to be assisted in constructing the sentence by referring to the UK sentencing guidelines³, where for rape the maximum is the same. I assess the offence to fall there into category 1A, which is the worst, meaning a starting point of 15 years with a range of 13-19 years. Concerning harm, it is category 1 because of the extreme impact of the rape on KH, who has lost her faith, received three stds, and who had the additional degradation of being subject to thrusting against her anus, leading to pain on defecation, and with the violence of the sexual activity giving rise to substantial injuries lasting many days consistent with, as the doctor said, 'very rough sex'. Concerning culpability, it is level A because the use of a drug shows a 'significant degree of planning' and his being a police officer, who used his status to win her confidence, amounts to a gross 'breach of trust'. I should emphasize that this abuse of trust extends to abusing the trust of all serving officers into whose ranks he has been admitted, whether on Antigua or in the UK, such that placing the offence within the range I find it must go toward the top. In addition there is the aggravating feature of the use of alcohol, to disguise the drug and to lay the ground by exaggerating KH's alcohol consumption to explain memory loss. In settling on the correct punishment, I also have in mind that there must be an element of deterrence to others on Antigua against ever using a date-rape-drug. Assessing the offence as starting at 15 years, in my judgement it goes up within the range by two years to 17 years.
- 14 My attention has been drawn to **R v Milberry et al 2003 2AER939**, which opines a starting point of eight years. However the use of a drug is then said specifically to aggravate the offence, so that sentence would begin much higher, this is an old authority superseded by the sentencing guidelines to which I have referred, and it takes no account of the aggravating feature of Cramp using his being a police officer to win trust. Even under that authority, one can see the sentence may get easily to 15 years, and in addition, as an old authority, it is important to note, conceded by the defence, that sentences have since as a policy gone up.

³ See <https://www.sentencingcouncil.org.uk/offences/crown-court/item/rape/>

- 15 As to reference to the case of **DPP v Phillip & Bowry 2015** SKBHCR2011/0037A, a decision of Carter J which reviews rape sentences, this case merely shows how rape sentences can vary widely according to circumstance and sadly provides no guidance on the use of a drug.
- 16 It may be of interest to mention if applying sentencing guidelines for the Eastern Caribbean Supreme Court, which are in draft, soon to be promulgated by the Chief Justice in September 2019, about which I am aware, then I would in those assess the offence to fall into category 2A, meriting a starting point of 50% of the maximum, calculated to be half of a notional 30 years, being 15 years, within a range, of 35% to 65%, equating to a range of about 10.5 to 19.5 years. It is category 2 as showing serious psychological harm to KH and involving significant degradation, and level A as it involves abuse of trust, and significant planning by the use of a drug, with the aggravating factor it involves the use of alcohol. In combination, the offence merits the same 17 years under these imminent local guidelines. This may help to show that the prospective local and existing UK guidelines appear to apply the same result.
- 17 In assessing features relevant to the offender, while there are no further aggravating features, ordinarily it would be a mitigating feature that Cramp is of good character. However, it is his good character as a police officer that allowed him to abuse KH's trust, so that I do not find it to be mitigation in this case.
- 18 There is one mitigating feature. It concerns where he will serve his sentence. Under the extradition agreement, dated 03.04.18, it has been agreed between Antigua and the UK Cramp will serve his sentence in room 8 of the defence barracks, where he has been on remand since he arrived on Antigua on 16.09.18. This may seem more attractive than being incarcerated in the local jail, called 1735, where conditions have been much criticized both locally and wider. However, he will be on his own, alone, isolated, far from home and family (none being here today), without interaction with other inmates, which is arduous, even if the conditions are good. In my judgement his isolation from a prison population and his family means the sentence can properly be reduced by two years, not more, to 15 years, mindful he may elect to request to return to the UK to serve his sentence there.
- 19 There is no credit for plea available as Cramp was convicted by the jury.

- 20 Time spent on remand since Cramp arrived back on Antigua on 16.09.18 will count, to be calculated by the Antigua prison authorities, and which I assess as 299 days to today.
- 21 There are no ancillary orders.
- 22 The sentence will therefore be 15 years, (less 299 days already served).
- 23 *Lee Cramp, please stand up.* What you did that night on 23.05.15, being out of character as a serving London police officer, in drugging and then raping KH was evil, as if while alone with her in her home you became possessed by a demon. Folk on Antigua, and tourists visiting, must be reassured that your behavior merits firm and deterrent response. Offending by using a date-rape-drug will not be tolerated on this island. For the reasons I have explained, the sentence for raping KH is 15 years' imprisonment, (less time served on remand which I calculate as 299 days). Assuming you remain on Antigua, you can expect to serve two-thirds before being eligible for automatic remission if of good behavior. However, if deported back to the UK to serve your time you will then be subject to the authority of the Home Secretary and prison regime there, which may be different. You may go with the gaoler.

The Hon. Mr. Justice Iain Morley QC

High Court Judge

11 July 2019