

EASTERN CARIBBEAN SUPREME COURT

THE HIGH COURT OF JUSTICE

ANTIGUA & BARBUDA

ANUHCR2015/117

REGIINA

V

CAMROY WEBBER

APPEARANCES

Miss Rilys Adams appeared for the Crown.

Dr. David Dorsett appeared for the defendant.

26 April 2017

- 1 **Morley J:** Camroy Webber (dob 10.10.70) falls to be sentenced following conviction on 20.01.17 after jury trial for an offence of serious indecency when 43 on a child J aged 3 on 03.12.13 on Barbuda.
- 2 The circumstances are that he often visits J's home as a friend of the family, known a Bozo. On the day, J's cousin, SN was present, as an adult, packing to leave the island, and left J with the defendant in the lounge watching tv. Looking for her later, she was no longer in the lounge. She approached a bedroom door, and her evidence at trial was: 'I pushed open the door. I saw

Bozo with his pants down. My niece was bent over the bed. Her pants were down. Bozo was behind her. He was bent over her. His dark grey jeans were down to his ankles. I could see the boxers he had, at his ankles. There were no clothes on his body. My niece's pants were down, she was bent over the bed, he was right behind her. I could not see his private parts, his penis. I thought he was actually inside of my niece at that point. He automatically backed away as I opened the door. I grabbed my niece. I remember screaming her name. He backed away from her. I grabbed my niece. He went past me in the doorway, yelling at me, '*you didn't see anything, you didn't see anything*'. I ran out of the room. I went to the bedroom where I had been packing my clothes. I took J with me. I proceeded to check J. I checked her vagina, to see if she was bleeding, because from the position I found her in it looked as if he was having sex with her. She was not bleeding. I went to the living room, to see if he had left, and to call for help. I saw him run out of the house. I ran behind him, yelling at the village for help to catch him. I called J's dad, to call the police.' And under cross-examination said: 'He was behind my niece, I could not see his penis, he was moving up and down behind her, like he was having sex, with a three year old'.

- 3 For the purposes of sentence the Court will ignore that J said later to SN that the defendant did this all the time, as it was not led in trial, so that he will be sentenced for one event only.
- 4 The basis for the sentence will be that he had exposed his penis and was pressing it to the child's exposed genital area from behind her, in a simulation of intercourse.
- 5 This offence is so serious that only a custodial sentence can be justified. There should also be deterrence. The offence is contrary to s15(1)(a) of the *Sexual Offences Act 1995* on Antigua and Barbuda, and the maximum is 10 years. The Court has chosen to be assisted by the UK sentencing guidelines, for the offence of sexual assault of a child under 13, under s7 of the UK *Sexual Offences Act 2003*, at *Blackstones Criminal Practice 2017*, 1st supplement, at para SG-99, and for which the maximum is 14 years. Considering the abuse of trust, as the defendant was in a relationship with the child's grandmother, the offence is assessed as being in category 2A, with a starting point of 3.5 years, adjusted down from 4 years in the UK owing to the different maxima.

- 6 Turning to aggravating features, the age of the child, being three, and far below the threshold age of 13, while the defendant is in middle age, being at the time 43, in combination are particularly aggravating. So too is the precise nature of the event, which was simulated intercourse while genitally naked, rather than for example simple touching. These features increase the offence by two years to 5.5 years.
- 7 Turning to the mitigation features, the defendant is of good character. However, at 43, he can be expected in mature adulthood to have known better not to interfere with a child of 3. His good character will reduce the sentence by six months. It is not considered mitigation that thankfully assessment on 08.01.17 by psychotherapist Jean Michelle Benn-Dubois of the child thankfully does not currently show psychological damage.
- 8 There is no discount available for plea, as there was none.
- 9 From his pre-sentence report by Shawn Maile of 27.02.17, the defendant has been described as well-liked and this offending as out of character (though there is some suggestion from the child's father there are other unreported matters, which the court ignores). He is therefore not assessed as dangerous, so that no further adjustment of the sentence is necessary.
- 10 The sentence for simulated intercourse while genitally naked by this defendant of good character when aged 43 on a child, in the position of his grandchild, aged 3 on conviction by the jury is 5 years (60 months). Time on remand will count. There will be remission after completing 2/3 of the sentence, being 40 months, to the satisfaction of the prison.

The Hon. Mr. Justice Iain Morley QC

26 April 2017