

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

COLONY OF MONTSERRAT

(CRIMINAL)

A.D 2016

NO. MNIHCR2016/0015

MNIHCR2016/0018

REGINA

V

JP (male, aged 15)

APPEARANCES:

Mr. Oris Sullivan with Kenroy Hyman for the Crown

Mr. Fitzroy Buffonge for the Accused

2016: NOVEMBER 25

SENTENCE

[1] **MORLEY J.**, On 9 November 2016 JP pleaded guilty to two offences of indecent assault.

- [2] JP is 15, a schoolboy at Montserrat Secondary School, and is not to be named by the press, nor are the complainants, who are MT, now aged 14, and KW from Nevis, now aged 19.
- [3] On 30 May 2016, when 15, at Chicken Farm near the school, JP encouraged fellatio from MT, then aged 13, in front of others, which was videoed by his friend T. He accepts that he was the instigator of the sexual act, to which MT being 13 could not consent, (though technically neither could he, being under 16), so that by his plea he accepts it was indecent assault for him to place his penis in her mouth.
- [4] On 29 July 2016, JP helped KW, then aged 19, find a toilet at the home of James Harper, and while she was in the bathroom, let himself in, and there followed an incident, to which he accepts by his plea that she did not freely consent, in that he forced kisses on her, touched her indecently, offered her pornography, gave her cunnilingus, trying to convince her to have sex. The prosecution agrees he can be sentenced on the basis that he accepts limited wrongdoing as appears from Q57 onwards of his interview on 30.07.16.
- [5] JP has no previous convictions. There are underlying issues. At the age of 10, with his uncle, he witnessed sexual activity in a brothel in Brazil. His mother also reports he has looked at pornography from the internet on a phone, which will have added to his failing to identify boundaries as to sexual behaviour for one so young. In the pre-sentence report, without monitoring, he is assessed as a medium risk of re-offending. He is accompanied to day in court by his mother and grandparents. His peer

group has now changed, he has changed address from his mother to his grandparents, and has expressed remorse for his improper adolescent actions.

[6] His most important mitigation is that he has pleaded guilty, at an early stage, showing a maturity, acceptance of responsibility, and a willingness to change. In addition, the offences were spontaneous, without violence, and not planned.

[7] Weighing all the circumstances of this case, in particular the lengthy pre-sentence report dated 24.11.16 from Stanford Kelly, his school reports from Cheryl Hogan dated 21.09.16 and 21.11.16, and a psychological assessment dated 23.11.16, from Shana Carrington, including the pleas, entered early, and his good character, and in particular his age, being 15 and a schoolboy in adolescence, I have decided that these offences should not result in a custodial sentence. Rehabilitation ought to be the primary goal of this sentence, concerning a minor, while the fact he has lost his good character of itself will be a punishment. I am willing to accede to the invitation by Mr Kelly and defence advocate Mr Buffonge that JP should receive probation, for three years, with continuous counselling as directed from a psychologist.

The Hon. Justice Iain Morley QC

High Court Judge