

**BRITISH VIRGIN ISLANDS**

**THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
(CRIMINAL)**

**BVIHCR2010/0014**

**BETWEEN:**

**THE QUEEN**

**-V-**

**CAMILLUS PARIS**

**Appearances:**

Ms. Christilyn Benjamin, Senior Crown Counsel and Ms. Jude Hanley, Crown Counsel,  
DPP Chambers for the Crown

Mr. Patrick Thompson of McW Todman & Co. for the Defendant

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2011: April 8

2011: April 8, August 29  
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**JUDGMENT ON SENTENCING**

**(Criminal Law – Sentencing – Offences against the Person – Sexual Offences – Child victims  
- Indecent Assault – Rape – Sentence- Matters to be considered)**

**Introduction**

[1] **HARIPRASHAD-CHARLES J:** On 30 March 2011, the defendant, Camillus Paris was found guilty by a unanimous jury of the following offences:

- (i) One count of Indecent Assault committed between 1 September 2007 and 31 December 2008 on a girl under the age of 13 years;
- (ii) One count of Indecent Assault committed between 1 January 2007 and 31 May 2009 on a girl under the age of 13 year; and
- (iii) One count of Rape committed between 1 January 2007 and 31 May 2009 on a girl of or under the age of 13 years; to wit: a female of 7 years.

- [2] The sentencing and mitigation hearing was adjourned to 8 April 2011. Sentence was handed down the same day. Oral reasons were given for the sentence which I imposed. I now reduce those reasons to a written judgment.

### **The salient facts**

- [3] Briefly, the facts of the case which the jury must have accepted can be summarized as follows: Camillus Paris alias Jim is a native of the Commonwealth of Dominica. He is 53 years old. He came to the British Virgin Islands ("the BVI") in 2007 to work. Between 2007 and 2009, he lived with the nuclear family of the virtual complainants, two very young girls. For anonymity, I shall refer to the older girl as "VC1" and the younger one as "VC2". VC1 and VC2 are sisters. VC1 was born on 9 February 1999 and VC2 on 28 January 2001. Mr. Paris is related to them. He is their cousin. Both girls attend primary school here.

#### **VC1 – Indecent Assault**

- [4] Sometime between 1 September 2007 and 31 December 2008, Mr. Paris pulled VC1 into his bedroom after she had refused to go when he had called her. In his bedroom Mr. Paris put her on his bed to lie down and thereafter pulled down her pants and panty and touched her on her vagina. She bit him on his shoulder in order to get him to stop. He stopped and VC1 then ran outside and told her mother. Her younger sister was sleeping at the time of this incident.

#### **VC2 – Indecent Assault**

- [5] Sometime between 1 January 2007 and 31 May 2009, Mr. Paris was at home. He was sitting next to VC2 in the living room whilst she was watching television. He then put his hand under her skirt and touched her vagina. VC2 told Mr. Paris to stop. He responded and told her that if she doesn't tell him to stop, he will give her a dollar. VC2 again told Mr. Paris to stop which he did.

#### **VC2 - Rape**

- [6] Sometime between 1 January 2007 and 31 May 2009, Mr. Paris was at home with VC2. She was about seven years old at the time. She was in the living room watching television.

Her older sister was playing outside. Her mother was not at home. She was by a friend called Walter. Mr. Paris called VC2 into his bedroom. She did not go. He then pulled her into the bedroom. He took off her clothes and then his. At that point, VC2 tried to run away but Mr. Paris held her hand and pulled her in. He pulled her on the bed and went on top of her. He then had sexual intercourse with her. She bit him. At some point in time, she screamed. Her mother came into the bedroom and met Mr. Paris on top of her daughter. She ordered him out of the bedroom which Mr. Paris did.

- [7] Nothing further happened until April 2010. During April every year, the BVI, like many other Caribbean Islands, observe CHILD ABUSE MONTH. The Guidance Counselor at the school that these girls attend invited Detective Constable Kendolph Bobb of the Family and Juvenile Unit of the Royal Virgin Islands Police Force to speak on various topics including Child Abuse. During his presentation on 27 April 2010, both girls were present. The very next day, the girls spoke to the Guidance Counselor. As a result of what they told the Guidance Counselor, she immediately contacted the Social Development Department.
- [8] On 6 May 2010, a report was made to the Royal Virgin Islands Police Force. On the same day, the girls were examined by Dr. Lorna Vergara. The doctor found that VC1's hymen was intact whilst VC2's hymen was not intact.
- [9] On 12 May 2010, the police accosted Mr. Paris at his residence in Carrot Bay. He was informed of the reports alleged against him. He was cautioned and thereafter, was arrested and transported to the Road Town Police Station.
- [10] On 13 May 2010, Detective Constable Bobb recorded two audio interviews of Mr. Paris. He categorically denied sexually molesting the young girls. Later on that said day, Mr. Paris was formally arrested and charged with two counts of Indecent Assault and one count of Rape.

### **Plea in mitigation**

- [11] Learned Counsel Mr. Thompson who appeared as Counsel for Mr. Paris, made a very strong plea in mitigation. He submitted that Mr. Paris is 53 years old, a father of three girls and married for seventeen years. Like Mr. Paris, he questioned, albeit, civilly, the verdict.

He had difficulty in reconciling the jury's verdict with the fact that a happily married man with three daughters at colleges, would sexually assault these young girls. Be that as it may, he, nonetheless, has the bounden duty to represent his client which he passionately did.

[12] Additionally, Mr. Thompson submitted that, in using guidelines, the sentencer ought to ensure that they are not mechanically adopted, for to do so, may result in sentences which are inappropriately high or inappropriately low. In this regard, he relied on the case of **R v Loff James Lennon**<sup>1</sup>. In that case the appellant was convicted of indecent assault and sentenced to 2 years imprisonment. The appellant was involved in a relationship with the mother of the nine-year old girl. He masturbated in the girl's presence and then pulled off her trousers and knickers.

[13] Finally, Mr. Thompson implored the court to temper justice with mercy. It is beyond dispute that Mr. Paris is a man with an unblemished criminal record.

### **Submissions for the Crown**

[14] Senior Crown Counsel Ms. Christilyn Benjamin referred to the guiding principles for the sentencing of sexual offenders which were elucidated by our Court of Appeal in the consolidated appeals of **Winston Joseph v The Queen, Benedict Charles v The Queen and Glenroy Sean Victor v The Queen**.<sup>2</sup> There, Sir Dennis Byron CJ<sup>3</sup> [as he then was] stated that the actual sentence imposed should depend upon the existence and evaluation of aggravating and mitigating factors. The tendency would be towards a higher sentence if the aggravating factors outweighed the mitigating factors and *vice versa*.

[15] In the present case, the Crown submitted that there are three aggravating factors and only one mitigating factor. The aggravating factors were identified as follows:

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<sup>1</sup> [1999] 1 Cr. App. R. (S) 9.

<sup>2</sup> St. Lucia Criminal Appeal No. 4 of 2000, Criminal Appeal No. 8 of 2000 and Criminal Appeal No. 7 of 2000 (consolidated).

<sup>3</sup> See paragraph 17.

1. **The ages of the virtual complainants:** Mr. Paris was between the ages of 50 and 52 whilst VC1 was between the ages of 8 and 9 years old and VC2 between the ages of 6 and 8 years old at the time of the respective offences.

- i. VC1 (approximate age difference of 42 - 43 years)
- ii. VC2 (approximate age of difference of 42 – 44 years);

2. **Seriousness and prevalence of the offences** (as per Creque J in **DPP v Shaunlee Fahie**)<sup>4</sup>

In **R. v. Roberts (Hugh)** [1982] 1 WLR 133, Lord Lane CJ stated at pages 134-135:

“Rape is always a serious crime. Other than in wholly exceptional circumstances, it calls for an immediate custodial sentence.... A custodial sentence is necessary for a variety of reasons. First of all to mark the gravity of the offence. Secondly to emphasise public disapproval. Thirdly to serve as a warning to others. Fourthly to punish the offender, and last, but no means least, to protect women. The length of sentence will depend on the circumstances.”

3. **Breach of trust:** (Mr. Paris was the virtual complainants' adult cousin and they lived in the house together.)

[16] The sole mitigating factor identified by the Crown is that Mr. Paris has no previous convictions.

[17] As is very usual in this jurisdiction, the Crown continued to demonstrate their efficiency by submitting a vast number of local, regional and UK authorities to assist the court in determining the proper starting point and sentencing range for these offences. The local authorities cited were: **R. v. Andre Penn**<sup>5</sup>, **R. v. Donald Rogers**<sup>6</sup>, **R. v. Nelson Callwood**<sup>7</sup>, **R. v. Derek Cort**<sup>8</sup>, **R. v. Kemuel Dublin**<sup>9</sup>, **R. v. Ricky Callwood**<sup>10</sup>, **R.**

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<sup>4</sup> HCRAP 2008/003 –Court of Appeal in the Territory of the Virgin Islands [unreported].

<sup>5</sup> BVI Criminal Case No. 31 of 2009, (Hariprashad-Charles J) Judgment on Sentencing 31 March 2011.

<sup>6</sup> BVI Criminal Case No. 24 of 2009, (Hariprashad-Charles J) Judgment on Sentencing 25 June 2010.

<sup>7</sup> BVI Criminal Case No. 17 of 2009, Commitment on Sentencing –Tab 14.

<sup>8</sup> BVI Criminal Case No. 20 of 2009, (Hariprashad-Charles J) Judgment on Sentencing 31 May 2010.

<sup>9</sup> Criminal Case No. 8 of 2009.

<sup>10</sup> BVI Criminal Case No. 13 of 2009.

**v.Kelvin Turnbull<sup>11</sup>, R. v. Tifern Henley<sup>12</sup>, R. v. Malcolm Spencer<sup>13</sup>, R. v. Curtis Bruce<sup>14</sup>, R. v. Kerril Gilbert<sup>15</sup>, R. v. Shem Jackson, R. v. Robert Thomas<sup>16</sup>, R. v. Claudius Frett<sup>17</sup> and R. v. Winston Harrigan<sup>18</sup>.**

- [18] Regional authorities included **Dwight Dookie v. R.<sup>19</sup>** and **Roger Naitram et al v R.<sup>20</sup>** The UK authorities referred to are as follows: **R v. Milberry; R v. Morgan; and R v. Lackenby<sup>21</sup>** **R v Billam<sup>22</sup>**; **Attorney General's References Nos. 91, 119 and 120 of 2002<sup>23</sup>** and **R v Loff James Lennon.<sup>24</sup>**

### **Court's considerations**

- [19] Before I go on to consider each individual offence, I remind myself that the general considerations in relation to the sentencing of defendants upon conviction in sexual offences have been highlighted at length in an unfortunate number of recent judgments handed down by this court, more specifically in **R. v. Andre Penn, R. v. Donald Rogers, R. v. Derek Cort, R. v. Tifern Henley and R. v. Curtis Bruce.**
- [20] First and foremost, the court always bears in mind the four cardinal principles of sentencing namely "retribution, deterrence, prevention and rehabilitation." Here, I gratefully adopt the words of Lawton L.J. in **R. v. Sargeant<sup>25</sup>** who emphasized that "*any judge who comes to sentence ought always to have those four classical principles in mind and to apply them to the facts of the case to see which of them has the greatest importance in the case with which he is dealing.*"

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<sup>11</sup> BVI Criminal Case No. 13 of 2007.

<sup>12</sup> BVI Criminal Case No. 8 of 2006, (Hariprashad-Charles J) Judgment on Sentencing 11 September 2007.

<sup>13</sup> BVI Criminal Case No. 3 of 2007

<sup>14</sup> BVI Criminal Case No. 17 of 2006 (Hariprashad-Charles J) Judgment on Sentencing 4<sup>th</sup> June 2007.

<sup>15</sup> [Criminal Case No. 6 of 2006] Commitment on Sentencing – Tab 13.

<sup>16</sup> BVI Criminal Case No. 17 of 2002.

<sup>17</sup> BVI Criminal Case No. 7 of 2001.

<sup>18</sup> BVI Criminal Case No. 5 of 1996.

<sup>19</sup> (St. Lucia) Criminal Appeal No.1 of 2007.

<sup>20</sup> HCRAP2006/005, HCRAP2006/006 and HCRAP2006/008 [Antigua & Barbuda] CA. Judgment delivered on 15 December 2010, per Baptiste J.A.

<sup>21</sup> [2003] 1 Cr. App. R. 25.

<sup>22</sup> (1986) 8 Cr. App R (S.48).

<sup>23</sup> [2003] 2 Cr. App. R. (S.) 55.

<sup>24</sup> [1999] 1 Cr. App. R. (s) 117 CA.

<sup>25</sup> 60 Cr. App. R. 74.

[21] In **Andre Penn**, I stated that sentencing involves a two-stage process that requires consideration of both aggravating and mitigating factors. The court must seek to determine what sentence does the seriousness of the offence itself merit? Further, can that sentence be reduced in light of mitigation relating to the offender?

[22] The evaluative process of weighing the mitigating and aggravating factors was expounded by Byron CJ in **Winston Joseph et al**, and recently endorsed in **Roger Naitram et al v The Queen**.<sup>26</sup> In **Winston Joseph et al**, Byron CJ listed some of the most common aggravating and mitigating factors. At paragraph 17, he stated:

“The actual sentence imposed will depend upon the existence and evaluation of aggravating and mitigating factors...It is not enough for the court merely to identify the presence of aggravating and mitigating factors when sentencing. A sentencing court must embark upon an evaluative process. It must weigh the mitigating and aggravating factors. If the aggravating factors are outweighed by the mitigating factors then the tendency must be toward a lower sentence. If however the mitigating factors are outweighed by the aggravating factors the sentence must tend to go higher.”

[23] The court is assisted by the provision of guidelines which establish benchmarks or starting points for the different types of offences, however, the court must bear in mind that guidelines are not to be cast in stone and to be mechanistically followed. In the North Ireland Court of Appeal, Carswell LCJ and Coughlin J had this to say:

“Guidelines are of use in maintaining a degree of consistency in sentencing, but they are not to be slavishly followed, since the sentencer in any given case has to determine what is appropriate for the individual case before the court. Mitigating and aggravating factors in the particular case will have to be taken into account in determining the final disposition. Reported previous decisions may provide a benchmark, but it should be observed that in some reported cases there may be unstated factors, eg co-operation with the police, which have influenced the length of sentence. It should also be borne in mind that levels of sentence may move upwards, or downwards, depending on the prevalence and danger to the public of any type of offence.”<sup>27</sup>

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<sup>26</sup> HCRAP2006/005, HCRAP2006/006 and HCRAP2006/008 [Antigua & Barbuda] CA. Judgment delivered on 15 December 2010, per Baptiste J.A.

<sup>27</sup> *Murdock, R v* [2003] NICA 21.

- [24] And, even more recently, our Court of Appeal in **Roger Naitram et al** stated (at paras 17 and 18) that:

“Sentencing guidelines should not be applied mechanistically because a mechanistic approach can result in sentences which are unjust. Having taken the guidelines into account, the sentencing judge is enjoined to look at the circumstances of the individual case, particularly the aggravating and mitigating factors that may be present and impose the sentence which is appropriate. It follows therefore that a sentencing judge can depart from guidelines if adherence would result in an unjust sentence. The existence of a particularly powerful personal mitigation or very strong aggravating factors may be a good reason to depart from the guidelines. Clearly the suggested starting points contained in sentencing guidelines are not immutable or rigid. Where the particular circumstances of a case may dictate deviating from the guidelines, it would be instructive for the sentencing judge to furnish reason for so departing.”

### **Indecent Assault**

- [25] Section 124 (1)(b) of the Criminal Code 1997 (as amended by section 20 of Act No. 8 of 2006) of the Laws of the Virgin Islands provides that “*any man who makes an indecent assault on a woman commits an offence and is liable on conviction for a term not exceeding ten years.*”

- [26] It follows that the maximum penalty that can be imposed for the offence of indecent assault is ten (10) years. However, a judge has a wide discretion on sentencing. In determining the appropriate sentence, regard must be had to the particular circumstances of the case.

- [27] In **Donald Rogers** (supra), I stated:

31. “Indecent assault is largely a non-penetrative sexual offence but no less despicable on that account. In the words of Lord Griffiths: “...*although the offence of indecent assault may vary greatly in its gravity from an unauthorized teenage sexual groping at one end of the scale to a near rape at the other, it is in any circumstances a nasty, unpleasant offence...*”<sup>28</sup>

32. “Although indecent assault is less serious than rape, the latter carrying a maximum penalty of life imprisonment, that does not make indecent assault any less traumatic to the victim. Thus, in determining an

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<sup>28</sup> R v Court [1988] 2 All ER 223 at C.

appropriate sentence for this type of sexual offence, the Court will have reference to the various types of harm that can result from the offence, some of which are outlined in the Sentencing Guidelines for Sexual Offences by the Sentencing Advisory Panel 2003, which was referred to by the Crown. These include:

- o Violation of the victim's sexual anatomy;
- o Exploitation of a vulnerable victim;
- o Embarrassment, distress or humiliation of the victim;
- o Infringement of standards of socially acceptable behavior;
- o The physical/psychological harm caused by non-consensual offences;
- o The relationship between the victim and the offender and
- o Abuse of a position of trust."

[37] "In weighing the gravity of the offence, regard must be had to *"the degree of harm to the victim...the level of culpability of the offender... and the level of risk posed by the offender to society."*<sup>29</sup>

[28] In **Loff James Lennon** [supra], Henry L.J. had this to say [at page 6]:

"It was not the purpose of the judgment to seek to lay down guidelines for sentencing in cases of indecent assault. It is never easy to sentence in such cases. The circumstances of each case will vary greatly.... What the judge must do, as I see it, is to tailor the sentence to the particular facts of the case before the court. In most cases, the personal circumstances of the offender would normally take second place behind the plain duty of the court to protect the victims of sexual attacks and to reflect the clear intention of Parliament that offences of this kind should be met with greater severity than may have been the case in former years when the position of the victim may not have been so clearly focused in the public eye".

[29] Those remarks are equally applicable to the present case. In **Andre Penn**, I remarked that while the maximum sentence for indecent assault on a person under the age of thirteen years is 10 years; sentences for this offence tend to fall on the lower end of the range. Sentences involving victims under thirteen have ranged locally from a fine of \$1,400 or 6 months imprisonment,<sup>30</sup> to a 3 year suspended sentence,<sup>31</sup> to 18 months,<sup>32</sup> to 5 years;<sup>33</sup> to 2 years regionally;<sup>34</sup> to 2 years,<sup>35</sup> and 3 years<sup>36</sup> in the UK.

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<sup>29</sup> R v Millberry et al [2003] 2 Cr App R (S) 31.

<sup>30</sup> R.v.Terry Hodge, BVI Criminal Case No. 11 of 2004 [unreported].

<sup>31</sup> R v Keshawn Huggins, BVI Criminal Case No. 13 of 2008 [unreported]: The victim was the defendant's 11 year old sister- no written judgment on sentencing.

- [30] In the UK,<sup>37</sup> the recommended starting point for indecent assault, considering a maximum custodial sentence of 10 years is 2 years with a range of 1 - 4 years where the offence involves contact with genitalia of victim by offender using part of his or her body other than the genitalia or an object.
- [31] In the present case, the indecent assault on the first count involved removing the pants and panty and touching the naked vagina of the victim who was between eight to nine years of age. The indecent assault on the second count involved touching the vagina of the younger sister under her skirt. The victim was between six to eight years of age.
- [32] The aggravating and mitigating features identified at paragraphs [15] and [16] above are also relevant to this offence.

## Rape

- [33] Section 117 (1) of the Criminal Code 1997 provides that “*a man who rapes a woman commits an offence and is liable on conviction to imprisonment for life.*”
- [34] The offence of rape carries the maximum penalty of life imprisonment. Indeed, the penalty underscores the gravity of the offence and places it in the category of very serious offences such as murder, manslaughter, robbery and grievous bodily harm which nearly always result in custodial sentences.
- [35] I recalled with some degree of nostalgia my own observations in **Franklyn Huggins** when I stated that:

“Short of homicide, it [rape] is the ‘ultimate violation of self’<sup>38</sup>. It is a violent crime because it normally involves force, or the threat of force or intimidation to

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<sup>32</sup> R. v. Kevin Dorsett, BVI Criminal Case No. 26 of 2005 [unreported], Judgment on Sentencing 18 October 2005: the defendant was her neighbor and a preacher, of good character.

<sup>33</sup> R. v. Lloyd Arthur, BVI Criminal Case No. 7 of 2004 [unreported]: the defendant, a pastor was convicted on two counts indecent assault. He was sentenced to 5 years on each count, to run concurrently.

<sup>34</sup> Gladstone Gooderidge v The Queen, Criminal Case No. 13 of 1997 (St. Vincent and the Grenadines) [unreported]: Defendant, a stranger, put his penis in the mouth of 6 year old victim and touched her vagina.

<sup>35</sup> R v Loff James Lennon [1999] 1 Cr.App.R. (s)117 CA: Defendant, mother’s boyfriend, masturbated in front of 9 year old victim.

<sup>36</sup> Attorney General’s Reference No. 7 of 1997, [1997] Crim.L.R. 908: Sentenced to 3 years each on 4 counts involving victims ages 12 – 15 and also sentenced for 7 counts of buggery.

<sup>37</sup> Sentencing Guidelines Council, Definitive Guideline: Sexual Offences Act (UK) 2003.

<sup>38</sup> Byron E. White.

overcome the will and the capacity of the victim to resist. **Along with other forms of sexual assault, it belongs to that class of indignities against the person that cannot ever be fully righted and that diminishes all humanity.** [emphasis added]

- [36] In **R. v Christopher Millberry** [supra], Lord Lane, referring to the general guidelines as to sentencing for rape in **Roberts and Roberts**<sup>39</sup> had this to say:

“Rape is always a serious crime. Other than in wholly exceptional circumstances, it calls for an immediate custodial sentence.... A custodial sentence is necessary for a variety of reasons. First of all, to mark the gravity of the offence. Secondly, to emphasise public disapproval. Thirdly, to serve as a warning to others. Fourthly, to punish the offender, and last but by no means least, to protect women (or in this case, young girls). The length of the sentence will depend on all the circumstances. That is a trite observation, but those in cases of rape vary widely from case to case.”

- [37] In **R v Puru**<sup>40</sup>, Woodhouse P. made a litany of remarks in relation to rape. However, these observations may apply generally to other sexual offences. He said at page 821 [g]:

“The Court certainly must and actually does keep in mind the public anxiety and the natural public resentment that such conduct occasions. That very fact, however, inevitably poses very difficult sentencing problems when the matter is not by reference to individual cases but in a wider way. Rape always involves a disgraceful exercise of physical power over the victim and degradation of her human personality.

But there are some cases which have particularly aggravating features. **There are cases involving very young girls** or elderly women. There are deplorable examples of gang activity. There are instances of the victim being snatched off the street or invaded in the privacy of her own home. And there are cases involving serious physical violence or acts of sexual perversion and other forms of degradation. So clear distinctions must inevitably be drawn to take care of bad and finally the worst kinds of case. There is the added fact that if this margin is not kept in mind in relation to lesser offences then there could be the grave risk of the more serious attacks, even to the point of murder, by offenders who though that there was nothing to be gained by a residual restraint which might lead to detection.

The extent to which all this can properly be translated into length of sentence must inevitably vary from case to case. The important consideration is to ensure that

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<sup>39</sup> (1982) 4 Cr. App. R. (S) 8. See page 3 of Millberry’s judgment.

<sup>40</sup> [1985] LRC (Crim) 817.

there is an appropriate degree of flexibility left to the Judge so that the punishment can actually be made to fit the crime. “

- [38] In **Winston Joseph**, Byron CJ stated that for the offence of unlawful carnal knowledge of a female under thirteen years of age which carries a maximum sentence of life imprisonment in Saint Lucia:<sup>41</sup>

“...Starting at a minimum where the girl is not far from her 13<sup>th</sup> birthday and there are no aggravating factors at **8 years** and going upwards. **It scarcely needs to be said the younger the girl when the sexual approach commences the more serious the crime.** The existence of a maximum sentence of life imprisonment for this offence would allow a rapid escalation of the term of imprisonment as the age of the complainant decreases”.

- [39] He also stated at paragraph 16 that the starting point for rape committed on an **adult** [emphasis added] without any aggravating or mitigating features, should be eight (8) years in a contested case, and three years on a plea of guilty.

- [40] The case before the court falls between these two scenarios since it involves rape of very young child far from the age of thirteen.

- [41] Previous custodial sentences in this jurisdiction imposed upon conviction by a jury for rape in cases involving adults are abundant. **Derek Cort** was sentenced to ten (10) years for rape of an adult woman involving use of a weapon, home invasion, and perversion. **Ricky Callwood** who was 31 years old, was sentenced to five (5) years for rape of his adult cousin who was 26 years old. **Tifern Henley**, a relatively young man, was sentenced to seven (7) years for rape of a young adult woman while **Robert Thomas** was sentenced to ten (10) years for raping an adult woman with whom he had a prior relationship.

- [42] In cases involving young victims, sentences upon conviction by a jury vary from case to case. For example, **Franklyn Huggins** was sentenced to twelve (12) years for the rape of his fifteen year old step-daughter. **Cladius Frett** was sentenced to twelve (12) years for raping his daughter who was a high school student at the time. **Kelvin Turnbull** was sentenced to ten (10) years each for two counts of rape of a thirteen year old child he

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<sup>41</sup> See paragraph 13 of the judgment.

- drove to school. **Curtis Bruce** was sentenced to fourteen (14) years for rape of an 11 year old girl with a mental disability (Mr. Bruce changed his plea to guilty during trial after introduction of DNA evidence) and **Malcolm Spencer** was sentenced to seven (7) years on a guilty plea for rape of a fifteen (15) year old girl who was mentally challenged.
- [43] In cases involving unlawful sexual intercourse with a girl under the age of thirteen, where the maximum penalty in this jurisdiction is only fourteen (14) years, **Andre Penn** was sentenced to concurrent eight year sentences on each of two counts; **Kemuel Dublin** was sentenced to eight (8) years for the same offence and **Shem Jackson** received four (4) years each on three counts, to run concurrently. The victim was eleven years old at the time and the defendant was twenty-two years old.
- [44] English guidelines<sup>42</sup> provide that the starting point for a case involving an adult victim raped by a single offender in a case that involves no aggravating factors at all is five (5) years and eight (8) years where any of the aggravating factors included in the guidelines are involved. However, higher starting points should normally apply in cases involving victims under thirteen. Accordingly, where the victim is a child under the age of thirteen years, a starting point of ten (10) years is recommended (page 23) with a range of 8 – 10 years in custody.
- [45] It is my firm view that there are two particularly aggravating features about the rape committed in this case. First, the victims were very young girls and Mr. Paris was about 50 years their senior. Secondly, and even more poignant, Mr. Paris is their cousin. The complainants' parents, out of the kindness of their hearts, brought Mr. Paris to the BVI and took him into their home rent-free so he can better his life. The breach of trust committed in this case causes injury not just to the children themselves, who were already coping with the loss of their mother to cancer, but indeed, the entire family must feel utterly betrayed by Mr. Paris' act.
- [46] I note in mitigation that Mr. Paris has no previous convictions. However, I also note the remarks of the court in **R v Billam** and **R v Milberry** that "the defendant's good character,

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<sup>42</sup> See **R v Millberry et al** [2003] 1 Cr App R 25; Blackstone's Criminal Practice 2009, B3.7; Sentencing Guidelines Council 'Sexual Offences Act 2003, Definitive Guidance', 2A.

although it should not be ignored, does not justify a substantial reduction of what would otherwise be the appropriate sentence”.

[47] I am again reminded of my observations last year in **R. v. Huggins** when I pointed out that:

“Crimes of a sexual nature particularly where the victims are young school children are on the rise in the BVI. Of the 25 criminal cases for trial in this Criminal Assizes, at least 10 are matters of a sexual nature. The time has come for the court to send out a stern warning that these crimes will not be tolerated. Society is utterly fed up with our adult male population who prey on young school-children for their sadistic sexual satisfaction. Worst of all, **nearly all the time, the rape is committed by someone the victim knows. Not a creepy man in the alley.** [emphasis added]

#### **The sentence**

[48] There is no doubt that a custodial sentence is warranted in this case. Having regard to all the facts and circumstances and taking all matters into consideration, I hereby sentence you, **CAMMILUS PARIS** as follows:

**Count 1- Indecent Assault committed on VC1 – 15 months imprisonment**

**Count 2- Indecent Assault committed on VC2 – 15 months imprisonment.**

**Count 3 –Rape committed on VC2 – 10 years imprisonment.**

[49] Counts 1 and 2 will run concurrently with each other but consecutively with Count 3 from the date that Mr. Paris was first remanded; that is: from 12 May 2010.

[50] For the avoidance of any doubt, Mr. Paris is sentenced to an aggregate of 11 years 3 months imprisonment to commence from 12 May 2010.

**Indra Hariprashad-Charles**  
High Court Judge