

THE EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

CRIMINAL CASES NOS. SLUCRD 2011/2157, 2158

BETWEEN:

THE QUEEN

AND

STEPHEN RAPHAEL CHARLES

Claimant

Defendant

Appearances:

Defendant in person
Mr. Giovanni James Crown Counsel for the Crown

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2012: November 20

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JUDGMENT ON SENTENCING

- [1]. **CUMBERBATCH, J.:** On the night of Saturday 30th July, 2011 Chantal Gonzague (the virtual complainant) went to the Celebrity Sports Bar at Mongiraud. Whist there and on her way from the washroom the defendant tapped her on the buttocks. She objected to this gesture and an oral argument ensued between them. Later that evening the defendant again accosted her and during another oral argument he slapped and punched her in the face causing injuries thereto.

- [2] The medical report of Dr. Aifalrshe reveals as follows:

"The Virtual Complainant sustained a major displacement of the upper maxillary bone. There was active bleeding with the upper lip being swollen with dislocation of the frenum. The extent of the injury ran from Canine to canine in the maxilla zone. In the doctor's opinion the degree of force used had to be a powerful blow, which displaced the teeth that extend from canine to canine. The doctor adds that the degree of force would require maximum force from an adult."

- [3] On the 16th August 2012 the defendant was indicted by the Director of Public Prosecutions for the offence of causing grievous harm to the virtual complainant and at his arraignment he pleaded guilty as indicted.

[4] **THE HEARING**

After the defendant was allocuted, the court ordered a pre-sentence report be produced. This report revealed that the defendant is thirty-two (32) years old and at the time of this incident was employed as a tour guide. He's had limited schooling and from age sixteen (16) was employed in various unskilled jobs. He commenced smoking cannabis at age seventeen (17) with the knowledge of his mother who herself was a consumer of this drug and never disapproved of the defendant's use of same. He was also involved in a gang that sold cannabis. The defendant contends that though he smokes cannabis regularly, he's not addicted to it and does not intend to discontinue its use.

- [5] There were mixed views of the defendant from the community in which he resided. Some persons have described him as helpful and hardworking whilst others stated he has a tendency to threaten others and has displayed aggressive behavior.

[6] **THE LAW**

The court will apply the classical principles of sentencing namely retribution, deterrence, prevention and rehabilitation to the case at bar. I have also found the following to be the aggravating and mitigating factors herein:

AGGRAVATING FACTORS

1. The severity of the injuries inflicted on the defendant;
2. The degree of force used by the defendant, in punching and slapping the virtual complainant;
3. The lack of remorse expressed by the defendant;
4. The defendant portrayed an attitude of disregard and disrespect of and for the rights and dignity of virtual complainant, a female;
5. The defendant's insistence that he would not discontinue his use of cannabis;
6. The defendant's refusal to accept counseling at the Bordelais Correctional Facility for anger management.

MITIGATING FACTORS

1. The defendant's early guilty plea.

I have considered and carried out a balancing exercise on the aggravating and mitigating factors in the context of the circumstances of this case and find that the aggravating factors significantly outweigh the mitigating ones.

[7] SENTENCE

The defendant in his interview with the probation officer indicated that he is not repentant for hitting the virtual complainant in the manner in which he did. He contends that she provoked the conflict situation. He has however stated that he's willing to pay compensation for the injuries caused to the virtual complainant.

- [8] I find that the arrogance of the defendant in refusing help for his drug use and uncontrollable anger to be absurd. The defendant, in his present condition, is a prime candidate for recidivism. I am further concerned about his misguided belief that he did nothing wrong by attacking and injuring the virtual complainant in the manner he did. The defendant offered to compensate the virtual complainant in the sum of seven thousand (\$7000.00) dollars by monthly installments of two hundred (\$200.00) dollars provided he is released from prison and acquires a job. No evidence was adduced by the defendant as to his certainty of obtaining employment which would enable him to compensate the virtual complainant in a timely manner or at all. I therefore find this offer of compensation to be no more than a pipe dream and totally unacceptable.
- [9] I find the actions by the defendant to be both brutal and heinous. The situation is made more egregious by his unrepentant attitude coupled with his ridiculous offer to compensate the virtual complainant provided he is released from Bordelais Correctional Facility to do so. The court must show its adherence by the sentence imposed for this kind of conduct. I further find that the defendant is in need of the appropriate counseling to come to terms with issues of gender equality, anger management and drug abuse. As such it is necessary for him to be confined for a suitable period of time to ensure that his successful rehabilitation.

[10] The offence for which the defendant is convicted carries a maximum sentence of ten (10) years imprisonment. In the circumstances I find that a benchmark of six (6) years to be appropriate. I will deduct two (2) years for his early guilty plea which is the sole mitigating factor herein. Accordingly the defendant is sentenced to four (4) years imprisonment. He will be credited for all time spent on remand whilst awaiting his trial. He shall receive counseling on drug abuse for his cannabis addiction and anger management.



FRANCIS M. CUMBERBATCH
HIGH COURT JUDGE

