

SAINT LUCIA

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

CRIMINAL CASE NO. SLUCRD2012/1938

BETWEEN:

THE QUEEN

Claimant

and

ORTIS ST. ROSE

Defendant

**Appearances:**

Mr. Leon France for the Claimant  
Defendant Unrepresented  
Defendant in Person

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2016: October 4<sup>th</sup>

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**JUDGMENT ON SENTENCING**

- [1] **CUMBERBATCH, J.:** The defendant was indicted for the offence of Sexual Intercourse with a Minor contrary to section 127 (1) of the Criminal Code 2008. At his arraignment he pleaded guilty as indicted.

**FACTS**

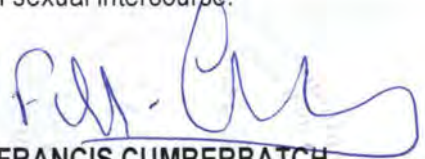
- [2] The defendant at the time of commission of this offence was 42 years old whilst the virtual complainant was 14 years old. He was the boyfriend of the virtual complainant's older sister and the father of her two (2) children. On the 31<sup>st</sup> January 2012 the defendant had unprotected sex

with the virtual complainant who as a result became pregnant with his child. She later bore him a second child hence he has now fathered children with both sisters.

- [4] The defendant states in the Pre-Sentenced Report that he was unaware of the virtual complainant's age when he had sex with her and that he was drunk and it was the virtual complainant who made sexual advances to him. He now has five (5) children with virtual complainant and her sister.
- [5] The maximum penalty prescribed for this offence is 15 years imprisonment. The court is well aware of the increase of offences of this nature committed by male persons significantly older than their victims. In this case the gravity of the offence is exacerbated by the pregnancy of the virtual complainant at a time when her schooling and education ought to be uppermost in her life. She has however been pitchforked into parenthood at an age when she herself is in need of parental care and guidance. Thus in the usual course of events this offence would be met with a stiff custodial sentence.
- [6] There are however certain special circumstances which arise in the case at bar. The defendant is the sole breadwinner and is responsible for the maintenance and upkeep of his children with the virtual complainant and her sister. In his absence the children will be faced with a deprivation of food, shelter and clothing which the virtual complainant is unable to provide.

## **SENTENCE**

- [7] Accordingly the court finds that the welfare of the infant children is a special circumstance to cause it to depart from the usual sentencing guidelines for the imposition of a custodial sentence. In the circumstances the defendant is sentenced to time served.
- [9] He is also place on probation for 6 months during which time he shall perform 60 hours community service and receive counselling on the rights of young girls in matters of sexual intercourse.

  
**FRANCIS CUMBERBATCH**  
High Court Judge