

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

ON ANTIGUA & BARBUDA

CASE NO. ANUHCR2016/0140

REGINA

V

JOSEPH PETERS & LBK<sup>1</sup>

**APPEARANCES**

Mr Adlai Smith for the prosecution.

Mr Ralph Francis for Peters.

Mr Lawrence Daniels for LBK.

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**2017: December 19**

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**SENTENCE**

- 1 **Morley J:** Joseph Peters and LBK fall to be sentenced for a single offence of demanding \$200000ec with menaces on 06.04.15 from a businessman named Abelard Reis. The offence is more commonly known as blackmail. Peters was convicted by the jury on 25.10.17, while LBK pleaded guilty after hearing the compelling prosecution opening of the case before an earlier jury on 18.10.17.
- 2 Peters is 47, a police officer, in the beat and patrol department, and joined the police in January 1994. Though originally from Dominica he is an Antiguan citizen. He has seven

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<sup>1</sup> LBK cannot be identified because to so will identify her daughter who has anonymity.

children, six being teenagers, the last being aged three, while he cares for a stepdaughter Taren, who has an older sister in her twenties named Talitha.

- 3 LBK is 39, originally from Guyana, living on Antigua for 22 years, and is the mother of five children, two being adults, two being under 10, and one being now 17 named KP, who, importantly, in April 2015 was then aged 15.
- 4 LBK fell into a relationship with Karim O'Garro, who knew Peters, and it was O'Garro who masterminded a plan to extort money from Reis. O'Garro has been separately sentenced as he gave evidence in the trial against Peters. The plan was that, KP (with the approval of LBK, being her daughter aged 15), and Talitha (with the approval of Peters, being the adult sister of his stepdaughter Taren), would both have sex for money with Reis in condo 29 at Pillar Rock. Peters would be in police uniform and lie in wait, making an excuse to the caretaker Emmanuel Tittle that he was looking for a cricketer, to suggest he was present entirely by coincidence. On exiting the condo, he would challenge Reis that KP was underage, and threaten him with arrest in the expectation he would be so terrified he would agree to pay a large sum of money to LBK, to be split five ways: to O'Garro, LBK, Peters, KP, and Talitha.
- 5 The plan was fully executed. The girls were dropped off by O'Garro, picked up by an unwitting Reis (who in evidence said he believed both girls to be of age, and only had sex with Talitha), they were taken to the condo, sex occurred, and on exit Peters was waiting in uniform, despite his being off-duty. He pretended to be uncertain of KP's age, and a call was made to her mother, LBK, pretending to be named Donna. He put handcuffs on Reis to add to the terror. He told him to wait for the mother, who was driven to Pillar Rock by O'Garro, who remained out of sight. She played her role as combative and angry, while Peters suggested the two speak privately, and taking LBK to one side told her to '*charge him big, go big, coz he have money*', overheard by Tittle who held his head in shock. LBK began by demanding \$600000ec, and settled for \$200000ec, to be paid in the form of a brand new car, a Ford Ecosport SUV valued at \$91000ec, with additional payments of \$9000ec monthly. LBK left the scene with Reis, and both went to the motor car business in which he works named Harney Motors, where

paperwork was performed, and on 08.04.15 she received the car, then agreeing to reduce the extortion to \$150000ec.

6 From the pre-sentence reports, Peters has said he is innocent (p2); and LBK has said there was no plan with Peters and others, instead that she was trying to protect KP from embarrassment (p2) by not processing a valid police complaint and so should not have taken the car. I do not treat their continuing protestations of innocence as aggravating, but do observe that these do undermine the extent there is any remorse as mitigation.

7 During the trial, KP gave evidence against Peters, and became visibly upset when contemplating what would happen to her mother at sentence, not wanting her to go to jail. KP is now living in a girls' home, away from her mother, inevitably as a result of her mother being party to offering her for underage sex, (the age of consent being 16 on Antigua). I had adjourned the sentence from 12.12.17 to hear from KP further, and have now read a neatly handwritten note, in which she says:

- a. *It hurts me to see how distanced my mother is from me because I am so accustomed to being very close to her.*
- b. *I know that what me and my mother did was wrong...but I blame myself the most because I could have avoided bad company but I was young and immature.*
- c. *My mother is struggling now with my two little brothers...and for her to be taken away it will be a burden for them, and I feel that I may hurt myself. There is nothing in this world that I could want for Christmas and for the rest of my life than to be with mommy again.*
- d. *Being in the girls home for these three years...sometimes makes me feel depressed...I wake up and am still there when I know I should be with my mom...I would love to spend the rest of my years with her at home.*
- e. *Please tell her I am sorry for not making our happy life that we had perfect, and that I will always love her and would never stop.*

8 During mitigation by Counsel Daniels lasting over an hour for LBK, Pastor Clifford Hayes, an associate minister of the Belmont Church, and radio talk show host, was called to speak of her good character and caring nature, particularly with her children and the elderly for whom she

cares at the Woodlands home. He has not met KP and had been praying hard for a suspended sentence. However, he readily agreed he did not know all the facts of the case. Her primary mitigation from Counsel was that she pleaded, though late, this showed reflection, she spared her daughter giving evidence against her, she has two children under 10, she has overcome great personal difficulty, being pregnant at 17, at one point was raped, which had affected her psychologically, so that she had 'strayed from the path', her behavior being out of character, as she is of good character, reinforced by the pastor, was hardworking, usually in employment, and so overall she should be spared jail with a second chance.

- 9 During mitigation for Peters, in admirably short to the point submissions from Counsel Francis, it was said he had lost his pension though having served 23 years, he was financially responsible for his large family, five children being under 16, his wife had had surgery arising for the stress of his conviction, and without his bringing in an income would likely lose his family home, as there was a mortgage to the bank. In addition, it was stressed he would have a more difficult time in prison as a police officer and would have to be separated from the other inmates, and it was suggested there could theoretically be more serious blackmail, though counsel could not offer any clear examples.

#### *Construction of the sentence*

- 10 On Antigua and Barbuda, 'demanding with menaces' is contrary to s35 *Larceny Act Cap 241*, and the maximum sentence is only 5 years.
- 11 Turning to my approach to the sentence, it is considerably aggravating that Peters is a police officer. By this offence he has been found to be corrupt. When the police are corrupt, civilization falls. This must mean that for him a deterrent sentence is inevitable. Moreover, the nature of the plan is considerably aggravating, being a plan as a police officer, (and in any event), to pimp an underage girl in order to make a large sum of money: this redoubles the criminality against Peters; and as against LBK, she is in breach of the sacred trust placed in her by her daughter KP, and the community, who instead expect she should protect her as her

mother from being used for such activity. It is judicially frustrating that the maximum is so low, differing for example from the UK where it is 14 years<sup>2</sup>.

- 12 If the maximum is five years, then I assess the starting point for both Peters and LBK, co-equally playing their roles as part of an organized joint criminal enterprise to extort as much as \$200000ec, dividing the spoils evenly, is each three years in prison.
- 13 Considering the aggravating circumstances: because he is a police officer, for Peters it is increased to the maximum of five years, noting the maximum is low, while I can think of no greater culpability in blackmail than that an officer of the law uses his powers and uniform to extort money in child prostitution; while for LBK, because she is KP's mother and hugely in breach of trust, it is increased to four and a half years.
- 14 As to mitigating features, for Peters I take into account his good character, but only to a very limited extent as he could be expected to be of good character as a police officer, and in addition I do appreciate it will be difficult in jail for him, and that he has suffered the huge loss of his long worked-for pension and financial security, for him and his family, (though he will have fully known both would follow if caught as a police officer committing blackmail), and so I reduce the sentence by a full year to 4 years, being 48 months. As to LBK, who is an ordinary civilian, I take into account her good character and encouraging words from the pastor, and that she had fallen under the spell of O'Garro, the mastermind, so that I take off a year, so that it now stands at 42 months. In addition, and in particular, I take into account the distressed plea of her daughter KP, who impressed me when she gave evidence, very much wishing to re-bond with her mother, so that she is not overlong in jail, and so I reduce the sentence further by as much as 18 months, meaning it now stands at 2 years, being 24 months.
- 15 LBK pleaded guilty, though late, and while entitled to some discount, cannot expect a full 33%. However in the circumstances, given how there were pre-trial changes to the indictment, and uncertainties about whether KP and O'Garro would give evidence, I do recognize that settling

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<sup>2</sup> As per s21 *Theft Act 1968* as amended, in the UK.

on exactly how the case would proceed will have been difficult for Counsel Daniels to advise on, so that I will allow 25%, meaning six months, reducing the sentence to 18 months.

- 16 Concerning LBK, I now consider whether I should suspend her sentence, as it is less than two years. I am conscious she has two children under 10, though note from the pre-sentence report that her aunt and mother are to hand on Antigua. She has been sternly warned that, though on bail since 18.10.17 pending sentence, the court will be considering custody. It is often the case that a mother having young children might be spared jail, as to incarcerate her is to punish the children. However LBK has not proved herself a reliable parent in her treatment of one daughter, namely KP, so that the Court is not persuaded of an unimpeachable requirement for her to care for the two youngest. Moreover, having children is not an automatic bar to custody. Weighing the public expectation that this offending will merit a custodial term, as necessary, just and deterrence to others, and recalling as Counsel Daniels elegantly put it, *'this is an offence screaming out for custody'*, notwithstanding KP's plea, already fully taken into consideration, I will not suspend the sentence, but observe that KP can take full heart that she has greatly helped her mother today in so greatly reducing her time in jail.
- 17 *Joseph Peters and LBK, please stand up.* For the reasons explained, for blackmail as a police officer, you Peters are sentenced to 4 years in prison, being 48 months, and for pimping your underage daughter in order to extort money, who has pleaded so eloquently for you, you LBK are sentenced to 18 months in prison. Time spent on remand will count toward both sentences. You will each will serve two-thirds before being eligible for automatic remission for good behavior. You may go down.

**The Hon. Mr. Justice Iain Morley QC**

**High Court Judge**

**19 December 2017**