

BARBADOS

IN THE SUPREME COURT OF JUDICATURE

HIGH COURT

CRIMINAL DIVISION

Indictment No. 135/2019

BETWEEN:

THE QUEEN

Prosecution

AND

ALONZA OLIVER JUNIOR BLACKMAN

Accused

Before: The Honourable Carlisle Greaves, Judge of the High Court

Date of Hearing: 2020 August 24

Date of Judgment: 2020 October 30

Appearances:

Mr. Rudolph Burnett for the Prosecution

Accused Self-Represented

DECISION

Rape and Burglary, Sexual Offences Act, Cap. 154; p.24; Theft Act, Cap. 155. Guilty plea. Sentence of 16 years and 8 years respectively after discounts.

CARLISLE GREAVES J:

INTRODUCTION

[1] On the 24th July 2020, the accused was arraigned and pleaded guilty to both counts on a two count indictment dated 4th June 2019 for the offences of rape contrary to **section 3 (1)** of the *Sexual Offences Act, Cap. 154* and Burglary

contrary to **section 24 (1) (a)** and **2 (a)** of the *Theft Act, Cap. 155* both offences having been committed on the 22nd May 2019.

THE FACTS

- [2] The facts are that the 34 year old complainant lived in a three bedroom wall constructed home with her mother who is hearing impaired.
- [3] On that night about 3 am she was alerted by her barking dogs and rose to investigate. She discovered a man crouching in her home and noticed the screen from one of her windows was removed.
- [4] The accused man then grabbed and choked her, a struggle ensued, he forced her into her bedroom, smothered her with a pillow as she screamed and he raped her repeatedly.
- [5] Her mother who was in an adjacent bedroom did not hear her due to her hearing impairment.
- [6] Thereafter, the accused informed her he had liked her a long time and upon his leaving he threatened her not to tell anyone, else he would return and kill her.
- [7] She reported the matter to the police and the accused was arrested on the 22nd May 2019 at his home.
- [8] Two days later he gave the police a written statement in which he confessed he accessed the house through the bathroom window, looked around for

something to take but saw nothing he wanted, then saw the complainant, struggled with her and raped her despite her informing him she was pregnant.

THE SUBMISSIONS

- [9] In respect of the rape the prosecutor relied upon the cases of Mayers v. The Queen. Crim. App. No. 22 of 2009 in which the Court of Appeal referred to rape as an act of violence against women and referred to its serious nature and impact on the victim, including the risk of sexual disease, unwanted pregnancy and other injuries, including psychological harm. He also cited Carl Maloney v The Queen, Crim App. No. 15 of 2012 in which the Court of Appeal citing Hodgson v The Queen (1968) 52 Cr. App. Rep. 113 set out the circumstances in which a more serious sentence such as life imprisonment maybe justified.
- [10] In respect of the Burglary the prosecution relied upon the case of Sherlan Joseph v The Queen Crim. App. 1A of 2005 in which relying on Brewer v R [1998] per Lord Bingham, the CA drew a distinction between sentencing for burglary and other crimes, including the distinction between professional burglars, for which greater sentences are to be expected, and others who may attract more lenient sentences.
- [11] He referred to the accused's probation report as horrendous and cited his heavy drug use, his historic rude and disrespectful behaviour, frequent

suspension from an older secondary school leading to his expulsion at age 14 and the probation officers' opinion that he is at high risk of reoffending contributed to by his association with negative peers, high drug use, low educational attainment, lack of permanent employment and family support and a criminal history.

THE AGGRAVATING FACTORS

[12] The prosecutor did not suggest separate sentences for the two offences but he cited the aggravating factors as including: the victims age and profession, a teacher, the risk of unwanted pregnancy and sexually transmitted disease, especially since the accused did not wear a condom, her flash backs and need for counselling, the long addiction of the accused to marijuana and his committal of the offence under its influence, the late hour of the night the accused breached the security and entered the sanctity of the victims home, the physical attack upon the victim, including the choking and smothering of her, his threats to kill her after he raped her, and his propensity to commit further like offences evidenced by his five previous convictions of which four were for burglaries at homes occupied by women alone.

[13] I accept as aggravating the factors cited by the prosecution.

THE MITIGATING FACTORS

- [14] The prosecutor cited the accused's early guilty plea and the commission of the offence under the influence of marijuana.
- [15] I accept the early guilty plea as a mitigating factor and will allow the appropriate discount therefor.
- [16] The prosecution submitted that the appropriate starting point should be 20 years and that the mitigating factors are outweighed by the aggravating factors, thus an additional year should be added. A discount of 1/3rd should be allowed for the guilty plea, a reduction be allowed for the time spent in custody and a sentence of 12 years now to be served should meet the justice of the case.

THE DEFENCE RESPONSE

- [17] The defence has had the opportunity to study the written submissions of the prosecutor and he has had opportunity to view this draft judgment and to make comment upon it if he wished. He has expressed no issues with it. He has also given a worthy account of his remorse and regret for his previous indiscretions and has pledged to change his ways as he is now maturing. I find some sympathy for his disposition and sincerely hope he will find a new path.

DISPOSAL

- [18] The maximum sentence for the offence of burglary under the above section is 14 years imprisonment.
- [19] The maximum sentence for the offense of rape under the above section is life imprisonment.
- [20] I have considered **section 35** of the *Penal System Reform Act, Cap. 139* and am satisfied that for these offenses there is no alternative but a custodial sentence.
- [21] In respect of the burglary, I take into account the accused's previous convictions for the like offence and hold the view that he is at high risk of re-offending.
- [22] In the circumstances I conclude that an appropriate starting point for that offence should be 12 years and with a 1/3rd discount for the guilty plea the appropriate sentence should be 8 years.
- [23] In respect of the rape, I consider the appropriate starting point in these circumstances, namely that it was a stranger rape, committed in the dark of the night in the victims home, during which he struggled, choked and smothered her and exposed her to possible venereal diseases and unwanted pregnancy, together with his threat to kill her if she reported it, should be not less than 20 years.

[24] I consider that the further personal aggravating factors, including his propensity to burgle the homes of live alone females, and his real likelihood of reoffending as evidenced by his previous convictions together with his now demonstrated likelihood of advantaging the opportunity to rape a female as demonstrated in this case, attracts an increase in sentence to at least 25 years for the rape.

[25] In the circumstances, I consider a sentence of 25 years imprisonment to be appropriate, less a full 1/3rd discount for the guilty plea, less 90 days remand as at 9th October 2020. The sentence to be now served for the rape is rounded off to his advantage at 16 years imprisonment with effect from 9th October 2020. The sentence of 8 years imprisonment for the burglary shall be served concurrently.

Carlisle Greaves
Judge of the High Court