

IN THE SENIOR COURTS OF BELIZE

CENTRAL SESSION-BELIZE DISTRICT

IN THE HIGH COURT OF JUSTICE

INDICTMENT NO.: C9/2025

BETWEEN:

THE KING

and

HENRY HULSE

Prisoner

Before:

The Honourable Mr. Justice Nigel C. Pilgrim

Appearances:

Mrs. Shanell Fernandez-Peyrefitte, Senior Crown Counsel, for the Crown.

Mr. Norman Moore for the Prisoner.

2025: July 7, 8 and 9;
October 8;
December 8 and 17.

JUDGMENT

SENTENCING-RAPE OF A CHILD

[1] **PILGRIM, J.:** Henry Hulse (“the prisoner”) was indicted for rape of a child, contrary to section 47A of the Criminal Code¹ (“the Code”). The allegation in summary is

¹Chapter 101 of the Substantive Laws of Belize, Revised Edition 2020.

that on 10th June 2024, the prisoner forced D, an 11-year-old boy, to suck his penis while on an abandoned bus in Ladyville where the prisoner lived at the time.

- [2] The prisoner was convicted after a bench trial on 8th October 2025. The Court ordered pre-sentencing reports. There was also a sentencing hearing on 8th December 2025. It is now the duty of the Court to determine a just sentence. The Court will begin by examining the legal framework underpinning this exercise.

The Legal Framework

- [3] The sentencing regime for rape of a child is set out at section 47A of the Code which provides, where relevant:

“47A. Every person who rapes another person and that person is under the age of sixteen years commits an offence and is liable on conviction on indictment to –

...

*(b) imprisonment for **not less than fifteen years, but may extend to life**, where that other person was **under the age of fourteen years** at the time the offence was committed.” (emphasis added)*

- [4] The elements of this offence, as relevant to this case, are that: (i) the prisoner by even the least degree penetrated D’s mouth; (ii) that penetration was with the prisoner’s penis; (iii) that penetration was without D’s consent; (iv) the prisoner knew or did not believe D was consenting; and (v) D was under the age of 16.
- [5] The Court is now guided by the **Sentencing Guidelines of the Senior Courts of Belize**² (“the Belize Sentencing Guidelines or BSG”). It is a valuable repository of carefully considered legislative and judicial guidance on sentencing and provides

²Statutory Instrument No. 15 of 2025.

ranges of sentence to appropriately tailor that discretion. However, as the BSG itself notes,³ and the Caribbean Court of Justice (“CCJ”) has opined in **Burton et al v R**⁴ that the sentencing guidelines are not a strait-jacket, but its ranges should not be departed from without sufficient justification.

[6] The general principles of sentencing are helpfully captured in the **General Sentencing Guidelines of the Senior Courts of Belize**⁵ (“GSG”), as relevant to this case:

“ 3.1. In every case, it is the duty of the sentencing judge to strive to arrive at a just sentence. A just sentence is one which promotes respect for the law and its processes by reflecting adequately – and proportionately – an appropriate mix of all the relevant factors. Such a sentence is expected to fit the crime as well as the offender.

3.2 In order to arrive at a just sentence, the court is expected to apply the generally accepted principles of sentencing against the background of the nature and seriousness of the offence, the circumstances surrounding its commission and the personal circumstances of the offender.

3.3 The classic and primary objectives of sentencing which require consideration in conducting the sentencing process are–

- (a) the retribution (otherwise referred to as “denunciation”);*
- (b) deterrence (vis-à-vis both potential offenders and the particular offender then being sentenced);*

³GSG at PD 1.4.: “Importantly, however, these Sentencing Guidelines are not intended to–

(a) achieve exact uniformity in sentences; or

(b) restrict the courts’ discretion to determine the appropriate sentence to be passed in individual cases.”

⁴[2014] 84 WIR 84 at para 13.

⁵ Practice Direction No. 4 of 2025.

- (c) *prevention; and*
- (d) *rehabilitation.*

3.4. The ‘first and foremost’ principle of sentencing is the public interest in punishing and preventing crime. The public interest provides an overarching framework in which the specific aims operate.

3.5. Ultimately, the sentencing process will require balancing both the public interest and the interests of the individual offender.”

[7] This offence has a mandatory minimum sentence. The **Indictable Procedure Act**⁶ (“IPA”) provides at section 160(2)(b) that under that Act the Court cannot sentence the prisoner to a term below the mandatory minimum for an offence under section 47A of the Code.

[8] The Court, however, has an overriding constitutional discretion,⁷ if it believes that the sentence is inhuman or degrading, to impose a sentence lower than the mandatory minimum as decided by the Court of Appeal in **R v Zita Shol**.⁸ The **Sentencing Guidelines of the Senior Courts of Belize for Mandatory Minimum Sentences**⁹ is also instructive.

The facts

[9] On the night of 9th June 2024, D visited the prisoner at an abandoned bus where the prisoner resided. The prisoner allowed him to stay, and D remained there overnight. The prisoner did not contact the police or D’s family. The following day, on 10th June 2024, D went to a grocery near the bus to “hustle.” At about 12:00

⁶Chapter 96 of the Substantive Laws of Belize, Revised Edition, 2020.

⁷See section 7 of the **Constitution**: “No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.”

⁸Criminal Application No. 2 of 2018 at paras 14-19.

⁹Practice Direction No. 11 of 2025.

p.m., the prisoner called D to the bus. The prisoner then made D kneel, took out his penis and pulled D's head onto it. The prisoner put his penis in D's mouth. D told the prisoner to stop and attempted to leave but the prisoner held him and prevented him from doing so. D said he sucked the prisoner's penis 3 times. At one point "some white thing" came out of the prisoner's penis into D's mouth. D ran outside and vomited it out of his mouth.

- [10] D's brother, J, approached the bus and made observations that caused him immediate concern. Police officers were already nearby attending to an unrelated matter. J's report prompted the officers to intervene, and the prisoner was detained.
- [11] At the time the prisoner engaged in oral intercourse with D, he was 11 years old, having been born on 20th January 2013. The prisoner was 69 years old at the time of the offending.

Analysis

- [12] The sentencing of the prisoner will be guided by the **Sentencing Guidelines of the Senior Courts of Belize for Sexual Offences**¹⁰ ("the Belize Sexual Offences Guidelines or BSOG").

A. Harm

- [13] The Court must begin the process by seeking to gauge the consequences of the offence by reference to the harm caused. The Court finds that this offence caused "Category 2-High" harm. This is because the Court finds, based on D's Victim Impact Statement ("VIS"), that D was caused serious psychological harm and significant humiliation by the offending. The word "serious" is defined in the

¹⁰Practice Direction No. 14 of 2025.

Cambridge English Dictionary as “severe in effect; bad”¹¹ and the Court adopts it as applicable to “serious psychological harm” in the BSOG.

- [14] In his VIS, D stated that he is “sad” and “angry”. Although D did not articulate his experiences with expansive psychological terminology, the Court is not confined to the sophistication of a child’s vocabulary. Children often express trauma in the plainest language. A statement as simple as feeling “sad” and “angry” can, in context, reflect a deeper dislocation or emotional injury. He said that he is sad because he misses his grandmother. In this regard the Court considers that D was removed from his ordinary sense of security, however fragile that security already was. He also said that he is angry and sad because his brother teased him about what occurred. For a child of his age, such ridicule is more than mere sibling mischief; it sharpens the sense of shame associated with the offending itself. Teasing in this context is a vector through which the child’s humiliation is reinforced and prolonged. It is a humiliation grounded directly in the offending, and it compounds the psychological harm already suffered. For a child already navigating emotional and social fragility, these effects are far from trivial. These mental scars left by the prisoner leave the Court in no doubt that D has, and is, suffering from serious psychological harm and significant humiliation.

B. Culpability

- [15] The next stage is to consider the culpability of the offender, in the context of the offending, to determine the offence’s seriousness. This would be ranked under the BSOG as “Level A - High” offending because of the following factors:

- i. **Abuse of a position of trust:** By the prisoner’s own account, he had known D for approximately 2 to 3 years; he saw him frequently in the neighbourhood; he described D as his “friend”; and he said he taught D how to read and write.

¹¹<https://dictionary.cambridge.org/dictionary/english/serious>

As there is no fixed legal definition of who is in a position of trust, as noted in the Trinidadian Court of Appeal decision of **Terry Daly v The State**¹², the Court finds that this created a relationship in which D, a child, viewed the prisoner as a familiar, guiding and trustworthy adult. It is because, on some level, he trusted the prisoner that he showed up to the bus the night before and returned when he called to him the following day. This is a significant aggravating factor.

- ii. **Significant disparity of age**: The prisoner was 58 years older than D. He was a very mature man of the world dominating a child. This is a significant aggravating factor.

C. Starting point

- [16] The BSOG suggests a starting point, in the context of the seriousness of this offence, of 15 years' imprisonment and a range of 13-18 years' imprisonment. The Court selects the starting point of 16 years imprisonment. A custodial sentence is justified by the overriding public interest in protecting children from the potentially catastrophic mental and health consequences of sexual intercourse with adult men. The Court goes above the suggested starting point owing to the particularly bad factor of a breach of a position of trust as noted by the CCJ in **AB v DPP**,¹³ where Jamadar JCCJ referred to it as factor making it "distinct in its severity". This is a factor, in the context of offending against children, which in the opinion of the CCJ in *AB*, could justify a life sentence¹⁴. Courts must send a clear message that it is extremely hazardous for persons in a position of trust to a child to use that trust to prey on them.

D. Aggravating factors in relation to the offending

¹² Cr. App. No. 1 of 2012 at para 25.

¹³[2023] 105 WIR 339 at para 19.

¹⁴ Para 23.

[17] The aggravating factors of this offending, in the Court's view, are as follows:

- i. **The prevalence of the offence**: The dockets of the Senior Courts are overflowing with indictments alleging sexual intercourse of grown men with children and there have been a significant number of convictions. The Court must send a message to let grown men know that children are radioactive and touching them will result in dire consequences. The CCJ, in *AB*, noted that “[c]hild abuse casts a shadow the length of a lifetime.” Further, the CCJ in *Linton Pompey v DPP*,¹⁵ opined, per Jamadar JCCJ:

“[45] Children are vulnerable. They need to be protected. Children are developing. They need to be nurtured. Children are precious. They must be valued. Society has these responsibilities, both at private individual levels and as a state. Sexual offences against children...is anathema to the fabric of society. The idea of it is morally repugnant. Its execution so condemned, that the State has deemed, as an appropriate benchmark, imprisonment for life as fit punishment in the worst cases.

[46] The Universal Declaration of Human Rights asserts as its first principle, that all humans are born free and equal in dignity and rights. Children, minors, and all vulnerable young persons are owed a special duty of protection and care, by both the society at large and the justice system in particular, to prevent harm to and to promote the flourishing of their developing and often defenceless personhoods. They, no less than, and arguably even more than, all others, are entitled to the protection and plenitude of the fundamental rights that are guaranteed in Caribbean constitutions...Thus, just as an accused must be afforded all rights that the constitution and the common law assure, so also must

¹⁵[2020] CCJ 7 (AJ) GY.

care be taken to ensure that victims, especially those that are children, minors, and vulnerable, are also afforded the fulness of the protection of the law, due process and equality.”

- ii. **Exploitation of a vulnerable victim:** The Court also accepts the Crown’s submission that the prisoner perceived this as a crime of opportunity, shaped by the child’s circumstances. D was young, unsupervised, poor, and lacked consistent guidance. The prisoner was aware of these realities and exploited them. The secrecy of the bus, the child’s hunger, and the absence of immediate guardianship combined to create conditions in which the prisoner likely believed that the offending would go undetected, but for the fortuitous intervention of J and the presence of police in the area. The Court is satisfied that the prisoner abused the vulnerability he observed.
- iii. **Exposure of another child and family member to the offending:** J approached the bus and, through a window, saw conduct that immediately caused him alarm. The presence of J materially aggravates the seriousness of the offence. It expanded the harm beyond the primary victim. J was exposed to conduct wholly inappropriate for a child to witness, particularly as D’s brother.
- iv. **Ejaculation:** The prisoner ejaculated in D’s mouth. The fact that the offending progressed to completion is a material aggravating factor. It demonstrates that the prisoner persisted until the act reached its culmination, despite the child’s objections and efforts to disengage. Moreover, the act caused D to vomit, highlighting the physical and psychological trauma inflicted.
- v. **Sustained course of conduct:** The aggravation is heightened by repetition. D said he sucked the prisoner’s penis 3 times. Repetition indicates a sustained course of conduct, during which the prisoner had multiple opportunities to desist and chose not to do so. Each repetition compounded the child’s distress and degradation.

[18] The Court will consequently uplift the sentence by 6 years, paying particular regard to the devastating effect of the prisoner's act of ejaculating in D's mouth, and J's exposure to his brother being violated. The Court adopts the characterization of the Trinidadian Court of Appeal decision of Lyndon Ramah et al v The State¹⁶ that accepted that crimes occurring in the presence of family members indicates a "more than usually serious degree of harm." This would take the notional sentence to 22 years imprisonment.

E. Mitigating factors of the offending

[20] The Court is of the view that the mitigating factor of the offending was that no violence above what was needed to commit the offence was used. In the context of this offending, namely its egregious nature by virtue of the breach of trust, the public interest would cause the Court to give this factor little weight. It will deduct 6 months from the sentence leaving a sentence of 21 years and 6 months.

F. Aggravating factors relating to the offender

[21] There are no aggravating factors relative to the offender.

[22] The Court notes that the prisoner has several convictions for unrelated offences, including for theft, possession of controlled drugs and burglary. His most recent conviction was in 2012, and he has not offended in the 12 years since. The Court will not rely on those stale convictions in aggravation.

G. Mitigating factors relevant to the offender

¹⁶ Cr. App. Nos. 34 and 35 of 2015 at para 7.

- [23] The mitigating factors relevant to the offender are his lack of relevant convictions; no prison infractions despite being on remand for more than 1 year awaiting trial; and general good character.
- [24] The Social Inquiry Report ('SIR') paints a picture of a man whose life has been marked by instability but also perseverance. His childhood, while not abusive, was unsettled. He frequently got into trouble at school and eventually spent a period in a hostel, from which he was released for good behaviour. He worked while at the hostel, showing early signs of responsibility. He migrated to the United States and, as an adult, held steady employment, received further education, and even operated a small business. He is the father of three children. The SIR also notes that he has endured significant hardship including imprisonment abroad, deportation, and homelessness which led to him living in an abandoned bus. These matters do not excuse his conduct but offer context to the difficulties he has faced.
- [25] In the SIR, a member of his community who has known the prisoner for 5 years, described him as calm, well-mannered, respectful, and someone who was not always treated kindly by others.
- [26] There is material suggesting that he retains some capacity for rehabilitation, particularly with structured support, given his age, history of employment, and the positive impressions held by those who interacted with him outside the criminal context. However, any reduction for these mitigating factors must be measured against the gravity of the offending, which is serious, calculated, and involved the exploitation of a profoundly vulnerable child. Weighing these considerations, the Court considers that a modest reduction is appropriate, but one that does not overshadow the seriousness of the offence. In this regard the Court would reduce the sentence by 2 years to one of 19 years and 6 months imprisonment.
- [27] The Court is cognisant of the prisoner's advanced age, and he has raised the fact that he suffers from cataracts in mitigation. However, age or infirmity ought not to defeat the

public interest in the imposition of an appropriate sentence. The Court is assisted by the 2021 English Court of Criminal Appeal case of **R v DM**¹⁷. This was a case of a 77-year-old appellant who was suffering from cancer but had been convicted of historical sexual offences against his child. The Court dismissed his appeal against sentence. That court opined, per Spencer J:

“28...Those who are gravely ill or severely disabled, or both, may well have to be imprisoned if they commit serious offences. Their condition cannot be a passport to absence of punishment.

29 The court in Stephenson referred to the case mentioned by the judge in her sentencing remarks, *R. v Clarke and Cooper* [2017] EWCA Crim 393; [2017] 2 Cr. App. R. (S.) 18, where it was said, at [25]:

“Whilst we consider that an offender’s diminished life expectancy, his age, health and the prospect of dying in prison are factors legitimately to be taken into account in passing sentence, they have to be balanced against the gravity of the offending, (including the harm done to victims), and the public interest in setting appropriate punishment for very serious crimes. Whilst courts should make allowance for the factors of extreme old age and health, and whilst courts should give the most anxious scrutiny to those factors ... we consider that the approach of taking them into account in a limited way is the correct one.”

...

32 ...reduced life expectancy is not in our view in itself a justification for reducing his sentence even as an act of mercy. These were very serious offences which have had a lasting life-long impact on his victim. He continues to deny his guilt. He has roughly two-and-a-half more years to serve before he is eligible for parole. Should his condition deteriorate significantly it will be open to the Secretary of State to transfer him to hospital or to consider early release on

¹⁷ [2021] 2 Cr. App. R. (S.) 34.

compassionate grounds. Those are matters for the Secretary of State and the prison authorities and not for this court.

33 For these reasons, despite the very helpful submissions of Mr Malik, we are not persuaded that this sentence was or has become manifestly excessive. Accordingly, the appeal must be dismissed.” (emphasis added)

- [28] The Court will also refer to the decision of the ECCA in the case of **Attorney-General's Reference No 14 of 2015**¹⁸. In that case, a 90-year-old diabetic, who had suffered a stroke, heart attack and an onset of dementia, was convicted of historical sexual offences and was given a 2-year suspended sentence on the ground of those medical issues. The ECCA found that sentence unduly lenient, quashed it and increased it to 5 years imprisonment noting that even with those medical issues the public interest must be considered, per Lady Justice Hallett DBE, VP:

“[16] The principles are clear. A sentencing judge is entitled to make some allowance for an offender's medical condition... However, such allowance is limited. The court cannot lose sight of the overall and principal purposes of sentencing, particularly in cases as serious as this.” (emphasis added)

- [29] The Court, in its discretion, owing to the egregious nature of this offence will accord no discount for age or the medical condition of cataracts which cannot be reasonably regarded as life threatening.

H. Time spent on remand

- [29] In accordance with the BSOG and the principle affirmed by the CCJ in **Romeo da Costa Hall v The Queen**,¹⁹ the Court would deduct the full time spent on remand. The prison records show that the prisoner has been on remand since being charged

¹⁸ [2015] EWCA Crim 949.

¹⁹[2011] CCJ 6 (AJ).

with this offence. The Court would backdate the sentence to the date of his first remand, that is from 12th June 2024, pursuant to its powers under section 162 of the IPA²⁰.

I. Ancillary orders

- [30] The Court is mandated by sections 65(1) and (2) of the Code for this offence to make orders for the treatment of the offender and reporting conditions.

Disposition

- [31] The Court sentences Henry Hulse for the rape of D, a child of 11 years, on 10th June 2024, to a term of 19 years and 6 months imprisonment with effect from 12th June 2024.

- [32] The Court also makes the following ancillary orders:
- i. Henry Hulse is to undergo mandatory counselling and receive such medical or psychiatric treatment at the Belize Central Prison as is appropriate for sexual offenders.
 - ii. Henry Hulse shall not change his residence, on release, without prior notification to the Commissioner of Police and to the Director of Human Development in the Ministry responsible for Human Development, Women and Youth, and shall comply with such other requirements as the Commissioner of Police may specify for the protection of the public.

Nigel C. Pilgrim
High Court Judge
Criminal Division
Central District
Dated 17th December 2025

²⁰See **R v Pedro Moran**, Criminal Application No. 1 of 2017 at para 38.