

IN THE COURT OF APPEAL OF BELIZE A.D. 2026

CRIMINAL APPEAL NO. 4 of 2025

BETWEEN:

BENITO PANTIN

Appellant

and

THE KING

Respondent

Before:

The Hon. Mme. Louise Esther Blenman

Chief Justice

The Hon. Mme. Minnet Hafiz Bertram

President

The Hon. Mme. Sandra Minott-Phillips, KC

Justice of Appeal

Appearances:

Mr. Hurl Hamilton, for the Appellant

Mrs. Shanidi Chell-Urbina, Senior Crown Counsel and Ms. Lavinia Cuello, Crown Counsel, for the Respondent

2026: June 15;
August 5

JUDGMENT

Introduction

[1] **Blenman, C.J.:** This is an appeal by Mr. Benito Pantin ("Mr. Pantin") against both conviction and sentence. Mr. Pantin was tried before the Honourable Mr. Justice Raphael Morgan ("the learned trial judge"), sitting without a jury pursuant to **section 65A(2)(g) of the Indictable Procedure Act**,¹ on one count of rape of a child contrary to **section 47A of the Criminal Code**.² On 14 November 2024, the learned trial judge found Mr. Pantin guilty as charged. Following a separate sentencing

¹ Chapter 96 of the Substantive Laws of Belize (Revised Edition) 2020 as amended by the Indictable Procedure (Amendment) Act, 2022.

² Chapter 101 of the Substantive Laws of Belize (Revised Edition) 2020.

hearing, the learned trial judge imposed a sentence of seventeen (17) years, nine (9) months and two (2) days' imprisonment. Mr. Pantin, being dissatisfied with both conviction and sentence, now appeals to this Court.³

- [2] The Crown opposes the appeal and contends that both the conviction and sentence should be affirmed. It is therefore necessary to set out the factual and procedural background in some detail in order to place the issues arising on the appeal in their proper context.

Background

The Prosecution's Case

- [3] The prosecution's case in the court below was that, approximately one (1) week after O's tenth birthday in April 2019, O and her cousin, M, obtained permission from their parents to visit another cousin, N, who was at the home of N's grandmother, Bartola Pantin ("Ms. Bartola"). The premises consisted of the shop known as "La Guadalupana", a room adjoining the shop and other family residences situated on the same property. Upon arriving, O and M encountered Ms. Bartola, who was tending flowers in front of the shop and who allowed them into the yard. N subsequently joined them and they spent the afternoon playing on a swing and jumping rope. O testified that N suffered from a heart condition and therefore did not exert herself to the same extent as the others.
- [4] O stated that, after M was called away, she remained on the premises with N. While there, she observed Mr. Pantin moving between the shop and a room adjoining it. O testified that Mr. Pantin eventually stood at the doorway of the room and called out to her, saying: "*Sobrina, come here, I will give you some sweets.*" O understood

³ The Court notes that an appeal against sentence is ordinarily brought only with the leave of the Court pursuant to the Senior Courts Act, 2022. As no objection was raised to the hearing of the appeal against sentence and the parties fully addressed its merits, the Court proceeded to determine that aspect of the appeal.

that he was addressing her because she was the only niece in the vicinity. She therefore walked across to the room.

- [5] According to O, when she entered the room, Mr. Pantin locked the door, increased the volume of a radio and closed a window. When she asked why he was doing so, he responded, "*Shut up and don't ask anything.*" O testified that Mr. Pantin then placed her on a bed, kissed her on her mouth and neck, removed her pants and underwear, and inserted his penis into her vagina. O stated that she attempted to resist and to kick him but was unable to do so because he restrained her legs with his own. She further testified that Mr. Pantin placed a rag into her mouth to prevent her from screaming. O stated that the penetration lasted approximately ten (10) to twenty (20) minutes.
- [6] O testified that, after Mr. Pantin ceased the assault and assisted her in replacing her clothing, she stood up and observed blood on the floor. She noticed that blood was coming from her vagina. O stated that Mr. Pantin then threatened her and warned that, if she disclosed what had occurred, he would do the same thing to her younger sister. Thereafter, while Mr. Pantin was wiping the blood from the floor, O ran from the room and sought refuge at her grandmother's house across the street. She obtained toilet paper, went to the bathroom and observed traces of blood after wiping herself. O later returned home, complained of abdominal pain and took medication. She did not tell anyone about the incident at that time because she was frightened by Mr. Pantin's threat.
- [7] O did not disclose the incident until 13 October 2021. Her evidence was that she was attending online classes when her parents questioned her about a Facebook account discovered on her mother's cell phone. During the ensuing conversation, O decided to tell her parents what had happened. The matter was subsequently reported to the police and arrangements were made for O to undergo a medical examination.

- [8] The prosecution also relied upon the evidence of Dr. Jose Samos, who medically examined O on 13 October 2021. Dr. Samos testified that he observed a nodular scar at the six o'clock position of the genital region and partial absence of hymenal tissue. He explained that the findings were consistent with previous penetration and assessed O as having been carnally known. He further stated that the injuries appeared chronic in nature and were older than eight (8) weeks. Whilst accepting under cross-examination that similar injuries might arise from other causes, including sporting activities or the insertion of foreign objects, Dr. Samos maintained that the findings were consistent with penetration.
- [9] The prosecution also adduced evidence from O's mother; Sergeant of Police Mr. Allison Guzman, the investigating officer; Mr. Clifford Casey, Justice of the Peace; and agreed evidence from other witnesses relating to the investigation, the crime scene and Mr. Pantin's interview with police.

The Defence's Case

- [10] In his defence, Mr. Pantin elected to give sworn evidence at his trial. He denied raping O and maintained that the allegation was false. Mr. Pantin testified that he was a retired teacher and former principal who had dedicated much of his life to education and community service in San Victor Village. He stated that he did not know why O and her family would fabricate such an allegation against him. Mr. Pantin also disputed aspects of O's account. In particular, he asserted that he was not residing in the room adjoining the shop during 2019 and that the room was then being used for commercial purposes. He further challenged the description given by O of the room and surrounding premises.
- [11] In support of his defence, Mr. Pantin called two witnesses. His wife, Mrs. Ramona Pantin ("Mrs. Pantin"), testified that the flowers situated at the front of the shop were planted during the COVID-19 period, which she believed was in either 2019 or 2020.

The defence relied upon this evidence to challenge O's assertion that she saw Ms. Bartola tending flowers outside the shop on the day of the offence.

[12] The defence also called Ms. Hilda Cawich ("Ms. Cawich"), the mother of N. Ms. Cawich testified concerning N's heart condition and the limitations it imposed on her physical activity. The defence relied on this evidence to challenge O's account that she; M and N had spent time playing together on the afternoon in question.

[13] Mr. Pantin's case at trial was therefore one of fabrication. The defence contended that O's account was unreliable, that material aspects of it were inconsistent with the evidence of the defence witnesses, and that the allegation against Mr. Pantin emerged only after O was confronted by her parents regarding the Facebook account.

Judgment in the Court Below

[14] In his written judgment, the learned trial judge recognised that the prosecution's case depended substantially upon the credibility and reliability of O. He carefully scrutinised her evidence and examined, among other matters, the delay in reporting the incident, the circumstances in which the complaint was made, the lighting conditions in the room, the quality of the recognition evidence and the inconsistencies identified by the defence. Having undertaken that analysis, the learned trial judge found that O was an honest witness. The learned trial judge then considered the defence case. He rejected Mr. Pantin's evidence, stating that Mr. Pantin did not come across as a witness of truth. The learned trial judge further found that Mr. Pantin was evasive on certain matters and that portions of his evidence were inconsistent with the evidence of other witnesses.

[15] Having considered the totality of the evidence, the learned trial judge found that the prosecution had proved beyond a reasonable doubt that Mr. Pantin raped O.

Accordingly, the learned trial judge convicted Mr. Pantin of rape of a child as charged.

Sentencing in the Court Below

- [16] Following conviction, the learned trial judge ordered the preparation of victim impact statements, a social inquiry report, a prison report and an antecedent report. At the sentencing hearing, Mr. Pantin called three (3) character witnesses, all of whom testified to his longstanding contribution to education and community life in San Victor Village. Mr. Pantin was also shown to be a person of previous good character with no prior convictions.
- [17] The learned trial judge concluded that a custodial sentence was warranted and that this was not a case in which the statutory minimum sentence should be displaced. Applying the newly issued **Sentencing Guidelines of the Senior Courts of Belize** ("Sentencing Guidelines"),⁴ he assessed both harm and culpability as high and identified several aggravating features, including the abuse of trust involved, the significant age disparity between Mr. Pantin and O, the threat directed towards O and the lasting psychological impact of the offence. After taking account of both aggravating and mitigating factors and crediting Mr. Pantin for time spent in custody, the learned trial judge imposed a sentence of seventeen (17) years, nine (9) months and two (2) days' imprisonment together with ancillary orders directed towards Mr. Pantin's rehabilitation.
- [18] It is against both conviction and sentence that the present appeal is brought.

⁴ Statutory Instrument No. 1 of 2025, gazetted on 8th January 2025.

Grounds of Appeal

[19] Mr. Pantin advanced five (5) grounds of appeal, four (4) directed at conviction and one (1) at sentence. He seeks principally, that his conviction be quashed and, in the alternative, that a retrial be ordered.

[20] Mr. Pantin's grounds of appeal are as follows:

- (1) The learned trial judge failed to give a full and proper direction on the issue of Good Character, which amounted to a miscarriage of justice.
- (2) The learned trial judge failed to properly direct himself on the burden and standard of proof.
- (3) The learned trial judge erred in law by not giving sufficient weight to the defence case, which amounted to a miscarriage of justice.
- (4) The trial of Mr. Pantin when taken as a whole was unfair; and
- (5) The Sentence imposed was unduly severe.

Submissions on behalf of Mr. Pantin

Submissions in relation to Conviction

[21] On the first ground of appeal, learned counsel Mr. Hurl Hamilton ("Mr. Hamilton") submitted that the learned trial judge failed to give a full and proper direction on the issue of Mr. Pantin's good character. Mr. Hamilton pointed to Mr. Pantin's sworn testimony that he was a retired teacher who had served his community for approximately thirty-eight (38) years and had never previously been in trouble with the law. Mr. Hamilton argued that while the learned trial judge referred to Mr.

Pantin's good character, he failed to sufficiently explain what weight he attached to that evidence and, in particular, failed to adequately address its relevance to Mr. Pantin's credibility. According to Mr. Hamilton, the learned trial judge's treatment of Mr. Pantin's good character was inadequate and amounted to a material misdirection.

[22] In relation to the second ground, Mr. Hamilton contended that the learned trial judge failed to properly direct himself on the burden and standard of proof. Mr. Hamilton relied on the learned trial judge's observation that the prosecution's case 'stands or falls' on whether the court believed O. He argued that the learned trial judge approached the matter as a contest of credibility between O and Mr. Pantin rather than determining whether the prosecution had discharged its burden of establishing Mr. Pantin's guilt beyond a reasonable doubt. Mr. Hamilton further maintained that portions of the trial judge's written judgment suggested that a burden was effectively imposed upon Mr. Pantin to establish his innocence. Mr. Hamilton relied upon passages from **Blackstone's Criminal Practice 2026** dealing with the requirement that a tribunal of fact must be sure of guilt before convicting.

[23] On the third ground, Mr. Hamilton submitted that the learned trial judge failed to give sufficient weight to the defence case and thereby erred in his evaluation of the evidence. Mr. Hamilton relied particularly on the learned trial judge's treatment of the evidence of Mrs. Pantin. Mr. Hamilton pointed to the learned trial judge's finding that little or no weight should be attached to Mrs. Pantin's evidence because she appeared uncertain as to whether the flowers outside the shop were planted in 2019 or 2020. Mr. Hamilton argued that the learned trial judge was unduly dismissive of her evidence and failed to sufficiently account for the fact that approximately six (6) years had elapsed between the events in question and the date of the trial. According to Mr. Hamilton, any uncertainty in relation to the precise year in which the flowers were planted was understandable and ought not to have resulted in the wholesale rejection of Mrs. Pantin's testimony. Mr. Hamilton further maintained that the learned trial judge attached insufficient weight to the evidence adduced on

behalf of the defence generally and failed to properly engage with Mr. Pantin's theory that O had fabricated the allegation. Mr. Hamilton argued that, by discounting the evidence of the defence witnesses in the manner that he did, the learned trial judge failed to give proper consideration to Mr. Pantin's case.

- [24] In his written submissions in relation to the fourth ground, Mr. Hamilton contended that the trial, when viewed as a whole, was unfair. The nucleus of this complaint was that certain interventions made by the learned trial judge during the course of the trial created the appearance that he had prematurely accepted O's account before the close of the prosecution's case. However, when pressed by the Court during his oral submissions, Mr. Hamilton accepted that Mr. Pantin's complaint did not arise from anything contained in the learned trial judge's written judgement but rather from comments appearing in the transcript of the proceedings. Mr. Hamilton was also unable to identify any passage in the judgment demonstrating that the learned trial judge had in fact predetermined Mr. Pantin's guilt or misdirected himself on the burden of proof. Mr. Hamilton pointed in particular to an exchange which occurred during the evidence of O, where the learned trial judge remarked that the witness had been "*very clear that Benito Pantin is the person who raped her*". According to Mr. Hamilton, that remark suggested that the learned trial judge had already formed a view concerning the credibility of O and the guilt of Mr. Pantin before all of the evidence had been heard. Mr. Hamilton submitted that this ground, when considered cumulatively with the other grounds of appeal, supported the contention that Mr. Pantin did not receive a fair trial.

Submission in relation to Sentence

- [25] Turning to sentence, Mr. Hamilton maintained that the sentence of seventeen (17) years, nine (9) months and two (2) days' imprisonment was unduly severe in all the circumstances of the case. Mr. Hamilton emphasised that Mr. Pantin was sixty-eight (68) years old at the time of sentencing and submitted that the sentence imposed

would, in practical terms, result in Mr. Pantin spending the remainder of his life in prison.

[26] Mr. Hamilton relied on the decision of the Privy Council in **Aubeeluck v State**⁵ and submitted that constitutional protections against inhuman or degrading punishment prohibit the imposition of penalties which are wholly disproportionate in the circumstances of a particular case. He argued that the learned trial judge ought to have concluded that the mandatory minimum sentence operated disproportionately in Mr. Pantin's circumstances.

[27] Mr. Hamilton argued that the learned trial judge failed to give sufficient weight not only to Mr. Pantin's age, but also to his previous good character, clean criminal record and the favourable character evidence adduced at the sentencing hearing. According to Mr. Hamilton, those factors, when considered together with Mr. Pantin's age, constituted special circumstances warranting a departure below the statutory minimum.

[28] During oral submissions, Mr. Hamilton clarified that Mr. Pantin's principal complaint was directed at the sentencing starting point adopted by the learned trial judge. However, when invited by the Court to identify what alternative starting point ought properly to have been adopted, Mr. Hamilton was unable to suggest a specific figure and maintained only that it should have been lower than the mandatory minimum sentence prescribed by statute.

[29] Mr. Hamilton therefore urged this Court to allow Mr. Pantin's appeal, quash the conviction and set aside the sentence. Alternatively, he invited the Court to order a retrial or, at the very least, reduce the sentence imposed by the learned trial judge.

⁵ [2011] 1 LRC 627.

Submissions on behalf of the Crown

Submissions in relation to Conviction

- [30] Learned Senior Crown Counsel Mrs. Shanidi Chell-Urbina (“Mrs. Urbina”), appearing on behalf of the Crown, resisted both the conviction and sentence appeals. The gravamen of Mrs. Urbina’s submissions is that the conviction is safe, no miscarriage of justice occurred, and the sentence imposed by the learned trial judge was neither excessive nor wrong in principle. According to Mrs. Urbina, Mr. Pantin has failed to identify any basis upon which this Court may properly interfere with either the conviction or sentence.
- [31] In relation to the first ground of appeal, Mrs. Urbina submitted that the learned trial judge properly directed himself on the issue of Mr. Pantin’s good character. She pointed out that the record demonstrates that the learned trial judge raised the issue during the trial, ensured that Mr. Pantin was afforded the opportunity to rely upon his good character and later expressly considered both the credibility and propensity limbs of the good character direction. According to Mrs. Urbina, the treatment of Mr. Pantin’s good character was entirely proper and does not affect the safety of the conviction.
- [32] On the second ground, Mrs. Urbina rejected Mr. Pantin’s complaint that the learned trial judge misdirected himself on the burden and standard of proof. She submitted that the learned trial judge expressly directed himself that Mr. Pantin was presumed innocent, bore no burden to prove his innocence and was entitled to an acquittal if any reasonable doubt arose. Mrs. Urbina further pointed to the judge’s adoption of the approach endorsed by the Caribbean Court of Justice (“CCJ”) in **Dionicio Salazar v R**.⁶ She argued that the learned trial judge faithfully applied that approach

⁶ [2019] CCJ 15 (AJ).

and consistently recognised that the burden of proof remained upon the prosecution throughout the proceedings.

[33] In response to the third ground, Mrs. Urbina maintained that the learned trial judge carefully considered the defence case and provided cogent reasons for rejecting it. In particular, Mrs. Urbina argued that the assessment of the credibility and reliability of Mrs. Pantin and Ms. Cawich was a matter squarely within the province of the learned trial judge as the tribunal of fact. Mrs. Urbina contended that Mr. Pantin has identified no proper basis upon which this Court may interfere with the learned trial judge's factual findings or his assessment of the defence evidence.

[34] In relation to the fourth ground, Mrs. Urbina submitted that there was no basis for Mr. Pantin's contention that the learned trial judge had predetermined the issue of guilt or that the proceedings, viewed as a whole, were unfair. Mrs. Urbina argued that the remarks relied upon by Mr. Pantin had been taken out of context and, when properly examined, revealed nothing more than ordinary case-management interventions by the learned trial judge. In particular, Mrs. Urbina maintained that the learned trial judge's observation that O had been "*very clear*" in her evidence was made while ruling on the scope of re-examination after the relevant issue had already been explored during cross-examination and was directed to the consistency of her answers rather than her credibility. Mrs. Urbina maintained that the written judgment demonstrated a careful consideration of the burden and standard of proof, the evidence of the witnesses, the defence case, the good character evidence and the medical evidence before a verdict was reached. Accordingly, Mrs. Urbina argued that no basis existed for concluding that the trial was unfair or that the conviction was unsafe.

Submissions in relation to sentence

[35] In opposing the appeal against sentence, Mrs. Urbina submitted that the learned trial judge adopted the correct sentencing methodology and properly applied the

Sentencing Guidelines. Mrs. Urbina argued that the learned trial judge carefully considered Mr. Pantin's age, previous good character, clean antecedent record and the evidence of the mitigation witnesses before concluding that there were no special circumstances warranting a departure from the statutory minimum sentence.

[36] Mrs. Urbina maintained that the learned trial judge correctly assessed both harm and culpability as high, identified a number of significant aggravating features of the offence, and properly balanced those factors against the available mitigation. Mrs. Urbina submitted that Mr. Pantin's age, standing alone, did not constitute a special circumstance capable of displacing the mandatory minimum sentence prescribed by Parliament. According to Ms. Urbina, the sentence ultimately imposed was fully justified on the facts of the case and cannot properly be described as manifestly excessive.

[37] Ms. Urbina therefore urged this Court to dismiss the appeal against conviction in its entirety and to refuse leave to appeal against sentence, on the basis that neither the conviction nor the sentence discloses any basis for appellate intervention.

Court's Analysis and Discussion

Conviction

Standard of Review

[38] Before addressing the individual grounds of appeal, it is necessary to identify the principles that govern this Court's review of conviction. These principles are now well settled and serve to define the limits of appellate intervention in criminal matters.

[39] In an appeal against conviction, this Court is concerned not with whether it would itself have reached the same conclusion as the trial judge, but rather whether the

conviction is safe. In undertaking that exercise, the Court must determine whether any material error of law occurred, whether there has been a miscarriage of justice, or whether the conviction is otherwise unreasonable having regard to the evidence.

[40] This appeal arises from a judge-alone trial. In such circumstances, particular respect must be accorded to the findings of fact made by the trial judge. The trial judge had the distinct advantage of hearing the witnesses testify, observing their responses under examination and cross-examination, and evaluating their evidence within the context of the trial as a whole. An appellate court will therefore be slow to interfere with findings that are rooted in credibility and reliability unless it is shown that the judge plainly misapprehended the evidence, failed to take account of relevant evidence, took account of irrelevant matters or reached a conclusion that was not reasonably open on the evidence.

[41] Of particular relevance, is the guidance of the CCJ in **Dionicio Salazar**, where the Court emphasised that a judge sitting without a jury is not required to provide formal directions to himself in the same manner as would be expected in a jury trial. What is required is that the judgment demonstrates that the essential issues were identified, the applicable principles correctly applied, and the ultimate conclusion reached through a process of lawful reasoning. So long as the judgment reveals no material error and leaves no room for substantial doubt concerning the basis of the conviction, appellate interference is generally unwarranted.

[42] Equally well established is the principle that this Court is a court of review, not a court of retrial. The assessment of the weight to be attached to particular evidence is primarily a matter for the tribunal of fact. Disagreement with the weight assigned by the trial judge to a witness or a particular piece of evidence does not, without more, establish appellate error. It remains necessary for an appellant to demonstrate that the trial judge proceeded upon a wrong principle, failed to consider a material matter, or reached a conclusion that cannot reasonably be supported by the evidence.

[43] It is against those well-established principles that Mr. Pantin's complaints concerning conviction must now be examined.

Ground 1 – The learned trial judge failed to give a full and proper direction on the issue of Good Character, which amounted to a miscarriage of justice.

[44] I turn first to Mr. Pantin's complaint regarding the learned trial judge's treatment of his good character.

[45] The law relating to good character directions is now firmly settled. The modern jurisprudence finds its foundation in the decision of the Privy Council in **Teeluck and John v The State**.⁷ Their Lordships recognised that evidence of an accused's previous good character is capable of bearing directly upon the determination of the issues at trial. Such evidence may assist in the assessment of the accused's credibility and may also support the inference that he is less likely to have committed the offence charged. Where an accused is entitled to rely upon evidence of previous good character, those are matters to which proper regard should ordinarily be had. The Board was careful, however, to emphasise that good character directions are not to be approached as a matter of ritual. The adequacy of any direction must be evaluated in the context of the particular case and the issues arising for determination. The absence of a proper direction does not automatically render a conviction unsafe. The ultimate question remains whether the omission occasioned a miscarriage of justice.

[46] The principles identified in **Teeluck and John** were subsequently elucidated by the CCJ in **Gregory August v The Queen**,⁸ which remains the leading authority in Belize on the subject. In that case, the CCJ examined in greater detail the evidential significance of previous good character and the circumstances in which its various aspects will arise. The CCJ explained that where an accused gives sworn evidence

⁷ [2005] 1 WLR 2421.

⁸ [2018] CCJ 7 (AJ) 49.

and subjects himself to cross-examination, both aspects of the direction will ordinarily be engaged, since his credibility becomes a live issue before the tribunal of fact. In such circumstances, fairness ordinarily requires recognition that his previous good character may bear upon both the reliability of his testimony and the likelihood of his having committed the offence alleged. By contrast, where an accused elects not to testify on oath, considerations relating to credibility will generally not arise in the same way, although evidence of previous good character remains relevant to the broader question of guilt.

- [47] In **Gregory August**, the CCJ further clarified that the omission of a required good character direction does not invariably necessitate the setting aside of a conviction. An appellate court must instead consider the proceedings as a whole and determine whether, notwithstanding the omission, the conviction can properly be regarded as safe. In that respect, the CCJ reaffirmed the approach adopted in **Teeluck and John** and underscored that the ultimate concern of the appellate court is the avoidance of a miscarriage of justice.
- [48] The subsequent authorities have consistently applied those principles. In **Danny Benjamin v The Queen**,⁹ the Eastern Caribbean Supreme Court reaffirmed that, where evidence of previous good character is properly before the court, an appropriate direction should ordinarily be given and that the entitlement to such a direction does not depend upon any request by defence counsel. Similarly, in **Jay Marie Chin v The Queen**,¹⁰ the Eastern Caribbean Supreme Court emphasised that appellate intervention will be warranted only where the alleged deficiency can fairly be said to have affected the fairness of the trial or the safety of the conviction.
- [49] More recently, in **Andre Gordon v The King**,¹¹ the Belize Court of Appeal considered the extent of a trial judge's obligation when addressing evidence of

⁹ [2015] ECSC J0406-2.

¹⁰ [2017] ECSC J0405-1.

¹¹ BZ Criminal Appeal No. 7 of 2022.

previous good character. Rejecting the contention that a judge must expressly identify the weight attached to such evidence, the Court held that the law imposes no such requirement. What is required is that the judgment demonstrates an appreciation of the relevance of the evidence and a recognition of the matters to which it is capable of bearing. Once it is apparent that those considerations have been taken into account, the absence of any express indication as to weight does not constitute error.

- [50] The authorities therefore establish a number of settled principles. Evidence of previous good character is capable of bearing upon the credibility of an accused and upon the likelihood of his having committed the offence charged. Where an accused gives sworn evidence, both aspects will ordinarily fall for consideration. The entitlement to a good character direction is not dependent upon a request by defence counsel, nor is a trial judge required to specify the weight attached to such evidence. Ultimately, the failure to give a proper direction will justify appellate intervention only where the omission has undermined the fairness of the trial or rendered the conviction unsafe.
- [51] In circumstances where the trial is conducted by a judge sitting without a jury, those principles must further be viewed through the prism of the CCJ's guidance in **Dionicio Salazar**. A judge is presumed to know and apply the law. Consequently, the appellate court does not search the judgment for particular incantations or formulae. Rather, the inquiry is whether the judgment demonstrates that the trial judge appreciated the significance of the accused's good character and incorporated it into the overall evaluation of the evidence before arriving at a verdict.
- [52] Against that legal backdrop, this Court must determine whether the learned trial judge properly appreciated the significance of Mr. Pantin's previous good character and, if so, whether he adequately incorporated that consideration into his assessment of the evidence.

[53] I have carefully reviewed the learned trial judge's judgment on conviction. It is immediately apparent that the learned trial judge was alive to the issue of good character and its significance. At paragraph 48 of his judgment, the learned trial judge expressly recognised that Mr. Pantin had adduced evidence that he had no previous convictions and was therefore entitled to the benefit of a good character direction. The learned trial judge correctly identified that good character was relevant in two ways: credibility and propensity.

[54] The learned trial judge thereafter articulated both limbs of the direction. At paragraphs 49 and 50 of the judgment, he explained that Mr. Pantin's previous good character was capable of enhancing the credibility of his denial and making it less likely that he would have committed the offence alleged by O. The learned trial judge further acknowledged that because Mr. Pantin had elected to testify, he was entitled to both aspects of the direction. Those directions accurately reflect the principles articulated in **Teeluck and John, Gregory August**, and most recently, **Andre Gordon**.

[55] Significantly, the learned trial judge did not merely recite the applicable principles. He returned to the issue during his analysis of the evidence. At paragraph 55 of the judgment, the learned trial judge expressly stated:

"The Court has evaluated the evidence of the Accused considering that his Good Character makes him more likely to be believed when he says he did not rape O. The Court has also considered the allegations of O considering that his Good Character makes it less likely that he acted as alleged by O. However, in light of the strength of the evidence of the Crown, the Court accords little weight to the Good Character of the Accused." [Emphasis added]

[56] In my considered view, this passage demonstrates that the learned trial judge did exactly what the law required of him. He appreciated that Mr. Pantin's good character was a relevant evidential consideration, evaluated Mr. Pantin's evidence through the lens of that good character and factored it into his overall assessment

of the case, but ultimately attached “*little weight*” to that factor because of the strength of the prosecution’s case, particularly the evidence of O.

[57] It bears emphasizing that neither the authorities nor principle required the trial judge to specify a mathematical or measurable value to be attached to Mr. Pantin’s good character evidence. Good character is one relevant consideration among many. The weight to be attributed to it will invariably depend upon the facts of the particular case and the strength of the competing evidence. The authorities make clear that a good character direction does not compel the learned trial judge, as the tribunal of fact, to accept the evidence of Mr. Pantin or reject the evidence of O.

[58] In the present case, the learned trial judge explained why he was ultimately unable to place significant reliance on Mr. Pantin’s good character. The learned trial judge accepted O as a truthful and reliable witness and regarded her evidence as strong. He considered that strength to be such that Mr. Pantin’s previous good character could not displace the conclusions he had reached from the totality of the evidence. Whether another tribunal might have attached greater weight to Mr. Pantin’s good character is not the relevant enquiry. The question for this Court is whether the learned trial judge appreciated the significance of the good character evidence and lawfully incorporated it into his reasoning. In my judgment, he plainly did.

[59] I therefore remain unpersuaded by Mr. Hamilton’s contention that the learned trial judge misdirected himself on the issue of good character or failed to give Mr. Pantin the benefit of that evidence. Accordingly, this ground of appeal must therefore fail.

Ground 2 – The learned trial judge failed to properly direct himself on the burden and standard of proof

[60] I now turn to Mr. Pantin’s complaint that the learned trial judge failed properly to direct himself on the burden and standard of proof.

- [61] The legal principles governing the burden and standard of proof in criminal proceedings are among the most fundamental safeguards in the common law. It has long been established that every accused person is presumed innocent until proven guilty and that the burden of proving guilt rests on the prosecution throughout the trial process. Save for limited statutory exceptions, which are not applicable to this appeal, that burden never shifts.
- [62] The classic exposition of this principle remains the decision of the House of Lords in **Woolmington v Director of Public Prosecutions**,¹² where Viscount Sankey famously described the prosecution's obligation to prove guilt as the golden thread running throughout the criminal law. The prosecution must establish the guilt of the accused, and it is not for the accused to prove his innocence.
- [63] The corresponding standard of proof is proof beyond a reasonable doubt. Although modern courts frequently employ the expression that the tribunal of fact must be "sure" of guilt, the underlying principle remains unchanged. As **Blackstone's Criminal Practice 2026** observes, it is axiomatic that a tribunal of fact cannot be sure of guilt if there remains a realistic possibility consistent with innocence. The burden borne by the prosecution is therefore a heavy one and reflects the seriousness of the consequences which flow from a criminal conviction.
- [64] In cases such as the present, where the prosecution and defence advance competing versions of events, it is important that the tribunal of fact does not approach the matter as a simple choice between believing one witness and disbelieving another. As **Blackstone's Criminal Practice 2026** explains, the tribunal must be satisfied not merely that it prefers the evidence of the complainant, but that the prosecution's evidence has made it sure of the accused's guilt. The distinction is an important one, for a tribunal may reject an accused's account and

¹² [1935] AC 462 at 483.

yet remain unable to conclude that the prosecution has discharged its burden to the required standard.

- [65] The CCJ revisited these principles in **Dionicio Salazar**. The CCJ explained that where an accused advances a defence, the proper approach is for the trial judge first to consider the prosecution's evidence. If that evidence appears capable of sustaining a conviction, the judge should then examine the defence case to determine whether it raises a reasonable doubt. Importantly, even if the defence is rejected, the tribunal must return to the prosecution's case and determine whether, considering the totality of the evidence, guilt has been established beyond a reasonable doubt.
- [66] At paragraph 26 of the judgment below, the learned trial judge expressly reminded himself that Mr. Pantin was presumed innocent, that he had “*absolutely nothing to prove*”, and that the obligation rested entirely upon the prosecution to prove guilt beyond a reasonable doubt. The learned trial judge further stated that if any reasonable doubt arose on the evidence, he was duty-bound to acquit Mr. Pantin.
- [67] Those directions constitute an accurate statement of the law. Indeed, they mirror the very principles articulated in **Woolmington** and consistently applied throughout the Commonwealth Caribbean. Far from reversing the burden of proof, the learned trial judge repeatedly recognised that the burden remained upon the prosecution throughout the proceedings.
- [68] The record further demonstrates that the learned trial judge consciously adopted the approach approved by the CCJ in **Dionicio Salazar**. The learned trial judge stated that he would first consider the prosecution's case, then consider the defence case to determine whether any reasonable doubt arose and, thereafter, return to the totality of the evidence before arriving at a final conclusion. That methodology accords precisely with the framework endorsed by the CCJ.

- [69] Learned counsel for Mr. Pantin placed considerable reliance upon the learned trial judge's observation that the prosecution's case "*stands or falls*" on whether the Court believed O. I am unable to accept that this statement demonstrates a misdirection. Read in isolation, the expression may appear vulnerable to criticism. However, appellate courts do not interpret judgments by extracting individual sentences from their context. The judgment must be read as a whole.
- [70] When viewed in its proper context, the impugned statement reflects nothing more than the learned trial judge's recognition that the prosecution's case depended substantially upon the evidence of O. The learned trial judge was not reducing the burden of proof to a mere choice between competing witnesses. To the contrary, immediately after making the observation, he stated that the question was whether he was sure beyond a reasonable doubt that O had been raped by Mr. Pantin. The judge therefore expressly linked his assessment of O's credibility to the ultimate requirement of proof beyond a reasonable doubt.
- [71] I also reject Mr. Pantin's contention that the learned trial judge placed any burden upon him to prove his innocence. The judgment repeatedly confirms the opposite. Not only did the learned trial judge remind himself that Mr. Pantin bore no burden of proof, but when considering the defence case, he again expressly recognised that Mr. Pantin was under no obligation to establish the truth of his defence. The learned trial judge further stated that even if the defence were rejected, he remained obliged to return to the prosecution's case and determine whether guilt had been established beyond a reasonable doubt.
- [72] Indeed, the reasoning process adopted by the learned trial judge closely resembles the very approach endorsed by the CCJ in **Dionicio Salazar**. The judgment demonstrates a careful evaluation of the prosecution's evidence, an examination of the defence case and a return to the totality of the evidence before a final determination was made. Mr. Pantin has therefore failed to establish any error of law in relation to this ground. This ground of appeal must therefore fail.

Ground 3 – The learned trial judge erred in law by not giving sufficient weight to the defence case, which amounted to a miscarriage of justice.

- [73] I now address Mr. Pantin's complaint that the learned trial judge failed properly to consider the defence evidence.
- [74] It is important at the outset to identify the proper role of an appellate court when confronted with a complaint of this nature. Questions concerning the credibility, reliability and weight of evidence are quintessentially matters for the tribunal of fact. A trial judge who has heard the witnesses testify and observed them under examination and cross-examination is ordinarily in the best position to determine what weight, if any, should be attached to their evidence. An appellate court will not interfere merely because it may have evaluated that evidence differently. Rather, intervention is warranted only where the trial judge failed to consider material evidence, misunderstood the evidence, relied on irrelevant considerations, or reached a conclusion that was not reasonably open on the record.
- [75] I do not accept Mr. Hamilton's submission on this ground. In my view, the learned trial judge identified and analysed each of the principal pillars of the defence's case.
- [76] Particular criticism was directed at the learned trial judge's treatment of the evidence of Mrs. Pantin. I remain unpersuaded by the contention that the judge unfairly discounted her testimony concerning the existence of flowers at the front of the shop. The learned trial judge concluded that her uncertainty as to whether the flowers were planted in 2019 or 2020 diminished the evidential value of her testimony in support of the fabrication theory. That was an evaluative conclusion which was reasonably open to him on the evidence.
- [77] Similarly, the learned trial judge accepted the evidence that N suffered from a heart condition but concluded that the evidence of Ms. Cawich did not establish that N was incapable of engaging in any physical activity whatsoever. In light of Ms.

Cawich's acceptance that N was permitted to socialise with other children, the learned trial judge regarded her evidence as consistent with O's testimony that N participated in play, albeit within the limits imposed by her condition.

[78] The learned trial judge also examined Mr. Pantin's own evidence with care. He considered Mr. Pantin's denial of the allegation, his explanation regarding the room adjoining the shop and his assertion that the complaint was fabricated. Having evaluated that evidence in the context of the entirety of the case, he rejected it. The critical point is that the evidence was considered and analysed, not ignored.

[79] In reality, Mr. Pantin's complaint is not that the defence evidence was overlooked. Rather, it is that the learned trial judge ultimately declined to accept it. Those are fundamentally different propositions. A disagreement with the conclusions reached by the trial judge does not, without more, establish appellate error.

[80] I am fortified in this conclusion by the fact that the learned trial judge provided intelligible reasons for rejecting the defence. He explained why he was unable to accept Mr. Pantin's account, why he attached limited weight to aspects of the defence evidence and why he ultimately regarded O as a truthful and reliable witness. Those findings were grounded in the evidence and cannot be said to be unreasonable or unsupported by the record.

[81] Accordingly, this ground of appeal must fail.

Ground 4 – The trial of Mr. Pantin when taken as a whole was unfair.

[82] I now turn to address Mr. Pantin's complaint that, when viewed cumulatively, the proceedings below were unfair.

[83] As alluded to earlier, and important to note, Mr. Hamilton did not actively pursue this ground as a discrete basis for setting aside the conviction.

[84] In any event, I am unable to conclude that the remarks relied upon by Mr. Pantin support a finding that the learned trial judge had prejudged the issues in the case. The statement that O had been "very clear" that Mr. Pantin raped her was made during a ruling concerning re-examination. When read in context, the comment was directed to the consistency of O's answers during cross-examination rather than to her credibility or to the ultimate issue of Mr. Pantin's guilt. The learned trial judge was simply observing that the matter which counsel sought to revisit had already been canvassed before the Court.

[85] More fundamentally, the judgment reveals that the learned trial judge carefully directed himself on the applicable law, scrutinised the evidence of O, evaluated the defence case, considered Mr. Pantin's good character and reminded himself of the burden and standard of proof before arriving at his conclusions. There is nothing in the record which suggests that the learned trial judge approached the matter with a closed mind or predetermined the outcome of the proceedings.

[86] To the extent that this ground was maintained, I would reject it. Viewed individually or cumulatively with the preceding grounds, the matters relied upon by Mr. Pantin do not establish that he was deprived of a fair trial.

[87] Accordingly, this ground of appeal also fails.

Sentence

Ground 5 - The Sentence imposed was unduly severe.

[88] I now turn to Mr. Pantin's challenge to sentence.

[89] The principles governing appellate intervention in sentencing are well settled. In that regard, the Court is guided by the principles articulated by the CCJ in **Linton**

Pompey v Director of Public Prosecutions¹³ and **Calvin Ramcharan v Director of Public Prosecutions**.¹⁴ Sentencing is quintessentially a matter of judicial discretion. An appellate court must therefore accord a substantial measure of deference to the sentencing judge, who is ordinarily best placed to individualise the sentence having regard to both the offender and the offence. At the same time, an appellate court is obliged to intervene where the sentencing judge errs in principle, takes into account irrelevant considerations, fails to take account of relevant considerations, or imposes a sentence that is manifestly excessive or manifestly inadequate.

- [90] It is equally well established that sentencing requires a balancing of multiple and sometimes competing objectives, including punishment, deterrence, rehabilitation and the protection of the public. The appropriate balance to be struck will inevitably depend upon the nature and gravity of the offence and the circumstances of the offender.

Mandatory Minimum

- [91] **Under section 47A of the Criminal Code**, the offence of rape of a child attracts a mandatory minimum sentence of fifteen (15) years' imprisonment and a maximum sentence of life imprisonment. The learned trial judge correctly recognised that the existence of a statutory minimum sentence does not eliminate judicial discretion altogether. Indeed, by virtue of **section 160 of the Indictable Procedure Act**, a court may depart from the statutory minimum where the interests of justice so require and where special reasons are identified and recorded.
- [92] In **The King v Zita Shol**,¹⁵ the Court of Appeal recognised that where the imposition of a mandatory minimum sentence would produce a grossly disproportionate result,

¹³ [2020] CCJ 7 (AJ) GY.

¹⁴ [2022] CCJ 4 (AJ) GY.

¹⁵ BZ 2022 CA 30.

the court may avoid that unconstitutional consequence by declining to apply the mandatory minimum in the particular case. Likewise, the approach adopted in **Aubeeluck** recognises that constitutional protections against inhuman or degrading punishment may, in exceptional circumstances, justify a sentence below the statutory minimum without invalidating the statutory provision itself.

- [93] The burden therefore rests on the offender to demonstrate the existence of special or exceptional circumstances capable of taking the case outside the ordinary operation of the mandatory sentencing regime. The mere existence of mitigating factors, even substantial mitigation, will not automatically justify a departure below the sentence prescribed by Parliament.

Age as a special Circumstance

- [94] Particularly instructive is **R v Clarke and Cooper**,¹⁶ where the Court considered sentences imposed on offenders aged 101 and 96 respectively. The Court recognised that diminished life expectancy, advanced age, ill health and the prospect of dying in prison are all legitimate considerations in sentencing. However, Hallett LJ emphasised that those matters must be balanced against the gravity of the offending, the harm caused to victims and the public interest in imposing appropriate punishment for serious crimes. While courts must give anxious scrutiny to age and infirmity, such factors are ordinarily to be taken into account only in a limited way.
- [95] The same approach was applied in **R v DM**.¹⁷ There, the Court of Appeal dismissed a sentence appeal brought by a 77-year-old offender suffering from cancer who had been convicted of serious sexual offences. The court reiterated that those who are gravely ill or severely disabled may nevertheless be required to serve custodial sentences where the seriousness of the offending so warrants. The offender's

¹⁶ [2017] EWCA Crim 393.

¹⁷ [2021] 2 Cr. App. R. (S.) 34.

reduced life expectancy was not, of itself, a sufficient basis for reducing an otherwise appropriate sentence.

- [96] Likewise, in **Attorney-General's Reference No. 14 of 2015**,¹⁸ the Court of Appeal considered a 99-year-old offender who suffered from significant medical conditions, including the effects of a stroke, heart disease and dementia. The court held that, although a sentencing judge is entitled to make allowance for an offender's medical condition, such allowance is necessarily limited and cannot obscure the principal purposes of sentencing, particularly where serious offences are concerned.
- [97] Applying those principles to the appeal at bar, I am unable to accept Mr. Hamilton's contention that the learned trial judge erred in declining to impose a sentence below the statutory minimum sentence of fifteen (15) years' imprisonment.
- [98] The learned trial judge expressly considered each of the matters upon which Mr. Pantin now relies. The learned trial judge considered Mr. Pantin's age, his previous good character, his clean antecedent record, his longstanding contribution to the community as a teacher and principal, and the favourable testimony of the mitigation witnesses.
- [99] Mr. Pantin was sixty-eight (68) years old at the time of sentencing. It was submitted on his behalf that the imposition of a lengthy custodial sentence would, as a practical matter, result in him spending much of the remainder of his life in prison. While that consideration is not without significance, it cannot be viewed in isolation. Age does not operate as a talisman that automatically reduces sentence. A sentencing court must examine age in conjunction with the gravity of the offending, the harm caused and the public interest in ensuring that serious offences attract appropriate punishment.

¹⁸ [2015] EWCA Crim 949.

- [100] Indeed, the authorities demonstrate that courts have upheld substantial custodial sentences in cases involving offenders considerably older than Mr. Pantin. In **Clarke and Cooper**, sentences were upheld in respect of offenders aged 101 and 96 years.
- [101] I am unable to conclude that the learned trial judge erred in his treatment of this issue. The judge expressly recognised that age, health and the prospect of dying in prison are matters that may properly be taken into account. He nevertheless concluded that, in the circumstances of the present case, those considerations were outweighed by the seriousness of the offence, the significant harm caused to the child victim, the abuse of trust involved and the marked disparity in age between Mr. Pantin and O. That conclusion was plainly open to him.
- [102] I am also not persuaded that Mr. Pantin's previous good character and community standing transformed the case into one warranting departure below the statutory minimum. The learned trial judge expressly recognised Mr. Pantin's contribution as an educator, his lack of previous convictions and the favourable evidence adduced on his behalf at the sentencing hearing. Indeed, those matters resulted in a downward adjustment of the notional sentence. The difficulty confronting Mr. Pantin is that those same factors were fully taken into account by the learned trial judge. Mr. Pantin has identified no error in the manner in which they were considered.
- [103] The record reveals that the learned trial judge adopted a structured sentencing methodology consistent with contemporary Caribbean sentencing jurisprudence. He identified the applicable starting point, considered the aggravating and mitigating features of the offence, considered the aggravating and mitigating features of the offender, credited Mr. Pantin for time spent in custody and imposed ancillary rehabilitative orders.
- [104] When the sentence imposed is viewed against the statutory maximum of life imprisonment and the aggravating circumstances accepted by the trial judge, I am unable to conclude that a sentence imposed, falls outside the range of sentences

reasonably available to the sentencing court. To the contrary, it reflects a careful balancing of the aggravating and mitigating features of both the offence and the offender.

[105] The operative effect of Mr. Hamilton's submissions is to invite this Court to reweigh the mitigating factors and arrive at a more favourable sentencing outcome. That is not the function of an appellate court. Our task is to determine whether the sentence was wrong in principle or manifestly excessive. Mr. Pantin has failed to establish either.

[106] I am satisfied that the learned trial judge properly directed himself on the applicable law, considered all relevant mitigating and aggravating factors and imposed a sentence that was within the ambit of his lawful discretion. Accordingly, the appeal against sentence is dismissed.

Conclusion

[107] For the reasons I have given, I am satisfied that none of the grounds advanced by Mr. Pantin in relation to his conviction discloses any error of law, misdirection, procedural unfairness or miscarriage of justice. I am equally satisfied that the learned trial judge properly exercised his sentencing discretion and that the sentence imposed was neither wrong in principle nor manifestly excessive.

[108] The appeal against conviction is therefore dismissed.

[109] The appeal against sentence is also dismissed.

[110] The conviction for the offence of rape of a child contrary to **section 47A of the Criminal Code** and the sentence of seventeen (17) years, nine (9) months and two (2) days' imprisonment imposed by the learned trial judge are affirmed.

[111] I gratefully acknowledge the assistance of learned counsel.

Louise Esther Blenman
Chief Justice

[112] I concur.

Minnet Hafiz Bertram
President

[113] I concur.

Sandra Minott-Phillips, KC
Justice of Appeal