



MC/CRIM/02/22

SENTENCING REMARKS

REGINA

v

ROLAND OLUMSEYI WEDGWOOD-OREKOYA

before
HHJ Malcolm Simmons

Given on
8th September 2022

Representation:

Mr Stuart Walker Crown Counsel, Prosecution

Mr Damian Sabino Roland Olumseyi Wedgwood-Orekoya

These sentencing remarks will be published until 8 March 2028 for this reason:

- As per Schedule 10 of the Criminal Procedure and Evidence Ordinance 2014, the conviction of the defendant will be considered spent*

Any concerns about the publication or content of this document will be placed before the Judicial Officer(s) for consideration.



IN THE FALKLAND ISLANDS
MAGISTRATES COURT

Case No. MC/CRIM/02/22

BETWEEN:

Before:

HIS HONOUR JUDGE MALCOLM SIMMONS

REGINA

-v-

ROLAND OLUMSEYI WEDGWOOD-OREKOYA

MR. STUART WALKER, Crown Counsel, appeared for the Prosecution

MR. DAMIAN SABINO appeared for the defendant

SENTENCING REMARKS

1. The Defendant has been convicted of an offence under section 205 of the Crimes Ordinance 2014 after trial. He now comes before the court for sentencing;
2. When sentencing an offender, I have regard to the purposes of sentencing which are set out in the law of the Falkland Islands (s.477, Criminal Procedure and Evidence Ordinance 2014). Those purposes are:

- (a) the punishment of the offender;
- (b) the reduction of crime (including its reduction by deterrence);
- (c) the reform and rehabilitation of the offender;
- (d) the protection of the public; and
- (e) the making of reparation by the offender to persons affected by his/her offence(s).

3. There is a route I follow to decide a sentence.
4. In determining the appropriate sentence, I apply sentencing guidelines, in accordance with s 482 of the Criminal Procedure and Evidence Ordinance 2014 and I take into account the Overarching Sentencing Guidelines of the Falkland Islands.
5. The specific sentencing guidelines applied in this case are those of England and Wales and set out in the Sexual Assault Guidelines for offences of sexual assault under section 3 of the Sexual Offences Act 2003.
6. I am required to determine the seriousness of the offence, looking at the harm caused by the offender and their culpability. That provides a Category. That Category guides me to a sentence range and indicates a starting point for a sentence. I move from the starting point with aggravating and mitigating factors. I decide on the sentence. I can reduce the sentence after a guilty plea dependant on the circumstances. I then consider whether that sentence is a proportionate one for the offence and, in appropriate cases, I would apply the totality principle.
7. I must take account of the ruling in *R v Butler* [2018] SC/CRIM/04/17 and in determining sentence I do not give additional discount because the licence point for a custodial period differs in the Falkland Islands from that in England and Wales.
8. Mr. Wedgwood-Orekoya, you were found guilty on 21st July 2022 on one charge under section 205 of the Crimes Ordinance 2014 that on 10th April 2022, you intentionally touched [REDACTED] [REDACTED], the touching was sexual, [REDACTED] did not consent to the touching and you did not reasonably believe that [REDACTED] consented to the touching.
9. The facts of this case are that on Saturday 9th April 2022, [REDACTED] went to a friend's house to celebrate a birthday. At about 23.00 hours she went with friends to the K&C burger van in Philomel Street, Stanley. She had been drinking vodka mixed with cranberry juice. She was drunk. She was [REDACTED] years-of-age.

10. At the burger van [REDACTED] met the defendant and they began a conversation. She did not know the defendant but they had a connection because the defendant had worked with a member of her family. She told the defendant that she was a lesbian and that she was not interested in the defendant in a sexual way.
11. The defendant invited her back to his accommodation to smoke cannabis. The defendant later admitted during a police interview that he believed that there might still have been a chance of having sex with her. The court found that the defendant's behaviour was predatory and that he intended to lure the victim back to his accommodation and to have sex with her. The defendant's account of [REDACTED] instigating a sex game was found to be entirely unbelievable.
12. At the accommodation the defendant failed to produce any cannabis. Instead the defendant grabbed [REDACTED] around the waist and tried to kiss her. She pulled away and tried to push the defendant away. [REDACTED] was drunk, disorientated and confused. The defendant pulled her towards a bedroom where they struggled in the doorway. It was as they struggled that [REDACTED] sustained a bruise to her left thigh.
13. The defendant removed his clothing so that he was naked. The defendant removed [REDACTED] top clothing except for her bra. She told the defendant "no" but the defendant took no notice. [REDACTED] and the defendant fell on to the bed. The defendant's penis was erect and he had put on a condom. The defendant forced [REDACTED] hand onto his erect penis, he closed her hand around his penis and moved her hand up and down to masturbate him. [REDACTED] continued to resist and managed to free herself.
14. The defendant followed her into the living room. She punched him away and the defendant returned to the bedroom and got into the bed allowing her to collect her belongings and leave.
15. Mr. Wedgwood-Orekoya, you are 31 year old, single man and a citizen of the United Kingdom. You arrived in the Falkland Islands in September 2021. You initially worked as a shearer and then remained in the Falkland Islands, working in the fishing industry. You have worked as a shearer for the past ten years, working all over the world until the COVID-19 pandemic.
16. I have read the Pre-Sentence Report of the Probation Service dated 5th September 2022. It is a thorough report. I do not propose reciting everything to which the Probation Officer refers. I have, however, considered it carefully in arriving at an appropriate sentence.
17. In her report, the Probation Officer says you maintain your innocence and refuse to take responsibility for your actions. It was therefore difficult for her to assess the motivation for your offending.

18. The Probation Service considers many factors in its assessment. In terms of risk, the Probation Service measures this on two dimensions: risk of further offending and risk of serious harm.

- (a) Using the Offender Group Reconviction Score, you have been assessed as possessing a **low to medium risk** of further offending. However, using the Offender Assessment System Sexual Reoffending Predictor, you have been assessed at a **high risk** of being convicted of a further contact sexual offence.
- (b) You have been assessed as being a **high risk** of harm to the public, namely females, especially those to whom you are sexually attracted.
- (c) There is a further **medium risk** of serious harm to the victim.

19. The Probation Service report also refers to 'Active Risk Management'. This is a dynamic risk management framework used to assess men who have committed a sexual offence. It is designed to assess and manage risk by highlighting the most important areas for intervention and risk management. You are rated as **high priority** in four areas, and these are deemed critical. The report refers to what is described as a lack of 'protective factors', in part the result of your transient lifestyle and not having an established routine in place. The Probation Officer opines that you could benefit from work to develop these and address the critical risk factors. Overall, you are assessed as a **high priority** for intervention.

20. The offence of which you were convicted is serious and the length of the maximum sentence reflects that. I am obliged to consider all the purposes set out in the law for sentencing.

21. I have considered the relevant facts of this case against the definitive guideline. I have considered the Pre -Sentence Report for which I thank the Probation Officer. I have also been assisted by Mr. Walker and Mr. Sabino.

22. I have read the report of Dr. C M Green dated 30th August 2022. He does not diagnose the defendant with any type of psychiatric disorder prior to his arrest and, although he cannot rule out the possibility of certain autistic traits, on the basis of his interview and assessment of the defendant, he does not think there are any indications the defendant could be diagnosed with an autistic spectrum disorder.

23. Referring to the defendants convictions for driving offences and the fact there are no indications the defendant has previously posed a threat to women, Dr. Green concludes the risk of re-offending is low.

24. I have also read with care the character references given by [REDACTED]
[REDACTED] These have greatly assisted me.

25. I have considered the general guidelines as to the imposition of a custodial sentence. As to that, I have to ask myself whether it is unavoidable that a sentence of imprisonment be imposed. Even if the custody threshold is passed it does not mean that a custodial sentence must be inevitable. I note that custody should not be imposed where a community order could prove a sufficient restriction on an offender's liberty, by way of punishment.

26. You were due to leave the Falkland Islands in April 2022, a week after you committed the offence in respect of which you have been convicted. You have never been in custody before. You have no local connections and that will make a custodial sentence more difficult. This conviction will impact your employment opportunities in the future.

27. Section 205 of the Crimes Ordinance 2014 gives a maximum sentence of 10 years imprisonment or a fine or both. The Sentencing Guidelines refer to an offence range between Community Order and 7 years custody.

28. The current legislation imposes on the court a duty to follow any relevant sentencing guidelines unless it is in the interests of justice not to do so. The legislation does not constrain the proper exercise of individual judgement on the specific facts of the case. In all cases, it is incumbent upon the sentencing judge to impose what he or she considers to be a just sentence.

29. I have to consider whether the psychological or physical harm which you caused was severe.

30. An offence of this nature almost inevitably causes considerable psychological harm and, in my judgement, the harm suffered by the complainant was significant. There was also physical harm. On balance, and without in any way minimising the terrible effect which your conduct has had on her, I do not consider that, in the context of this offence, the psychological harm that you caused was severe.

31. There was clearly a level of violence in the way you manhandled your victim. You tried to force yourself upon her. She pulled away and tried to push you away. You pulled her towards a bedroom where you struggled in the doorway. It was as you struggled with your victim that she sustained a bruise to her left thigh. This was clearly a frightening event for her.

32. There was touching of naked genitalia when you closed her hand around your erect penis and forced her to masturbate you.

33. What occurred in this case was not a momentary touching but a sustained assault.

34. The next question that arises in relation to the harm which you caused is whether the victim was particularly vulnerable. [REDACTED]. She was living at home with her parents, having recently left school. You are a man in your thirties. You support yourself. You have travelled the world working. [REDACTED] was intoxicated. You told police you thought she was "quite drunk." It was obvious to you that she was vulnerable and it was that vulnerability that provided you with the opportunity to commit the offence. The decision to take advantage of the victim shows a predatory disposition and a degree of calculation that you might get away with the offence because she was vulnerable. Having regard to the case of *R v Jose Sepulvida-Gomez* [2019] EWCA Crim 2174, by reason of her vulnerability through drink, this would place the harm in Category 2.

35. The presence of violence would suggest sentencing should be in accordance with category 1.

36. In my view, this case falls between categories 1 and 2 of the Sentencing Guidelines. I say that because, although violence is present, it is at the lower end of the scale.

37. As to Culpability, while intoxication was a feature of the offence, it was not used by you to facilitate the commission of the offence. You simply took advantage of an already intoxicated victim. While you clearly intended luring her back to your accommodation in order to have sex with her, I do not consider this to involve 'significant' planning. As that does not exist here, for the purpose of culpability, it does not put you into Culpability A.

38. In terms of aggravating factors, at the time of the commission of the offences, you were under the influence of drink. In addition, you specifically targeted a particularly vulnerable victim, a young girl who you knew had been drinking.

39. I have read the Victim Impact Statement in which she describes the impact on herself and a much wider circle that includes her family, friends and her friend's family. Clearly your actions have had a longer-term and very negative impact on your victim.

40. You have two recent convictions in the UK for relatively minor driving offences. One of those offences was committed while under the influence of alcohol. You have no previous relevant convictions.

41. There is very little mitigation. You continue to deny the offence. You have shown no remorse.

42. There is no reduction for a guilty plea.

43. I recognise that you have never previously been in custody and that the impact of a custodial sentence will be serious. You are a UK national without an established network to support you

during any prison term. This conviction will have a significant impact on your ability to obtain work permits in other countries.

44. This offence clearly crosses the custody threshold. I am not going to suspend the sentence that I impose. The reasons to suspend a sentence include a realistic prospect of rehabilitation, strong personal mitigation, or that immediate custody will result in a significant harmful impact upon others. I cannot see how rehabilitation is possible on my assessment in the light of the Pre-Sentence Report. In any event, appropriate punishment weighs against any harmful impact on other matters that might lead me to suspend the sentence.
45. You do not have leave to work or remain in the Falkland Islands. Therefore, a community sentence would not be suitable.
46. On the night in question, you took the victim back to your accommodation to smoke cannabis. It was obvious to you that she was drunk and vulnerable and it was that vulnerability that provided you with the opportunity to commit the offence. The decision to take advantage of the victim shows a predatory disposition and a degree of calculation that you might get away with the offence because she was vulnerable.
47. This offence is so serious that only a custodial sentence is justified. The sentence that I impose is one of **18 months in prison**.
48. You will serve two thirds of your sentence and will then be eligible to be released on licence.
49. I am not making a compensation order nor costs order because of the immediate prison sentence.
50. A Sexual Harm Prevention Order is not sought in this case.
51. Mr. Wedgwood-Orekoya, having been convicted of an offence under Schedule 3 of the Crimes Ordinance 2014, in accordance with section 297 of the said Ordinance, you will be subject to a notification requirement for 10 years. This obliges you to provide the police with information about your life.

HHJ Malcolm Simmons

8th September 2022