

**JAMAICA**

**IN THE COURT OF APPEAL**

**SUPREME COURT CRIMINAL APPEAL NO 19/2014**

**BEFORE: THE HON MR JUSTICE MORRISON P  
THE HON MISS JUSTICE PHILLIPS JA  
THE HON MISS JUSTICE WILLIAMS JA (AG)**

**STEPHEN COLLINS v R**

**Applicant unrepresented**

**Miss Paula Llewellyn QC, Director of Public Prosecutions and Mrs Lenster  
Lewis-Meade for Crown**

**2 May 2016**

**ORAL JUDGMENT**

**MORRISON P**

[1] On 28 February 2014, the applicant was convicted, upon his plea of guilty, of the offence of having sexual intercourse with a person under 16 years of age. On that same day, he was sentenced by Pusey J (the sentencing judge) to 15 years' imprisonment, with a direction that that he should not be eligible for parole until 10 years had elapsed. The applicant sought leave to appeal against sentence and his application was initially considered on paper by a single judge of this court. It was refused on the basis that nothing had been shown to justify disturbing the sentence imposed by the sentencing judge. As is, of course, his right, the applicant now renews his application for leave to appeal before the court itself.

[2] The circumstances of the offence can be very shortly stated. On a day unknown in July 2013, the applicant was alleged to have had sexual intercourse with the complainant, his stepdaughter, who was at the time a child below the age of 16 years. A subsequent medical examination revealed that the complainant was pregnant and it was the Crown's case that her pregnancy was as a result of the applicant's sexual contact with her.

[3] As we have indicated, the applicant pleaded guilty and this is naturally a matter to his credit. As it turned out, he was a man of some 59 years without any previous convictions, but the sentencing judge felt constrained by the provisions of the Sexual Offences Act (the Act) to sentence him in the manner in which he did. As the single judge pointed out in her brief comments in refusing leave to appeal, the sentencing judge very carefully outlined to the applicant the legal context within which he was being sentenced. Firstly, by virtue of section 10(1) of the Act, a person who has sexual intercourse with another person who is under the age of 16 years is guilty of an offence. And secondly, under section 10(4), where the person charged with an offence under section 10(1) is an adult in authority, he or she is liable upon conviction in the Circuit Court to imprisonment for life, or such other term as the court considers appropriate, not being less than 15 years: there is therefore a minimum sentence of 15 years' imprisonment where someone who engages in sexual intercourse with a child under age 16 stands in a position of authority in respect of the child.

[4] In this case, there is no question that the applicant stood in that relation to the complainant, so the sentence of 15 years imposed by the sentencing judge was the

inevitable consequence of the provisions of section 10(4). With regard to the minimum period fixed for parole, section 10(5) goes on to state that when a person has been sentenced pursuant to section 10(4), that is to say where somebody has been given the minimum sentence of 15 years, the court shall specify a period of not less than 10 years which that person shall serve before becoming eligible for parole. The effect of this is that the sentencing judge, in directing that the applicant should serve a minimum of 10 years before becoming eligible for parole, was again acting completely in accordance with the provisions of the statute.

[5] In these circumstances, the application for leave to appeal against sentence must be refused and the court orders that the sentence is to be reckoned from 28 February 2014.

[6] We are very grateful to the learned Director of Public Prosecutions, and, in particular, to Mrs Lewis-Meade, for having come prepared to address the court on the impact of the relevant statutory provisions.