

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MISS JUSTICE P WILLIAMS JA
THE HON MISS JUSTICE SIMMONS JA
THE HON MRS JUSTICE V HARRIS JA**

PARISH COURT CRIMINAL APPEAL NO COA2021PCCR0005

SEYMOUR COLE v R

Patrick Bailey for the applicant

Jeremy Taylor QC and Mrs Kimberly Guy Reid for the Crown

6 April and 1 July 2022

P WILLIAMS JA

[1] Mr Seymour Cole ('Mr Cole'), a Justice of the Peace and a former member of the Jamaica Defence Force, was alleged to have indecently assaulted AA, a female who was 11 years old at the time. He was arrested and charged with the offence of indecent assault. On a number of dates between 3 January and 8 July 2020, he was tried summarily before Her Hon Mrs T Carr ('the learned Judge of the Parish Court', as she then was) in the Parish Court for the parish of Saint Catherine. Subsequently, on 4 January 2021, he was convicted and sentenced to six months' imprisonment at hard labour. He was granted bail, by this court, pending the hearing of his appeal from that conviction, and was released on 12 February 2021. In Mr Cole's appeal against conviction, the sole issue for determination is whether the learned Judge of the Parish Court erred in finding that AA was a credible witness.

The evidence

For the Crown

[2] On 22 August 2018, at about 4:00 pm or 5:00 pm, AA was at home in the parish of Saint Catherine with her mother, KK. Her house is located in a yard containing five houses. KK instructed her to remove clothes from the line. This line was located in front of a house belonging to, Kadeen, the mother of Mr Cole's child. Kadeen's house was in close proximity to AA's house. AA proceeded to the line, and while removing the clothes, she saw Mr Cole with some "scandal" bags. Mr Cole was someone AA knew before as she was friends with Kadeen, was very fond of the child Kadeen shared with Mr Cole and would see Mr Cole every Sunday when he came to visit. Mr Cole looked at AA, winked, smiled and went inside Kadeen's house. He then returned outside and asked AA whether she was aware of Kadeen's whereabouts, and AA responded, indicating that Kadeen had probably gone to the shop. Mr Cole said, "Okay", and AA continued to remove the clothes from the line.

[3] After that, AA heard "psst". When she turned around, she saw Mr Cole and told him that she was removing clothes from the line. He asked AA to "come here". She placed the clothes she had already removed back on the line and went over to him. At that time, he was standing at the doorway of Kadeen's house. Mr Cole then started hugging AA and "rubbing [her] body, over [both] breasts". He then pushed AA onto a settee inside Kadeen's house, behind the door where he was standing, and said, "Mek mi see it mek mi see it". AA did not know what Mr Cole meant by that. He continued doing so for about two to three minutes, and then he fondled AA's vagina. He fondled AA over her blouse and shorts that she had been wearing at the time. AA tried to remove Mr Cole's hands, but he "put [her] hand down and started rubbing over [her] mouth" (which she demonstrated to the court). AA told Mr Cole that she would tell her mother, and he said "no". He asked AA where her mother was, and she replied, "Over there on the phone". Mr Cole then tried to "lift up" AA's blouse, and AA "pushed away his hand" and stood up. Mr Cole stood up as well, and then he sat on the settee. Mr Cole looked through the window and said, "see Kadeen a come deh", "run gwaan".

[4] AA ran out of the house and encountered Kadeen. AA told Kadeen that she was "going over", and Kadeen responded, "ok". AA went over to her house, where she started crying. She saw her mother, KK, who was on the phone at the time.

[5] By agreement, the statement given by KK was admitted as an exhibit. She indicated that AA was 11 years old at the time. She confirmed that she had sent AA to take the clothes off the line. She was on the phone when she felt "peckish" and went into the refrigerator for a piece of cake she had left there. She noted that the box felt light, so she enquired of AA whether she had eaten her cake. AA responded in the negative. KK then noticed "tears running from [AA's] face and mucus from her nose". KK panicked and asked AA, "wah do yuh". AA replied, "Mommy, I have something to tell you and mi naw tell no lie".

[6] AA told KK that whilst she was taking the clothes from the line, Mr Cole "call her over there and feel [her] up". KK began to cry, ran outside and tried to call the police without success. She told AA to call Kadeen and tell her what had happened. However, AA started stuttering, so KK told Kadeen. Kadeen ran off and came back shortly after with her aunt. KK told Kadeen to call Mr Cole, which she tried unsuccessfully to do. Thereafter, AA and her mother visited the Spanish Town Police Station and made a report.

[7] At about 10:57 pm that night, Kadeen brought a phone to KK and told her that Mr Cole wanted to talk to her. When KK took the phone, "he started saying a lot of things to [her] and [she] told him [she] didn't want to hear anything and he need [sic] to turn himself over to the police". She returned Kadeen's phone, and Kadeen left.

[8] Under cross-examination, AA accepted that the first person she saw upon leaving Kadeen's house was Kadeen, but she said nothing to her about what had happened with Mr Cole. She admitted that she was not crying when she saw Kadeen. She accepted that although there were multiple houses in close proximity in the yard, she had never shouted "stop". While AA admitted that her mother was a strong disciplinarian, she denied that she had only started crying because she had eaten the cake and was afraid of the

repercussions. AA agreed that Mr Cole was very cordial with her and treated her as a relative. She denied that he would "hug her playfully" but that he would say "hi and offer [her] things he bring [sic] for his daughter. Not a secret in view of everyone". She agreed that tension existed between her mother and Kadeen and her sisters. AA denied all suggestions to her that the incident had never happened or that Mr Cole had never touched her inappropriately. She denied that she was a habitual liar or had concocted the event.

[9] In re-examination, AA indicated that she had told her mother "is not a lie" because she had told her mother lies in the past to escape from trouble but had never told "lies about anyone touching [her]".

[10] Constable Monique Dennis was the officer to whom AA and her mother made a report. She got a telephone number for Mr Cole, contacted him, and told him to come to the station to be interviewed. On 16 September 2018, Constable Dennis was instructed to record a question and answer document from Mr Cole, after which he was cautioned, charged and placed in custody. His initial response when cautioned was, "ah vent mi ah vent". He subsequently asked if he could get bail. In cross-examination, Cons Dennis explained that when Mr Cole had initially responded, he was "distressed, not crying".

For the defence

[11] After an unsuccessful no-case submission made on his behalf, Mr Cole gave sworn testimony. His defence was a denial that he had inappropriately touched AA on her breasts or vagina. He placed his good character at the root of his defence. He stated, as previously indicated, that he was a Justice of the Peace, a former member of the Jamaica Defence Force for 11 years and a social worker for five and a half years. He also did a short stint in construction management and taught remedial reading at inner-city schools. He indicated that, at 51 years old, he had no previous convictions and, up to that time, had fathered nine children.

[12] On the day in question, Mr Cole said that he had visited the premises at about 1:00 pm to see Kadeen and his child and drop off groceries. When he entered the dwelling, he saw his daughter, who was one year old at the time, asleep in bed but did not see Kadeen. He admitted to seeing AA (although he claimed he did not know her name at the time) and enquiring about Kadeen's whereabouts. AA indicated that Kadeen had gone to the shop, so he returned to the house to unpack the groceries. While unpacking the groceries, the room door was flung open, and he saw "a young miss" at the door. The young miss was AA, and he told her that "the baby" (his daughter) was sleeping. AA said to him, "her mother gone ah di shop next door". Mr Cole said that he instructed AA to return to her home and continued unpacking the groceries. After a minute, Kadeen walked into the house, and he did not see AA again for the rest of the day. He left at about 4:00 pm.

[13] Mr Cole explained that he knew AA's correct name as "AL or so not sure". He had known her since 2015 but never spoke to her because of "continuous disputes and quarrels with her guardian and [his] spouse". Mr Cole accepted that AA would make frequent visits to his house to play with his daughter. He also stated that he would visit Kadeen's house about four times per week until August 2018. He said that he first became aware of the allegations at about 8:00 pm that night, and the first thing he did was call Kadeen.

[14] In his cross-examination, Mr Cole stated that the first time he saw AA that day, she was on her veranda staring at him and not "picking up clothes". This was after he went into the house and came back out to enquire about his spouse's whereabouts. He denied having any friction with KK, who he said he did not know. He indicated that he had a "father daughter" relationship with AA. He would be generous, kind and respectful to her, and when she asked for anything like snacks, he would tell her to take them from the refrigerator. He stated that due to AA's fondness for his child, she would visit Kadeen's house quite often and that he had been alone with AA on numerous occasions when she would visit the child. Mr Cole agreed that no allegations were had been made against him on those occasions. Contrary to suggestions made to AA by his counsel, he denied ever

touching AA and denied having given her “playful hugs”. He agreed that there was a settee at the entrance of Kadeen’s house and that when AA was at the house, she was within touching distance. While he agreed that AA had told him that Kadeen was at the shop next door, he disagreed with the suggestion he had called AA to come to the door.

[15] Miss Kerry Ann Henriques, a social worker and colleague of Mr Cole, testified as a character witness on his behalf. She indicated that she had known Mr Cole for three years. He was employed by the Peace Management Initiative and was a social worker, violence preventer, gang mobilising officer and an outreach officer. She described him as being dedicated to his job, evidenced by his willingness to work on weekends and indicated that he would go beyond the call of duty using his own financial resources. She also described him as being a people person. Miss Henriques was shocked after learning about the allegations against Mr Cole and thought that “it was a joke” as she did not know him as such a person, based on his prior interactions with young people in the community.

The decision of the learned Judge of the Parish Court

[16] After reviewing the evidence for the Crown and that of the defence, the learned Judge of the Parish Court, as indicated, found Mr Cole guilty. She thoroughly canvassed the evidence for the Crown giving herself the requisite caution and directions and noting that some of AA’s testimony did not flow sequentially. She examined the evidence of KK, which she deemed to be that of a recent complaint. The learned Judge of the Parish Court also thoroughly assessed the case for the defence. She highlighted the claim of an alleged motive for AA’s allegations and the assertion that AA is typically an untruthful child. She paid due regard to Mr Cole’s previous good character. However, she rejected his defence as she found him to be untruthful in several respects. Having gone back to the prosecution’s case, the learned Judge of the Parish Court found AA to be truthful and forthright, which satisfied her beyond a reasonable doubt that Mr Cole was guilty of indecent assault.

[17] The learned Judge of the Parish Court, in concluding, made the following findings of fact:

- a. [AA] was outside when [Mr Cole] came to the yard.
- b. That he called to her asking for Kadeen and she responded that she was [sic] gone to the shop.
- c. That he called her over to the house, hugged her pulled her hand and touched her.
- d. He fondled her breasts and her vagina and rubbed his hand across her mouth.
- e. That this was an indecent act of a sexual nature committed upon a minor and there was no issue of consent.
- f. I rejected the defence [sic] version that [AA] was motivated by bad blood between her mother and the family of [Mr Cole's] spouse.
- g. I rejected the defence that [AA] told a lie to cover up the fact that she had eaten a slice of cake belonging to her mother.

I accepted the evidence of [AA] and I find that [Mr Cole] is guilty of the offence of indecent assault."

[18] In sentencing Mr Cole, the learned Judge of the Parish Court acknowledged the plea in mitigation made on his behalf, urging her to consider a non-custodial sentence. She noted that reference was made to his good antecedents, that he was not beyond redemption and that he had already spent 22 days in pre-trial custody. She then went on to recognise that the maximum sentence for this offence is three years' imprisonment. She considered the aggravating and mitigating features. She expressly disregarded certain comments about Mr Cole in a social enquiry report, which she considered prejudicial to him. The learned Judge of the Parish Court recognised further that a term of imprisonment should always be a last resort but indicated that these offences were happening far too often and that the damage to the child was not often appreciated until much further down the road. She concluded that Mr Cole was like a father to the AA and

someone in authority; hence this was a case where a term of imprisonment was appropriate. She ultimately arrived at a sentence of six months' imprisonment at hard labour.

The appeal

[19] Being aggrieved by that decision, Mr Cole filed an appeal against it. Mr Jeremy Taylor QC, on the Crown's behalf, filed a preliminary objection for non-compliance with sections 299(1), (2) and (3) of the Judicature (Parish Courts) Act. However, as this court found that Mr Cole's notice of appeal had complied, in the main, with those provisions, the preliminary objection was refused.

[20] Permission was sought and granted for the original grounds of appeal to be abandoned and to argue two supplemental grounds of appeal that read as follows:

- "1. The Learned Parish Court Judge failed to consider or to adequately consider that [AA] and [Mr Cole] have frequently interacted together (often with no one else present) and treated her as a relative in a cordial and wholesome relationship so it was therefore out of character and strange for [Mr Cole] to suddenly display the inappropriate sexual conduct to [AA] as alleged.
2. The Learned Parish Court Judge erred when she trivialised, minimised and rejected an element of the defence that the motive for [AA] lying was that she had eaten a slice of cake and feared discipline from her mother. The evidence that [AA] had been crying even before her mother had opened the fridge [sic]. The evidence is [AA] lies to keep herself out of trouble eg discipline from her mother."

[21] Both grounds of appeal raise an overarching issue, that is, whether the learned Judge of the Parish Court erred in her finding that AA was a credible witness. The first challenge was to the credibility of AA's complaint, in that, the nature of the relationship between Mr Cole and AA would have rendered it unlikely that he would have committed the offence. The second challenge to her credibility was based on the claim that since AA's mother was a disciplinarian and AA would often lie to keep herself out of trouble, it

was more probable that AA had lied about the alleged assault to evade punishment for eating her mother's cake.

Discussion and analysis

[22] A Judge of the Parish Court remains obliged to adhere to the provisions of the Judicature (Parish Courts) Act which, in part, state the following at section 291:

“Where any person charged before a Court with any offence specified by the Minister by order, to be an offence to which this paragraph shall apply, is found guilty of such an offence, the [Judge of the Parish Court] shall record or cause to be recorded in the notes of evidence, a statement in summary form of his findings of fact on which the verdict of guilty is founded.”

[23] In **Brian Bernal and Christopher Moore v R** (1997) 51 WIR 241, the Judicial Committee of the Privy Council considered this section when the appellants complained that a Resident Magistrate (as Judges of the Parish Courts were then designated) had failed to examine or make relevant findings about a specific bit of evidence and thus had failed to fully comply with the section. Sir Brian Neill, writing on behalf of the Board at page 255, said:

“Section 291 does not require a [Judge of the Parish Court] to set out every possibility in his findings of fact and then give his reasons for rejecting some possibilities and accepting others. His task is to find the facts and to provide an intelligible narrative to connect those facts together.”

[24] This court has long acknowledged and accepted its constraints when called to review findings of fact made by a first instance judge. In **Everett Rodney v R** [2013] JMCA Crim 1, Brooks JA (as he then was) stated the following:

“[21] Where findings of fact are made by the tribunal entrusted with that duty, this court is reluctant to disturb such findings, as long as there is credible evidence to support such a finding. This approach was enunciated by Smith JA in **Royes v Campbell and Another** No SCCA 133/2002

(delivered 3 November 2005). His Lordship said at page 18 of his judgment:

'It is now an established principle that in cases in which the Court is asked to reverse a judge's findings of fact, which depend upon his view of the credibility of the witnesses, the Court will only do so if satisfied that the judge was 'plainly wrong'.'

Smith JA relied on **Watt v Thomas** [1947] AC 484 in support of that statement of law. The principle would also apply to Resident Magistrate's findings of fact.

[22] This court has also found that an appellant, seeking to overturn a conviction based on findings of fact, must 'show that the verdict is so against the weight of evidence as to be unreasonable and insupportable' (see **Joseph Lao v R** (1973) 12 JLR 1238). This principle also applies to a [Judge of the Parish Court's] findings of fact."

[25] Additionally, in **Mavrick Marshall v R** [2020] JMCA Crim 20, Phillips JA stated, at para. [34] "an appellate court does not lightly interfere with findings of fact made by a trial judge, and will only do so if there is a material or demonstrable error in the finding made or it cannot be reasonably explained or justified".

[26] On assessing the credibility of witnesses, it is well settled that the judge, at first instance, is better able to do so given the advantage they have of seeing and hearing the witnesses and observing their demeanour. Ultimately, as Bingham JA (Ag) (as he then was) in **R v Horace Willock** (unreported), Court of Appeal, Jamaica, Supreme Court Criminal Appeal No 76/1986, judgment delivered on 15 May 1987, said at page 5:

"Provided therefore, that on an examination of the printed record, there existed material evidence upon which there was a sufficient basis for the learned trial judge to come to the decision at which he arrived, there would be no reason for this Court to interfere with the decision at which he arrived."

[27] Accordingly, in reviewing the findings of fact being challenged by Mr Cole, regard must be had to whether there was credible evidence to support those findings, whether

they were materially or demonstrably wrong, or they cannot reasonably be explained or justified.

Relationship between Mr Cole and AA

[28] The first ground of appeal raises a challenge to the credibility of AA's accusation in the light of the relationship between Mr Cole and AA. Counsel for Mr Cole, Mr Patrick Bailey, contended that the learned Judge of the Parish Court had given little or no consideration to the fact that AA had a fondness for Mr Cole's child; would visit Kadeen's house frequently to see the child; and on many of those occasions, would be alone with Mr Cole. Despite the frequency of those interactions, AA had never made any allegations against him. Furthermore, by virtue of the "father daughter" relationship Mr Cole shared with AA, he was very generous, kind and respectful to her. Yet, in all these instances, the learned Judge of the Parish Court, counsel said, did not consider the cordial and wholesome relationship between Mr Cole and AA, which would have rendered it improbable that Mr Cole would have assaulted her.

[29] Mr Taylor posited that there was no need for a detailed canvassing of the relationship between the parties, as identification was not in issue, and, in any event, Mr Cole admitted to being in AA's presence but denied that the incident had occurred. Nonetheless, he indicated that the learned Judge of the Parish Court thoroughly and adequately explored the history of the cordial relationship between AA and Mr Cole. The fact that there was bad blood between KK and Kadeen was also considered a motive for AA's allegations against Mr Cole. Consequently, Queen's Counsel posited that there was no merit in this ground of appeal.

[30] In reviewing the evidence, the learned Judge of the Parish Court acknowledged what had been said of the relationship between Mr Cole and AA. She demonstrably had that relationship in mind in resolving the issue of the reason AA went to Kadeen's door. The learned Judge of the Parish Court found that on both the case for the prosecution and the defence, AA went to the door. Mr Cole had asked AA about Kadeen's whereabouts before AA went to the door. Mr Cole himself had said that his child was sleeping at the

time, and he had never said that AA had asked him for the child. The learned Judge of the Parish Court indicated that since Kadeen was absent and the child was asleep, it begged the question as to why AA would have gone to the house. Additionally, on Mr Cole's evidence, AA had already told him that Kadeen had probably gone to the shop, so why would AA have "flung open" Kadeen's door to say to Mr Cole, once more, that Kadeen had gone to the shop.

[31] The learned Judge of the Parish Court considered Mr Cole's denial that he had called AA to the door, but she also noted his admission that AA did go to the door. However, she accepted AA's evidence that Mr Cole called her, which was why she went to the door. Ultimately, she found that "due to her relationship with [Mr Cole], AA would not see anything wrong with him asking her to come over and so would have gone willingly".

[32] The closeness of the relationship between Mr Cole and AA, on Mr Cole's evidence, bolstered the evidence that Mr Cole was someone AA would have been with alone quite often; hence, AA would not have been afraid to go to him when he summoned her. Further and significantly, AA had never made an allegation of this nature against him before. On Mr Cole's evidence, the animosity between Kadeen and AA's mother did not extend to the "father daughter" relationship he shared with AA. There was, therefore, no evidence supporting a claim of a motive for AA's "egregious lie". We agree with Mr Taylor that the learned Judge of the Parish Court "did avail herself of the entire narrative in the case" regarding the relationship between Mr Cole and AA. It is clear that the learned Judge of the Parish Court did consider the evidence of the relationship between the parties and did so sufficiently and fairly. The submission that the close relationship between AA and Mr Cole made it unlikely that Mr Cole could have committed the assault is, therefore, flawed. The learned Judge of the Parish Court could not be faulted in finding that this evidence operated to bolster AA's credibility and weakened that of Mr Cole. In that vein, the finding that AA was a credible witness also cannot be faulted, so ground 1 must fail.

The lie about the cake

[33] It was Mr Bailey's further contention that the learned Judge of the Parish Court erred when she rejected the possibility that AA had lied about the assault because she had eaten a slice of cake and feared discipline from her mother. He noted AA herself admitted to telling lies to get herself out of trouble and had even lied to KK about eating her cake. Counsel further stated that AA acknowledged that KK was a strict disciplinarian, and so, AA's act of crying could have been a pre-emptive reaction to her uncertainty about KK's response should KK find out that she had eaten the cake. This, counsel posited, indicated that AA was not a credible witness, and the learned Judge of the Parish Court erred in accepting her evidence as truthful.

[34] Mr Taylor noted that the learned Judge of the Parish Court highlighted that AA admitted to telling lies to escape from trouble and that she admitted that she had lied about eating the cake. Queen's Counsel submitted that those admissions presented AA as a witness who owned up to her mistakes, but she remained steadfast in her accusations against Mr Cole. Mr Taylor also contended that the issue of the cake would be secondary to the assault, as the unchallenged evidence was that AA was crying even before her mother had asked her about the cake. Accordingly, the learned Judge of the Parish Court was correct to find that there was no reason for AA to lie about the assault and the issue with the cake was not an explanation that would satisfy the court.

[35] AA's evidence was that when she arrived home, she was crying. KK's unchallenged evidence was that after asking AA about the cake, she turned around and saw AA crying, which caused her to panic. The learned Judge of the Parish Court asked herself, "why was [AA] crying if something did not happen to her". She noted the suggestion by the defence that AA's tears were the result of the fact that AA had eaten KK's cake, lied about it, and was afraid of punishment should KK discover her actions. The learned Judge of the Parish Court then asked herself a question, which was entirely reasonable in the circumstances, "Could a slice of cake cause [AA] to be in the distress that was witnessed by her mother?"

[36] The learned Judge of the Parish Court found that AA “did not strike [her] as being a child who displayed artifice”. She cited the fact that AA simply said “No” when asked what Mr Cole meant when he said, “Mek mi see it mek mi see it”, and also her admission that she had told KK lies before and that she had lied to KK about eating the slice of cake in the refrigerator. The learned Judge of the Parish Court noted that, in her statement to KK, AA prefaced it by saying, “Mommy, I have something to tell you, and it is not a lie”, and that she had denied that it was her habit to lie and would only do so to get out of trouble. The learned Judge of the Parish Court also noted an absence of evidence from KK that AA lied about “anything outside of what she has described to the court”. She found that “a lie about not eating a piece of cake cannot be compared to a lie about a man that she considered to be like a father figure assaulting her”.

[37] The learned Judge of the Parish Court acknowledged that there was a suggestion that the motive for this lie was bad blood between KK and Kadeen’s sisters. However, she also noted that Mr Cole admitted that this bad blood pre-dated him and was ongoing for the entire time he knew them. She noted that AA had never made an allegation of this nature before, despite the fact that she had spent several days at Kadeen’s house alone with Mr Cole. It was against this consideration of the relevant evidence that the learned Judge of the Parish Court found that there was no reason for AA to lie and no satisfactory explanation for any lie. She, therefore, found that AA was “truthful and forthright” while Mr Cole was “untruthful”, and so she accepted AA’s evidence and rejected that of Mr Cole.

[38] Having weighed the conflicting evidence, the learned Judge of the Parish Court made the following conclusion:

“38. There is no reason for [AA] to lie. There is no explanation for such a lie that satisfies the court. I did not accept the evidence of [Mr Cole]. He did not strike me as truthful. I do not take his previously good character lightly and I have weighed it heavily in looking at his evidence. I did not find that he was truthful about the reason [AA] came to

the door and that this was so because he called her there and hugged her up and touched her inappropriately.

39. I rejected the defence. Having rejected the defence however, that is not the end of the matter. The prosecution still has the burden of proving this case beyond a reasonable doubt. I found [AA] to be truthful and forthright while giving her evidence. I accepted that she was called by [Mr Cole] and that upon entering the house he hugged her held on to her and pushed her on the settee which he agreed was an arms length away from the door. He touched her breasts and her vagina and that was an assault upon her person of an indecent nature.”

[39] In the light of the foregoing, it is clear that the learned Judge of the Parish Court indicated the evidence that she accepted, the evidence that she rejected, and the basis for so doing. Based on the thorough and detailed manner in which the learned Judge of the Parish Court explored this issue, we disagree with Mr Bailey that she had “trivialised, minimised and rejected an element of the defence”. This aspect of Mr Cole’s defence was carefully and thoroughly considered and weighed against the evidence of the prosecution and was ultimately rejected. In our view, there was clear and sufficient evidence justifying the finding that AA was credible in relation to her account of what took place that day despite her admission that she had, on previous occasions, lied to keep herself out of trouble. Consequently, ground 2 has no merit and also fails.

Conclusion

[40] There is no basis upon which we could conclude that the finding by the learned Judge of the Parish Court that AA was a credible witness was materially or demonstrably wrong. Although not necessarily required, she, in a commendably transparent manner, thoroughly and critically canvassed all the evidence before making findings of fact that are supported by the evidence. She gave herself adequate warnings and directions. She considered and rejected the defence of Mr Cole before finally accepting AA as a witness of truth who gave credible evidence. It has not been established that there is any basis for interfering with the verdict. We, therefore, make the following orders:

1. The appeal against conviction and sentence is dismissed.
2. The sentence imposed of six months' imprisonment at hard labour is affirmed.
3. The sentence is to commence today, 1 July 2022.
4. A period of one month and seven days (4 January 2021 to 12 February 2021) shall be treated as having been already served.