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**NOTICE TO PARTIES OF THE COURT'S
MEMORANDUM OF REASONS FOR JUDGMENT**

SUPREME COURT CRIMINAL APPEAL NO 49/2017

STEVE MARAGH V R

TAKE NOTICE that this matter was heard by the Hon Mrs Justice McDonald-Bishop P, the Hon Mrs Justice V Harris JA and the Hon Mr Justice Brown JA on 14 July 2025 with Mr Vernon Daley for the appellant and Mrs Christine Johnson-Spence and Ms Sharelle Smith for the Crown.

TAKE FURTHER NOTICE that the court's memorandum of reasons for its decision delivered on 14 July 2025 by the Hon Mrs Justice McDonald-Bishop P is as follows:

[1] This is an appeal, brought with leave of a single judge of this court, against the sentences imposed by Jackson-Haisley J ('the learned judge') in the Home Circuit Court on 10 May 2017, for two counts of grievous sexual assault (counts one and three of the indictment), one count of sexual touching of a child (count two of the indictment) and one count of sexual intercourse with a person under sixteen years (count four of the indictment). For each count of grievous sexual assault, the appellant was sentenced to the mandatory minimum sentence of 15 years imprisonment with a stipulated minimum term of 10 years before eligibility for parole. For the offence of sexual touching of a child, the sentence was five years' imprisonment; and, for the offence of sexual intercourse with a person under 16 years, the sentence was 12 years' imprisonment. The sentences were ordered to run concurrently.

[2] The appellant advances two grounds of appeal: (1) the learned judge in passing sentence erred when she failed to give full credit to the appellant for the time spent on

pre-trial remand; and (2) the delay in the appellant's appeal occasioned by the production of the transcript of the trial, some five and a half years into his sentence, has breached the appellant's constitutional right to a fair hearing within a reasonable time.

[3] The court has considered the authorities cited by counsel on both sides, including **Callachand and Another v The State** [2008] UKPC 49, **Meisha Clement v R** [2016] JMCA Crim 26; this court's unreported decision in **Cecil Moore v R** (unreported), Jamaica, Court of Appeal, Supreme Court Criminal Appeal No 25/2016, delivered on 6 March 2025; **Melanie Tapper v The Director of Public Prosecutions** [2012] UKPC 26, **Curtis Grey v R** [2019] JMCA Crim 6; and, **Techla Simpson v R** [2019] JMCA Crim 37.

[4] Having done so, we are satisfied that the appellant should be granted credit for the three months and two weeks he spent on pre-sentence remand. Credit is given on the mandatory minimum sentences imposed on counts one and three for the offence of grievous sexual assault, which were the highest sentences imposed by the learned judge.

[5] We also conclude that the delay of almost five and a half years between the filing of his application for leave to appeal in 2017 and the production of the transcript in 2022 led to a breach of the appellant's constitutional right to have his sentence reviewed by the Court of Appeal within a reasonable time, pursuant to sections 16(1) and 16(8) of the Constitution. Therefore, the appellant should be granted an effective remedy for the breach, in keeping with the guidance of the Privy Council in **Attorney General's Reference (No 2 of 2001)** [2003] UKHL 68 and **Melanie Tapper v The Director of Public Prosecutions** as to the appropriate remedies where a breach of the constitutional reasonable time guarantee is established retrospectively.

[6] For these reasons, the appeal succeeds on both grounds advanced. We, accordingly, make the following orders:

1. The appeal against sentence is allowed, in part.

2. The sentences of 15 years' imprisonment with the stipulation that the appellant serve 10 years before becoming eligible for parole, imposed on counts one and three of the indictment, for the offence of grievous sexual assault, are set aside. Substituted therefor are sentences of 14 years, eight months and two weeks, for each count of grievous sexual assault with the stipulation that the appellant serves 10 years before becoming eligible for parole, credit having been given for the three months and two weeks spent by the appellant on pre-sentence remand.
3. The sentences imposed on counts two and four of the indictment are affirmed.
4. It is hereby declared that the appellant's constitutional right to have his appeal reviewed by the Court of Appeal within a reasonable time, in accordance with sections 16(1) and 16(8) of the Constitution, has been breached.
5. As a remedy for the breach of the appellant's constitutional right, the sentences on counts one and three of the indictment for grievous sexual assault are reduced by one year and three months to 13 years, three months and two weeks, with the stipulation that he serve eight years and nine months before becoming eligible for parole.
6. The sentences are to run concurrently and are to be reckoned as having commenced on 10 May 2017, the date they were imposed.