

IN THE SUPREME COURT OF BELIZE, A.D. 2022

(CRIMINAL JURISDICTION)

NORTHERN DISTRICT (ORANGE WALK)

INDICTMENT N/10/2022

THE QUEEN

v

LEONIE PATT

Charge: Unlawful Sexual Intercourse (2) counts

Before H. Lord (J)

Heard: 18, 19, 21, 25, 26, 27 July 2022

Appearances

Mrs. Shanidi Chell-Urbina }
Ms. D. Chell } for the Crown
Defendant unrepresented

5

JUDGMENT

The accused stands indicted for the crime of two (2) counts of unlawful sexual intercourse, and it is alleged that (1) Leonie Patt, on the 1st day of April 2020 at San Narciso Village in the Corozal District, in the Northern District of the Supreme Court had sexual intercourse with NC, a person above the age of fourteen years but under
10 the age of sixteen years.

5 (2) That Leonie Patt, on the 8th day of August 2020, at San Narciso Village, in the Corozal District in the Northern District of the Supreme Court, had sexual intercourse with NC, a person above the age of fourteen but under the age of sixteen years.

10 The accused was arraigned on the 18th July 2022, and pleaded Not Guilty to both charges; a trial then proceeded before me sitting without a jury, by virtue of Act #3 of 2022 which amended Section 65(a) of the Indictable Procedure Act, Chapter 96 Laws of Belize dated 22nd March 2022.

15 It is noted the accused was committed for trial on the 14th day of April 2022.

BURDEN AND STANDARD OF PROOF

Sitting as a Judge alone, I am both the trier of fact, and of the law, as such I now direct myself and I keep in mind throughout my deliberations of this matter that the
20 Prosecution has the burden of proof in this case, and that the accused stands before me as an innocent person. Therefore (he) the accused has nothing to prove whatsoever, but rather it is the Prosecution that has the duty to prove each element of the offence of unlawful sexual intercourse.

5 I have further noted, and I have directed myself that the Prosecution must prove each
element of the offence by providing me with evidence of such quality that I can feel
sure of the respective elements.

And finally, if I have no doubt, then I can be certain of the guilt of the accused and
10 may then convict him. However, if on the other hand the Prosecution fails to make
me feel sure, and if I have any reasonable doubts of any of the elements of the
offence, then I will be obliged to acquit the accused of the charge of unlawful sexual
intercourse.

15 The court also here noted that Act No. 12 of 2014 amended Chapter 101 of the
Substantive Laws of Belize, Revised Edition 2000 – 2003; and that Section 47(2)
now states under the Heading – Unlawful Sexual Intercourse as follows –

(2) Every person who has unlawful sexual intercourse with a person who is
above the age of fourteen years but under the age of sixteen years, commits
20 an offence, and is liable on conviction on indictment to imprisonment.”

It is further noted that Section (73) of the said Criminal Code. Chapter 101 of the
Laws of Belize also states – Whenever upon the trial for any crime punishable under

5 the code, it is necessary to prove (Carnal Knowledge) now (Sexual Intercourse), it shall be deemed complete upon proof of any, or the least degree of penetration only.

Elements of the offence of Unlawful Sexual Intercourse

Now in order for me to convict the accused of the charge of unlawful sexual
10 intercourse, the Prosecution is required to prove the following elements so that I can
feel sure of each –

- (1) That the person is NC (a female person), and that she was above the age of fourteen years, but under the age of sixteen years at the time of the incidents.
- 15 (2) That NC was sexually known.
- (3) That it was the accused (Leonie Patt) who unlawfully had sexual intercourse with the complainant (NC)

Here I note that the standard of proof in respect of each element is proof beyond a reasonable doubt.

20 **THE PROSECUTION’S CASE**

The Prosecution called a total of ten (10) witnesses during trial.

5 **The first element – That the person is NC (A female person) and that she was above the age of fourteen years, but under the age of sixteen years at the time of the incidents**

The evidence brought by the Crown to prove this element came from the following persons:

10 1. ME who gave evidence on oath and stated – I am a housewife and I live at San Narciso, Corozal District. I live with my husband RC and my four (4) children; one being (e.g.) NBC now age sixteen years. Her date of birth is 13th September 2005. She was born at Orange Walk Hospital. Her parents are RC and I (MIE).

15 She continued – I remember the 1st April 2020 at 2:00 a.m., I was at home at San Narciso. I got up to use the restroom. I noticed that NC was not there. I started searching for her, she was not found. When my husband arrived about 4:00 a.m., then he starts searching inside and outside he did not find her and he took his bicycle and went to the house of Jonnie Patt, this was about 4:10 a.m. I stood on the edge
20 of the road by my house to wait for him.

At about 4:30 a.m. he returned, and he brought NC. When he brought my daughter, I started talking with her (NC) I started to talk to NC, and I asked if she had relations

5 with Jonnie Patt. When I asked her if she had relations with Jonnie Patt she answered
yes, the conversation lasted about 20 minutes. I got mad and I sent her to kneel.
When she finished kneeling, I asked her a question if she had relations, and she
answered yes. I asked her the question two (2) times.

She also stated that she remembered the 7th August 2020 at about 9:00 p.m., NC
10 borrowed her phone, she continued she went to sleep and stated my daughter JE got
up and she told me NC is not there. Then I saw the time, it was 2:20 a.m. I told my
husband that NC is not there.

He got up and searched in and out, when we couldn't find her, my husband took his
bicycle and went to search for her. After my husband left, I stayed by the side of the
15 road waiting for them to return. Then when my husband came back, he did not bring
NC.

When NC did not come, I went to my neighbour to see if my neighbour had the
phone number of the police. Then she called and I went back to my house, about
half hour when the police arrived, we went with the police to Jonnie's house, we
20 knocked at the door, the door was not opened; we knocked the door again then LP
and AP came out; and asked what's happening? I told him I went to see NC that is
there.

5 Then they opened the door and Jonnie Patt, and NC came out. Jonnie opened the door where Jonnie and NC were. Jonnie and NC came from the house at the corner where they were. I told NC let's go home and she told me I am not going, and she held herself to the door.

10 So, when she did not want to come, the police asked what I will do, and the police proceeded to handcuff her. Then he asked me if I wanted to take NC to my house I said no, I was so mad I said take her to the police station. I went home and the police took Jonnie and NC to the station.

15 3. The Prosecution also called NC who stated in her evidence as follows –

I am sixteen years old; my date of birth is 13th September 2005. In April 2020 I was fourteen years old, in August 2020 I was fourteen years old.

4. The Prosecution also called Dr. Cristina Valdez who stated in her evidence that –

20 I remember the 8th August 2020 at 6:13 p.m., I was working at the Corozal Community Hospital when I examined a patient named NBC. At the time of examination, she was fourteen years old.

5 She was accompanied by her mother, ME and a Police Officer female (Ms. Ferguson).

Having considered the above evidence, I am satisfied that it is sufficient to make me feel sure and satisfied that the Crown has proven, this element satisfactorily to the court and myself.

10 2. That NC was sexually known

The evidence brought by the Prosecution to prove this element came from the following persons –

1. Dr. Cristina Valdez who gave evidence and stated after being accepted as an expert in the area of General Medicine that on the 8th August 2020 at 6:13 p.m. I was
15 working at the Corozal Community Hospital when I examined a patient named NBC. At the time of examination, she was fourteen years old. She was accompanied by her mother ME and a Police Officer female (Ms. Ferguson). They brought the patient complaining she was sexually active.

I proceeded to take her to the examination room at the Emergency room at the
20 Corozal Community Hospital. There I examined her I did a general examination first with the patient standing up for presence of Hematoma, lesions and bruises, but there was none.

I then proceeded and placed the patient on a bed on the back with her feet flex apart.

5 Then I started my examination on the gynecological and external genital area. There
I noticed the patient (NC) had a white vaginal discharge coming out of the vaginal
canal.

There was no presence of the hymen. There was a complete loss of the hymen which
10 covers the vaginal canal. I also inspected the other female organs, and I did not see
any lacerations, bruises or bleeding.

The loss of the Hymen would be caused mainly by a penetration of the penis into the
vaginal canal.

15

The white vaginal discharge seen was yeast infection caused by fungus.

Leidiana Cantun stated in evidence as follows – I am a Crime Scene Technician. My
role is to process crime scene which involves gathering of evidence, photography,
finger printing, and collection of evidence, report writing and report to court. I am
20 stationed at Corozal Police Station.

5 I remember 11th August 2020 whilst on official duties at Corozal Police Station a request was made by Sgt. Erlene Ferguson to photograph at the village of San Narciso, Corozal. I proceeded to San Narciso Village, there I met Sgt. Ferguson on my arrival, and she showed me the area she wanted photographed.

I saw three (3) structures of pimento sticks and thatched roof.

10 I took three (3) photographs -

#1 - was the general view of the area which included the three (3) structures.

#2 – The front view of one of the structures pointed out to me located on the side which appeared to be a kitchen

#3 – The interior of that one (the kitchen)

15 After taking the three (3) photographs I proceeded to the Crime Scene Office at Corozal Police Station where I downloaded it onto the system for safekeeping. I printed three (3) photographs with four (4) copies of each. I labelled them with a short caption, and I put my signature on the back of each photograph.

20 I generated a report, and I handed the photographs along with the report to Sgt. Ferguson on the same date. It is noted these photographs were accepted as Exhibits LC1 to LC3.

5 Sgt. Erlene Ferguson also gave evidence and stated that on the 8th August 2020, at 4:00 p.m. I met with ME, mother of NC and I proceeded to release NC in her custody, and I escorted both to the Domestic Violence Office upstairs of the Station and both were interviewed by myself, and an official report was taken with assistance of PC Janelle Chan. Later a consent form was obtained to see if her daughter was sexually
10 active. I escorted ME and NC to the Corozal Community Hospital, and I spoke to Dr. Valdez and requested a medical examination.

I filled out a Medico Legal Form with complainant NC, mother ME, date 8th August 2020, time 6:13 p.m.

15

The medical examination was began by Dr. Valdez at 6:13 p.m.; present at the time was myself and ME and Dr. Valdez conducting the examination on NC. It took about 20 minutes.

Dr. Valdez filled out said Medico Legal Form and returned it to me at 6:46 p.m.

20 Thereafter I left the Corozal Community Hospital and escorted both to the Corozal Formation and to the Domestic Violence Unit Office where a formal report was taken from NC in the presence of her mother (ME).

5 On 9th August 2020, after 9:00 a.m. I visited Corozal Police Formation at (cell #2) where I spoke to Leonie Patt and informed him of the report made against him, and he was asked if he was willing to give a caution statement to the Police. Leonie Patt agreed, and he was asked by myself if he wanted a lawyer or a family member, at the time he requested his mother AMC.

10

On the 9th August 2020 at 5:15 p.m. based on information received and statements recorded, I swore to Information and Complaint and charged Leonie Patt, labourer of San Narciso Village for Unlawful Sexual Intercourse, two (2) counts. He was also cautioned, and his constitutional rights were given to him in the English language.

15

When I cautioned Patt this was done in the English language as he was asked by myself if he understood English and he said yes. When he asked for his mother to be present it was done in the English language.

On the 9th August 2020 Leonie Patt was in my presence for a couple of hours as he was being processed after being charged. This was inside the Corozal Station where he was sitting on the waiting bench. He was about two (2) feet away. The station was well illuminated. If I see the person who identified himself as Leonie Patt, I can identify him. He is the defendant in the defendant's box with the mask over his face.

20

5 On 11th August 2020 at 2:43 p.m. myself and SOC Leidiana Cantun proceeded to San Narciso Village to the residence of Leonie Patt where the scene and the residence was photographed by Ms. Cantun.

On same date I received a typed written report and pictures from SOC Leidiana
10 Cantun. Witness is shown Exhibit LC1, 2 and 3; the witness replies – (photo 1) – this is the said property Police visited where Leonie Patt was found at the pimento house in photo. Here it is noted witness indicates the building on the right in photo and states this is where Leonie Patt opened the backdoor and NC exited a room from the house.

15 (Photo 2) – this is a pimento structure used as a kitchen facility, this was about 10 – 12 feet from the structure NC and Leonie Patt came from.

(Photo 3) – this is the inside of the kitchen on #2 and where alleged incident had occurred.

20

Now having considered the above evidence of the mother, the doctor, and Sgt. Erlene Ferguson I am satisfied that this evidence is sufficient to make me feel sure, and

5 satisfied that the Crown has proven this element satisfactorily to the court and myself
as the trier of the facts and the law.

(#3.) That is it was the accused (Leonie Patt) who unlawfully had sexual intercourse
with the complainant (NC) on both occasions

Here the evidence brought by the Crown to prove this element come from the
10 following persons –

1. NBC who gave evidence and stated as follows – I am 16 years old, my date of
birth is 13th September 2005. I live in San Narciso, Corozal District.

In April 2020, I was 14 years old. In August 2020, I was 14 years old. (Emphasis
mine)

15 She continued – I remember a day in April 2020 I borrowed my sister Julissa’s
cellular phone. I communicated with Jonnie Patt. That Jonnie Patt was to come to
my house for me. I used Facebook Messenger. I lived in San Narciso with my father
RC and my mother MIE.

20 Jonnie told me he was coming to look for me. I told him yes; I will come out from
my house. Jonnie arrived home at my house at about 11:00 p.m. that night. I came

5 out of my house by the front door. Jonnie was waiting for me outside in front of my house. When I came out of my house, I saw only Jonnie. We went to Jonnie's house on a bike. Jonnie was giving me a ride.

We got to Jonnie's house; we entered the kitchen. Jonnie put on the light; Jonnie was looking for his cigarettes. When he found his cigarette, he out the light. This
10 is situated inside the kitchen. It was on for about 5 minutes I saw table and chairs. Only I and Jonnie were there. There are three (3) houses of pimento and straw. The kitchen is of pimento and straw.

He sat me in the hammock in the kitchen. Jonnie hugged me. He started kissing
15 me, we both stood up, Jonnie took off my blouse, and also my pants. He took off my undies (panties). I took off his clothes, his sport shirt and his pants. We laid down on the ground (floor) Jonnie laid to my side; then he came on top of me. He inserted his penis in my vagina. This lasted about 15 minutes (emphasis mine)

We stood up and we put back our clothes. It was clear because of the moon; because
20 the moon also reflects inside, as the window was a bit opened in the kitchen. The window was about 5 feet from me.

5 We went out of the kitchen to the next house where Jonnie sleeps with his younger sisters, we entered the house, and we laid down at the bed where he sleeps. It did not take long when my father arrived. Jonnie's mother called him (Jonnie), Jonnie opened the door of the rear door. I saw my father and Jonnie's mother and father (AP, and LP).

10

I saw them by the clarity of the moon. I went back with my father home; my father gave me a ride on his bike. My father took me home. He left me with my mother. My mother was scolding me. She was saying why did you do it. I did not answer her. Then she told me to kneel.

15

It was clearing, she asked me if I had sexual relations with Jonnie. I did not answer her. She asked me again if I had sexual relations with Jonnie, I answered yes.

NC later continued and stated I remember 7th August 2020 at 9:00 p.m. I borrowed
20 my mother's cellular phone so I can see the number that played. I told her I was going to return her phone. I went to my room to communicate with Jonnie. He told me he was coming to my house for me. I was communicating on Facebook Messenger. Jonnie arrived to my house. I communicated with Jonnie for 4 hours.

5 On 8th August 2020 at 11:00 p.m. Jonnie arrived at my house. I went out from my house from the front door. I saw Jonnie sitting down in front of my house. He was about 3 feet from me then. The light on the lamppost was shining. We went to his house on bike (one bike). He gave me a ride.

10 At his house we entered the kitchen that is at Jonnie's house. I sat at the hammock in the kitchen. Jonnie put his phone to charge in the kitchen. He sat with me in the hammock. Next, he starts hugging me. He said I miss you; he starts kissing me. We stood up, I took off my clothes, Jonnie took off his clothes. We lay on the ground on my blouse, pants, bra, my panty.

15

Jonnie took off his shirt, pants and his boxers. The shirt of Jonnie was white, the pants was green, it was a shirt pants. After we lay on the ground, Jonnie come on top of me. He opened my legs, Jonnie inserted his penis in my vagina, this lasted about 15 minutes (emphasis mine).

20

We put back our clothes Jonnie went out to drink some water. He entered once more the kitchen. We both went outside the kitchen, and we went to where he sleeps with his sisters. We went inside the house where he sleeps, we both lie down on the bed.

5 My father arrived, my father was talking, I know as I listened to his voice, Jonnie was with me. He calling to Jonnie's father, I didn't hear it anymore. My father came back, he came back about 25 minutes with the Police. Thereafter they were talking, Jonnie opened the rea door of the house; I saw my father, my mother, Jonnie's mother and his father. My father told me to return home, Jonnie was with me, and I
10 told my father I will not go. They handcuffed me a police.

Jonnie only said – do not be afraid. Before the police handcuffed me, I embraced Jonnie. They put him on the police mobile pickup. They put me in the mobile the police. They took us to the Corozal Police Station. I was in the kitchen about one
15 (1) hour that night. The light was clear because of the moon. The moon was focus inside by the window, it was open, and I and Jonnie were about five (5) feet from the window. The house where Jonnie sleeps is about twenty (20) feet away from the kitchen. The bed I spoke of is in the hall of the house where his younger siblings sleep. When I went into the house only me and Jonnie were there. I was able to see
20 it was the police because of the spaces the house had on the wall. When the police took me to the station, they put us in the cell. The same day my mother came to the station, they took me out and to the office on the upper part of the station. My mother signed a paper for me to get a medical checkup. They took us to the hospital, a woman police. A doctor checked me. They took us back to the police station. I

5 gave a declaration. I mentioned one Jonnie Patt. I also know him as Lionel Patt. I know Lionel Patt about five (5) years. We were boyfriends for five (5) years. In these years I saw him every day. He used to go to my house. I saw him sometimes two (2) or three (3) hours. If I see the person I know as Jonnie Patt or Lionel Patt I can identify him. It is noted the witness NC pointed to the defendant/accused
10 (Leonie Patt) in the dock in court.

2. ME sworn states - I remember the 1st April 2020 at 2:00 a.m. I was at home at San Narciso, I got up to use the restroom. I noticed that NC was not there. I started searching for her, she was not found. When my husband arrived about 4:00 a.m. then he starts searching inside and outside. He did not find her, and he took his
15 bicycle and went to the house of Jonnie Patt, this was about 4:10 a.m. About 4:30 a.m. he returned, and he brought NC. When he brought my daughter, I started talking with her (NC). I started to talk to NC, and I asked if she had relations with Jonnie Patt, she answered yes. The conversation lasted about 20 minutes. I got mad, and I sent her to kneel. When she finished kneeling, I asked her a question, if she
20 had relations and she answered yes. I asked her the question two (2) times.

The witness further stated in her evidence that she also remembered the 7th August 2020 at about 9:00 p.m. NC borrowed her phone. She continued that she went to

5 sleep and stated her daughter JE got up and told me NC is not there. Then I saw the time, it was 2:20 a.m. I told my husband that NC is not there. He got up and searched in and out; when we couldn't find her; my husband took his bicycle and went to search for her. Then when my husband came back he did not bring NC.

When NC did not come, I went to my neighbour to see if my neighbor had the phone
10 number of the police. Then she called, and I went back to my house; about half hour when the police arrived. We went with the police to Jonnie's house. When we arrived at Jonnie Patt house we knocked the door, the door was not open, we knocked the door again then LP and AP came out and ask what's happening.

I told him I went to see NC that is there. Then they opened the door and Jonnie Patt
15 and NC came out. Jonnie opened the door where Jonnie and NC came from the house at the corner where they were. I told NC let's go home and she told me I am not going, and she held herself to the door. So, when she did not want to come, police asked what I will do and the police proceeded to handcuff her. Then he asked me if I wanted to take NC to my house. I said no, I was so mad. I said take her to
20 the police station I went home, and the police took Jonnie and NC to the station. Before that police said I had to go to the station at 6:00 o'clock. I went home and at 6:00 o'clock I went to Corozal and I waited from 6:00 a.m. to 4:00 p.m. Then the Police woman who took NC arrived and asked for my signature for an examination to be made to NC. The police and myself went to the hospital.

5 NC was examined and the doctor said yes. After the doctor examined NC, we went back to the station.

I was told to give a declaration. When I was finished, they took NC's declaration. I have known Jonnie Patt like 10 years. I know his name as Jonnie Patt because he
10 was a friend to my son. In the 10 years I see him all week he used to go to my house he went to spend the day. I know him as Jonnie Patt and I know him as Lionel Patt.

When Lionel Patt would spend the day at my house, he used to go day and night. If I see Lionel Patt, I can identify him.

15 It is here noted that the witness indicates yes I see the person I know as Jonnie/or Lionel Patt here; and the witness points to the accused (Leonie Patt) in the defense dock.

3. The Prosecution also called Cpl. #168 Rodel Garcia who stated in evidence as follows –

20 I remember 9th August 2020. I was working Corozal Police Station on duty from 6:00 a.m. to 4:00 p.m. The 9th August 2020 at about 11:50 a.m. I was at the Corozal station where Erlene Ferguson then Corporal of police ask me to assist her in

5 recording a caution statement from Leonie Patt. I went to the detention cell and I
call Leonie Patt and the person answered and it was a male person. I ask him if he
wanted to give a caution statement and he said yes. He said he wanted his mother
AMC. I remember I saw her at the front of the station. I went to the front of the
station, and I told her, her son wanted her to be present when a statement is taken,
10 and I asked if she wanted to witness it and she said yes.

I called a JP Clifford Casey to assist me. I ask if he could assist me to record a
caution statement from Leonie Patt and took him to the Diarist area. I called his
mother and escorted them to the conference room on the upper flat of the station.

15

A few minutes JP Clifford Casey arrived. I spoke to Leonie Patt in English and I
introduce him to the JP. Then I left them, Patt, his mother AMC and the JP in the
room. I ask him if she understands English and he said yes. About 5 minutes later
I returned, and I asked him again if he wanted to give a caution statement and he
20 said yes.

I stood on one side of the table and Leonie Patt sat in front of me about three feet
away and his mother sat on his left and the JP on his right, to my left was a desktop

5 computer, in the computer I search for an empty sample of a caution statement that has all the captions.

First, I asked Leonie Patt for his name, then his age, date of birth and his address in English. I typed it on the top of the paper. I checked the time, it was 12:10 p.m.

10 I firstly informed Leonie of the reason for his arrest (e.g. unlawful sexual intercourse) I then full out the caption.

Secondly, I informed him he has the right to speak to a solicitor of his choice in private, and I caution Leone Pat again.

15

I ask Leonie Patt if he wanted to write his statement or if he wanted someone to write it, he said, someone to write it. I spoke in English, and he answered in English.

After each caption I spoke to him, and he said he understand. Leonie Patt was sitting right in front of me, AMC was sitting in front of me to the left side of Patt, JP Casey

20 was to the right side of Patt facing me.

5 I told him he could give his statement and he gave it in English, and I typed exactly what he said. After he finished, I read what he said, I told him he had the opportunity to change, alter or fix anything on it. He said it was okay.

I asked him two questions to clear up something he said, I typed the questions and
10 answers he gave. I asked if he wanted to change anything on it and he said no. so, I type the captions, then I wrote my caption and then the last one the caption of the JP.

I read the whole caution statement and after each I ask if he understands, he said yes, and I asked again if he understands, and he said it was okay.

15

I printed out the statement, it was three pages. I printed three copies I gave the JP Casey a copy and I give Leonie Patt a copy and I took one. I did 3 copies as I wanted the JP and Patt to read while I read it to check it.

After the JP and Leonie Patt got a copy I read it, top part, name, date of birth, age,
20 date and time of day; I read the caption, asked if he understood, then I sign, AMC signed it, the JP stamped it.

5 I read the next caption I sign, Patt sign, his mother and the JP sign. His statement I read it again, I ask if he wanted to change anything; he said no, and then everybody signed it. The recording took about 35 minutes. I began about 12:10 p.m. finished about 12:45 p.m.

10 During the recording of the statement I was not armed, and I did not threaten Patt to give his statement. No one threatened Leonie Patt whilst he was in my presence, nobody promised him anything, or forced him, no one caused him any harm, nor did he complain of any harm. Whilst recording the statement his mother was about one yard from me. Whilst recording the statement no one else except the persons
15 mention were in the conference room, no one else was there, the door was locked. I recorded this statement in the English language.

I printed three copies but only one was signed, and it was my one, the rest is for them to follow up, they were not signed.

20 It is noted, this document on request of prosecution and with no objection by defense was eventually accepted as an exhibit in the case as Exhibit RG 1) and it was read in open court in the presence and hearing of the defendant and the court by the witness.

5 Cpl. Garcia then further stated that after the document was signed he heard when someone knocked on the door and Cpl. Erlene Ferguson arrived and told him certain things and requested another caution statement and she gave him her cellular phone to record the statement in video.

10 He continued - I ask Leonie Patt if he wanted to give the statement in video and I called Janelle Chan to assist me in recording the statement on video on the cellular phone. She said yes and I gave her this cellular phone. I sat on the same table and they stood in front of me, Leonie Patt in front of me, his mother to the left, the JP to his right. I sat and found another empty statement in the computer. I told Janelle
15 Chan to start video to show Patt, AMC, and JP Casey how the device was recording. I told Patt he would get a copy. I mentioned the day 9th August 2020, time 1:00 p.m. I asked his name, age, date of birth and time was put in.

We started at 1:00 p.m., I informed him of the reason for his arrest, I informed him
20 of his constitutional rights. He could give instructions to a lawyer. I cautioned him he gave his statement in English and I wrote what he said. I read it to him, and I ask two questions, which he answered, and I read it to him. I told him he had the right to alter, change anything, he said no. I wrote the caption and read it to him again

5 then I printed it. It was three copies I gave defendant one and JP Casey one and I read it back for any mistakes or change, and after every caption I signed, Patt signed, his mother and the JP signed and stamp.

After that I took the copy signed and I keep it. The statement finished at 1:35 p.m.
10 Leonie Patt was in my view for 1½ hours. The conference room was bright and A/C was on and during the statement the door was locked. Ms. Chan was 4 feet away holding the camera and she did not say anything. After we finished Janelle Chan give me the cellular phone and she left. I had the two caution statements and the cellular phone. Patt And his mother, JP and I walked down to the Diarist area where
15 I met Cpl. Erlene Ferguson (now Sergeant). I give her the two copies of the statement and the cellular phone. She was the Investigating Officer, and the phone was hers, and I did not know how to extract the video and put it on a disk. In the room was Patt, his mother, JP, Janelle Chan and I, no one else.

No one threatened him, and he did not complain of any threat or harm. I was not
20 armed. No one promised him any favor in my presence, and I did not promise him anything.

The statement was recorded in English.

5 (N.B.) On the request of the Prosecution, and on the Defense offering no objection,
the second statement recorded on 9th August 2020 is accepted as Exhibit RG 2.

This statement was also read in court by the witness in the presence of the defendant
and the court. The witness later identified the person he knows as Leonie Lionel
10 Patt by stating he is over there in a white shirt and by pointing to the accused (Leonie
Patt) seated in the dock.

4. The Prosecution also called Clifford Casey as its next witness, and he stated as
follows – I am a retired teacher and a Justice of the Peace. I have been a JP for two
years. I remember the 9th of August 2020 at 11:55 a.m. I was at home when Cpl.
15 Rodel Garcia from Corozal Police Station came and asked me to assist the police in
witnessing a caution statement.

As a result, I got ready and went to the Corozal Police Station and Cpl. Garcia
accompanied me upstairs Corozal Town Conference Room. I observed there were
two persons, a male and a female. The male was Leonie Patt and the lady was Leonie
20 Patt's mother (Ms. AMC).

Cpl. Garcia introduce me to them and told them I am Mr. Casey JP, and I am there
to witness a caution statement. Leonie Patt he was in the conference room and I was

5 about three feet from Leonie Lionel Patt. Next, he allowed us to sit for a few minutes in private, so I could speak to Leonie Patt.

I told him I was here to witness the statement and make sure it was fairly done. I asked if he is well and had eaten. He said yes. I asked if he was beaten, forced to
10 give a statement. He said no. During the time I was with him he did not complain of no abuse, or anything. After speaking with them I called Cpl. Garcia, and then we sat down around the conference table which is 4 feet by 12 feet. Cpl. Garcia, myself, Leonie Patt and his mother sat down. Cpl. Garcia began the statement by taking Leonie's particulars (e.g.) his name, age, date of birth, nationality. Cpl.
15 Garcia informed him for his detention. He is detained for a crime of unlawful sexual intercourse.

Cpl. Garcia then informed him of his constitutional rights, he can speak without delay and in private with a Legal Practitioner of his choice and he can give instructions to the attorney of his choice.

20

Cpl. Garcia then cautioned Leonie Patt in He do not have to say anything unless he wishes to do so, but whatever he say may be taken down in writing and used in evidence. Leonie Patt then said he would like him to write what he say. he asked

5 Cpl. Garcia to write what he says. Cpl. Garcia began by typing his particulars. Cpl. Garcia typed what Leonie Patt said. After writing the statement, Cpl. Garcia put two questions for clarity, and he answered them.

He then read the statement to us (Leonie Patt and I). He then asked if he wished to
10 make any changes or corrections and Leonie Patt said no it is okay. Cpl. Garcia printed three copies of the document. He gave one to Leonie Patt, and one to me, and he kept one so he can follow, as he (Cpl. Garcia) reads it. He asked Leonie Patt if he wants to change or add anything thing. He said no, the statement is correct. He made it of his own will.

15 Cpl. Garcia asked us to sign the one (he) Garcia had. Leonie Patt signed, his mother signed, Cpl. Garcia signed, and I signed and placed my stamp. These were done on all three (3) pages of the statement.

The statement on request of Prosecution with no objection by the Defense was identified by the witness as the statement he witnessed, and he stated – yes this is
20 the document (the caution statement) that I witnessed. It has the defendant's name, age, date of birth, nationality, my signature and my stamp.

5 The court notes that the witness identified Exhibit RG1 as the caution statement he witnessed taken from the defendant Leonie Patt on 9th August 2020 which ended at 12:45 p.m.

The witness then further stated – afterwards, shortly Sgt. Erlene Ferguson came to
10 the conference room, and handed a cell phone to Cpl. Garcia and told him she wants him to audio/video the statement of Leonie Patt. PC Janelle Chan entered the room and Cpl. Rodel Garcia handed her the cell phone for her to do the recording Leonie Patt was around the table then, and also AMC. No-one else was in the room except the persons I spoke of. Cpl. Garcia got ready to record the statement, he began by
15 asking Leonie if he was going to give the statement, he said yes and began by taking down Leonie Patt’s particulars. Thereafter Cpl. Garcia then informed him of constitutional rights and reason for his detention; and read his constitutional right; Cpl. Garcia then cautioned Leonie Patt and Leonie Patt said he wished to make a statement, but he would like someone to write what he says, and he asked Cpl. Garcia
20 to write the statement. Cpl. Garcia write what he said.

After typing the statement Cpl. Garcia asked two (2) questions for clarity which he answered. Cpl. Garcia read the statement to Leonie Patt and then asked him if he

5 wishes to make any changes or alter anything; he said no, it is okay. Cpl. Garcia printed three (3) copies of the document and gave Leonie Patt one, gave me one and he kept the third one. He read it to Leonie Patt, and asked if he wants to change anything, he said no, it is correct.

10 After Cpl. Garcia asked us to sign the document (caution statement) the second one. Cpl. Garcia copy that he had was the one we all signed on. At the time Leonie Patt gave his statement. Cpl. Garcia was typing the statement and PC Janelle Chan was doing the recording on the phone. The document had three (3) pages. The statement (2nd statement) on request of the Prosecution with no objection by the defendant was
15 identified by the witness as the second statement he witnessed, and he stated this is the caution statement of Leonie Patt. His particulars, place, date, and time and my signature and stamp (JP) are on it.

The court here notes that the witness identifies Exhibit RG2 as the second caution
20 statement, also he witnessed taken from defendant Leonie Patt taken on the 9th August 2020.

5 The witness then continued and stated – when I spoke with Leonie Patt I spoke in English, and he answered me. He gave both caution statements in English. Cpl. Garcia spoke in English.

Leonie Patt was in my presence for about 1 hour or more. The lighting was working,
10 they were bright (the ceiling lights) Leonie Patt was about three (3) feet from me. I saw the upper part of his body; nothing obstructed my view, and the room was clear.

If I see the person I know as Leonie Patt; I can identify him. I see the person in this courtroom. He is sitting over there. The court notes the witness points to the defendant/accused Leonie Patt seated in the dock. The court here noted the
15 defendant/accused did not ask any questions or raise any objections to the evidence of the officer or the JP, thus it is deemed he has accepted, as he did at Case Management that he gave the caution statement willingly to the Police as is noted above.

The court here noted the first caution statement was taken on 9th August 2020 at
20 12:10 p.m. by Cpl. Rodel Garcia (#168) and here accused stated as follows – “I want to say that I never force the girl, she was my girlfriend, but we hide from family. Family never knows nothing. She agrees with me. Single thing I do with her, she agrees with me. The first time that happened on 1st April 2020 and she agree with

5 me, she came out of her house and follow me. That first time she was the one that
wanted to have sex. I was drunk but I know what I am doing, but she wanted to
prove if I love her. That's why I did that. Now this is what happen she told me I
will escape with you. I will chat you and you come meet me. When that happen,
she came out of her house. She tells me I don't love her so better leave me here I
10 will find somewhere to go, and I will not go back home. I carried her with me,
because I was not crazy to leave her out in the night. So, when I reach home, we
kiss and everything, and she tell me if I want to sex with her and I tell her she really
sure of what she is going to do because this is the second time. So, we had sex, she
tells me not to worry my mother come or my father come or the police I will tell
15 them that you never forced me, and I will not go back with mom at home. So, when
her father came that night 3:05 a.m. in the morning of 8th August 2020 she tells me
not to come out. She tells me she will not go home so we gone to bed and sleep.
When the police came and bring us here.”

20 The court further noted that the second caution statement Exhibit RG2 was taken
almost immediately after the end of the taking of the first statement when as stated
by Cpl. Garcia in evidence as follows – that after the document was signed. I heard
when someone knocked on the door and Cpl. Erlene Ferguson (Now Sergeant)

5 arrived, and she told me certain things and requested another caution statement, and she gave me her cell phone to record the statement in video.

He continued – I asked Leonie Patt if he wanted to give the statement in video and I called PC Janelle Chan to assist me in recording the statement on video on the cellular phone.

10

5. It is noted this was requested from the evidence given by now Sgt. Erlene Ferguson who stated as follows – In 2020 I was a Corporal of Police attached to Corozal Formation.

15 On the 9th of August 2020 after 9:00 a.m. I visited the Corozal Formation at cell #2 where I spoke to one Leonie Patt and informed him of a report made against him and he was asked if he was willing to give a caution statement to the police. Leonie Patt agreed and was asked by myself if he wanted a lawyer or a family member, at the time he requested his mother AMC.

20 I request the assistance of Cpl. Rodel Garcia to record the statement. On my arrival I was informed that the electronic device was not available to record the said caution statement. I made a couple of calls and was advised it was best for the statement to be electronically recorded. I proceeded upstairs and spoke to Cpl. Garcia and

5 informed him said caution statement needed to be recorded. I handed my cell phone to him; I left the conference room and went downstairs to the NCO Office.

Sometime after 1:00 p.m. on same date Cpl. Garcia handed over to me two (2) typewritten caution statements and my cellular phone. I received said documents
10 and placed them in my locker in a pink case file, and my cell phone on the desk beside my computer.

Two (2) weeks later on doing case compilation I checked my cellular phone to locate the recording and I could not locate it. Thereafter in early September said cell phone had crashed (September 2020). It was damaged beyond repair.

15

The two (2) documents on doing case compilation were taken out of the pink case file and placed in the original case file to be submitted. Both statements had on the name Leonie Patt (8/8/2020), time 12:10 p.m. on the first caution statement etc.

20 This case file compilation was done about two (2) weeks after. Then the first statement was placed in the original file two (2) weeks thereafter.

5 The second caution statement remained in a duplicated case file in my locker in the N/CO's office at Corozal Police Station, this was done by myself as I am the only one who has access to my locker. My locker is located in the N/CO office at the Corozal Police Station, safeguarded by a lock and key and I am the only person who has access to that locker. The witness then continued and stated –

10 I remember 12th July 2022 it was brought to my attention that the second caution statement was not in the original case file. I went to the N/CO office, Corozal Police Station and I went to my locker, and I took out a duplicate file for Leonie Patt and inside the second caution statement was seen. I extracted the caution statement, and I prepared a report and submitted both the documents to the DPP's office. Original

15 case file was compiled by myself and also the duplicate case file was compile by myself.

From 9th August 2020 to 12th July 2022 the second caution statement was in my locker in the N/CO office at Corozal Police Station and I am the only person who

20 have access to that locker.

The second caution statement was placed in the duplicate case file along with original on case file compilation; the second caution statement was not place in the

5 original case file. It was an honest mistake; hence the reason it stayed in the duplicate case file for that two (2) year duration.

It is noted the second caution statement on request of the Prosecution with no objection by the defendant, was identified by the witness (Sgt. Ferguson) as the
10 second caution statement which had the time 1:00 p.m. dated 9th August 2020 which she later retrieved from the duplicate file in her custody on 12th July 2022, and submitted subsequently to the DPP's office.

The witness continued – this is the second caution statement. The name on it -
15 Leonie Patt, recorded on 9th August 2020, time - 1:00 p.m., name of recording officer – Rodel Garcia.

The signatures on it are– Leonie Patt, AMC, Clifford Casey (JP).

This was handed over to me on 9th August 2020 by Cpl. Garcia and consists of three
(3) pages. This is the same document I located on 12th July 2022.

20

5 The court here noted the second caution statement was taken on 9th August 2020 at 1:00 p.m. by Cpl. Rodel Garcia (#168) and here noted the accused (Leonie Patt) stated therein as follows –

10 *“I tell the girl she was my girlfriend, but nobody knows about it. This is the second time the 8th August 2020, so the mother call the police and bring me here, that’s all I have to say. I never forced the girl she was agree with me and the thing she finds me, and I never went to her. The thing is I love the girl I really love her. I do not know why her mother don’t want us to be together. She proves me she loves me. Now I am here that’s everything I have to say.”*

15 The court here noted from the above evidence and particularly the two caution statements which were admitted into evidence as Exhibits that the defendant is accepting that there was sexual intercourse and penetration also on both occasions from the evidence. Here the court also looked at the fact that the accused agree he gave the two (2) caution statements freely and that he had no objection to them forming part of the case for the Prosecution in this trial.

20

The JP Clifford Casey also stated in evidence he had opportunity to speak to the accused with his mother present all three (3) alone and the accused accepted that he wanted to give the caution statement and that he the JP had also inquired if the

5 accused was forced, beaten etc., to give the statement and he (accused) had replied
no. The JP also stated that during the time he was with the accused, he did not
complain of no abuse or anything.

A review of the above evidence therefore make me feel sure that indeed the two
10 caution statements were indeed given by Leonie Patt (accused) freely and therefore
no objection was not raised by defense.

It is noted that in the first caution statement of Leonie Patt (he) stated I was drunk
but I know what I am doing.

15

Here then the accused is raising the defense of drunkenness. Therefore, this raised
the issue of the effect of intoxication on intention.

Therefore, after a perusal of the above statement I here accept that the accused may
20 have been drinking some spirits that evening or night; but I note in the
statement/evidence before this court; that there is no evidence of how much he drank;

5 or that he was so intoxicated, that he was unable to observe, or know what he was doing on the night of 1st April 2020.

In fact, the accused in his caution statement stated – I was drunk but I know what I am doing.

Therefore, after considering the statement I rule that the accused because of his
10 drinking as stated he was not incapacitated because of this drinking to the extent he was unable to comprehend what he was doing; for as he stated – I know what I am doing.

The Crown also called RC who gave evidence and stated through the Spanish
15 Interpreter – I remember April 2020, I was arriving from the factory and my wife was awoken up, and I asked what was happening? She told me NC is not at home. Then I told her let's check the house, there was no-one in or out. I went to the house of Lucio Patt and Jonnie Pat. It was 4:00 a.m. I arrived there and I touched the door; an answer came from the rear door, Mr. LP and AP came out and I asked if they
20 know if my daughter was there.

Mr. Lucio said let's check the other house, and there Jonnie Patt and NC came out. I told my daughter we will go home, she did not want to and I told her let's go home

5 and she went home. When I arrived I saw the three (3) houses that were there because the moon was clear. It was of straw and pimento, the three (3) houses. I was there about five minutes. I saw Jonnie and NC as the moon was clear and I recognized it was Jonnie.

10 After NC and I went home I deliver her to her mother, and I told the mother I have brought you NC. I went to lie down.

On the 8th August 2020 at about 2:00 a.m. I was sleeping when my lady wake me up and told me NC is not at home. I checked inside the house and outside to see if NC
15 was around, and she was nowhere to be seen. I looked around, I took my bicycle and went to look for her at the house of Jonnie Patt. I knocked the door, nobody answered me afterwards they answered me from the rear. I went and I spoke to Lucio Patt, I told them if NC and Jonnie is not at the house; and he said we will check in the other house.

20

It is noted at this point, the witness stated I did not make a police report in relation to this matter. The Crown then in the absence of the witness applies for the witness to refresh his memory. (N.B.) statement is given to witness who looks at it but makes

5 no indication about it. Crown later requested that the witness be stood down for the Crown to prove the statement. The witness RC was then stood down for him to be recalled after proof that he had dictated the contents of the statement. This procedure is in accordance with the Section (71) and (72) of the Evidence Act, Chapter 95 of the Substantive Laws of Belize, R.E. 2000.

10

The Crown therefore called PC #2228 Azalia Gomez who stated on oath as follows

- I am attached to the Domestic Violence Unit, Corozal Police Formation. I remember 5th April 2021 I was working 7:00 a.m. to 4:00 p.m. when Cpl. #1117 Erlene Ferguson requested my assistance to record a Spanish statement from one

15 RC.

He continued that Ms. Ferguson escorted a person to his office and introduced the person to him and left the office. He stated – I told him I will be the one recording his statement in Spanish.

20 He continued – I asked him for his complete name. I opened a statement format on the computer, and I typed his completed name that being RC. I asked his age (48 years). His date of birth 10th October 1972. He stated I then typed it in the format, and I also write the date 5th April 2021 when I will be recording the statement. I also

5 put the time 9:25 a.m. I also typed in my name since I was the person recording the statement – I also put the place the statement was recorded – Corozal Police Station.

I also read to him the caption and explain to him by telling him, he had to tell me the truth, if not I can charge him and take him before the court, in the Spanish language.

10 RC said, okay. RC was 2 feet away from me. I asked him his occupation, and where he lived. I typed what he said to me. Thereafter, I asked him what happened, which he did; and whilst doing that, I typed what he said to me. I print the statement. prior to printing the statement, I asked him if it was all he want to say, and I placed the second caption to the bottom. RC then said it was okay.

15

After printing the second caption I handed over the statement to RC. However, he said to me that he can't read. I read the statement to him; but before doing so I told him he can stop me anytime if he wants to add, correct, delete from his statement, since it was his statement. RC said it was okay.

20 I read the statement to Mr. RC in the Spanish language. I read all of the statement. After I finish read the statement I asked if he agreed and he said, yes.

5 Thereafter, I invited him to sign which he did. I said to him if he agrees of what I
just read to him, being his statement and he said, yes, it is okay. He signed below
the first caption, and bottom of page of the statement and also in the next page since
his statement consisted in two (2) pages. After he signed, I told him it was okay and
then he left the office. The recording of the statement took about thirty (30) minutes.
10 While Mr. RC was giving his statement, I was recording what he said and no-one
else was in the room.

No-one promised Mr. RC a favour during the thirty (30) minutes. No-one threatened
him and no-one caused him any harm. I recorded the statement in Spanish as I am
a Hispanic descent person, and I came from a mestizo community; and I am well
15 versed in Spanish and English. In High School I took CXC. I took Spanish and my
grade was A.

It is noted that the statement was marked and tendered as (AG 1). It is further noted
that court adjourned on request of Crown, to allow the court's interpreter to read
20 over the said caution statement to the witness in person. This request was carried
out by the Interpreter by reading over the said statement to the witness alone.

5 Thereafter, Mr. RC was now recalled to continue to give evidence. He however
insisted in not recalling what he said in the statement and continued to state
otherwise in examination-in-chief. The Crown, therefore, made an application under
Section 72 of Chapter 95, Laws of Belize for permission to treat the witness (Mr.
RC) as a hostile witness to be allowed to cross-examine him. He having been
10 allowed to refresh his memory. (Here only to cross-examine the witness).

This request by the Crown was granted after due consideration. The Crown Counsel,
therefore, cross-examined Mr. RC. The Court noted thereafter the Crown Counsel
cross-examined the witness in terms of his statement dated 5th April 2021 on which
15 he had dictated and was recorded by PC Azalia Gomez on 5th April 2021.

Here the court noted the witness remembered what he had stated and cooperated
with the Crown by answering all the questions put to him by now answering in the
Crown's favour and as he had stated in his statement given on 5th April 2021 to the
20 police.

Here it is noted he accepted he went to LP house, got no answer, returned home, and
asked that the police be called. He accompanied the police with his wife to LP and

5 found his daughter who was later taken by the police along with Jonnie Patt to the station when she refused to accompany him and his wife home. He answered he knew Jonnie Patt for about 10 years and only knew him as Jonnie Patt and he stated he got to know him through his son BC as he used to come to his (RC) house with his son.

10

Now having listened and considered the evidence of the Prosecution's witnesses and the two caution statements which were admitted without objection by Defense; the court is satisfied that the Crown has proven this element that it was the accused Leonie Patt who had sexual intercourse with the complainant (NC) on both occasions
15 as stated in the two charges on the Indictment before this court.

Therefore, the court accepts further from the evidence before it that these two (2) sexual intercourses both of which there was penetration that took place between NC and Leonie Patt on the dates stated. Therefore, the Prosecution has proven its case
20 and has provided evidence of such quality that I feel sure, here then, I accept this element is proven to the satisfaction of the court and beyond a reasonable doubt.

5 **THE DEFENCE**

I now turn to the defense's case and evidence, and I note as the trier of fact that I have the duty to accurately, honestly, and legally consider the defense presented to the court in this case.

10 In the instant case the accused Leonie Patt, having been told of his constitutional and legal rights, chose to give an unsworn statement from the dock.

Therefore, in consideration of the unsworn statement, I will follow the guidelines set in the case of Marcotulio Ibanez v The Queen [1988] UKPC 18 where Lord Hutton referred to the case of DPP v Walker 1WLR 1090 at 1096 and stated –

15 *“The jury should always be told it is exclusively for them to make up their minds whether the unsworn statement has any value, and if so, what weight should be attached to it, that is for them to decide whether the evidence for the Prosecution has satisfied them of the accused's guilt beyond a reasonable doubt, and that in considering their verdict they should give the accused's*
20 *unsworn statement only such weight as they think it deserves.”*

Here in this case where I sit as both judge and jury, I will apply the above guidance in coming to a final conclusion.

5 The accused Leonie Patt has here stated in his unsworn statement as follows –

I stay at the village, San Narciso, Corozal.

On 1st April 2020, I was somewhat drunk, that was about (12:00 a.m.) midnight. I was chatting by Messenger Facebook with my girlfriend NC. In that, the topic arose that we had already planned that she was going to go away with me. Myself and her
10 had already planned that we would go to my house. Then she told me at what time I will pass for her, and I told her it would be like one to one thirty in the morning. She told me that she would return the phone to her sister JE.

In that moment we stop chatting. When the agreed hour arrived, I sent her a chat that I have arrived on the road and that I am in front of her house. Then I went a
15 little further on the road. Then she peeped from the window of her house. Then she opened the door carefully. She came out running barefoot.

She catch me at the edge of the road where I was standing. We continued to go on the side of the road at the first crossing at the left. We continued going then we
20 entered a small road at the left which leads at the house of my father, LP. When we reached my house we went to the kitchen, I connected a bulb, and I allowed her to come in. I went out and I put my bicycle in a little house we call Bodga. Then I talk with her to come out to wash her feet because she had it full of mud. We did about

5 15 minutes outside, then we returned to the kitchen. She sat in the hammock, and I disconnected the bulb. I sat next to her, and I told her I am coming right now.

I went to the house where I sleep. Then I took out my cigarettes. I came out again to go with her to the kitchen. I set the cigarettes on the table; I gave her about three (3) kisses which she responded. I told her give me a little while because I am going
10 to smoke the cigarette. I smoked and when I finished, I went with her in the hammock. We embraced each other, we kiss each other, we were talking and we knew her father was going to come to look for her.

She started caressing me, I did the same. She asked me to raise my hand to take off
15 my shirt. I told her the same thing, then she told me to take off her bra, I tried but I could not. I told her to take off the nastiness; as I couldn't, she laughed and told me you can't take off a bra, we both laughed. She took off her bra and brought down my pants and boxer. I took off her pants because she had it tight, then she took off her undies. She started kissing my neck and chest and she bite me.

20 Then she asked me if I wanted to have sex with her, I told her are you sure? Because I can have sex with you, but you have to be sure because you are going to get me into trouble. Then she lied down on the floor and told me, pass the clothes. She put them all together and put it on her head as a pillow.

5 Then she told me come on top of me. I went like I drunk; my penis was not erect.
After a few moments more or less like an hour, she was holding it, so it erects. When
it got erect, she told me put it her vagina. I told her are you sure? Like about three
(3) times I ask her. I did what she said and then afterwards she said have you put it
in. I answered, no.

10

She said what are you waiting for, are you afraid? Then I put it in as she have said.
There was nothing to say like I was hurting her. She didn't complain. She told me
go ahead. I continued that was about 10 minutes. Then I reacted I took it out and I
stood up, asked her to give me my clothes and that she must get dressed. We got
15 dressed and she asked me if I am finished, and I said I can't continue because I have
a feeling of vomiting.

He continued – that later himself and NC went to where he and his sister sleep. He
stated they were there 3 – 30 minutes when RC, NC's father came and his father told
him to open the door, which he did and RC asked him do you know where is NC
20 and he answered yes, she is here. RC took NC, and it was about 4:00 a.m.

Leonie Patt continued and stated – as the months went by 7th August 2020, I went
out at about 3:00 in the afternoon. I went to Chinese to drink one beer because I had

5 been informed, she (NC) wanted to see me. She was working at the Chinese shop. When I arrived, she came hugged me and we kissed, and she told me lets go to the bodega I have something to tell you. At 1:00 in the morning you can go for me. I left the Chinese and I went to my home.

10 At 11:00 the night I start chatting with NC by Messenger, Facebook. She told me that she misses me, and I told her the same, and she told me are you ready about what I told you at the Chinese bodega. I answered yes. Then I went out of my home at about 1:00 in the morning. It was 8th August 2020. I told her I have left my house as I sent a message, a chat that was about 1:05. I was passing the first corner of her
15 house when I sent her another message that I was passing by her house. Then she opened the door and came out running barefooted.

That day was a drizzling day. She caught up with me, I gave her a ride on my bicycle, and I told her that I am afraid that the same thing can happen as the last time,
20 she answered me, if you are afraid leave me here, I will find what to do, but to my house I will not go.

He continued – we went and when we reached to my house, we started talking as we were walking to the kitchen. We laid on the hammock, she lied on my chest. We

5 started kissing and she told me if I want to have relations with her, I think about it
good, she asked me about four (4) times and I answered – are you sure, remember
what happened the last time; and she answered yes, and I asked her if your parents
come because this time for sure they will report me. She told me the last time I
remain silent. I did not say anything to my father and mother; and if my mother and
10 father or police come to look for me I will say that I wanted to come with you. I
asked her two (2) times are you sure of what you are saying. She told me yes. I told
her NC; I do love you truly. She told me (me too). Then it is when we had relations,
but between 5 – 8 minutes I stopped and she told me what happen, I answered, I
don't feel sure.

15

Then we dressed and I hug her; then she pushed me and told me you don't want me.
He continued – we went into the house where myself and my sister sleep. Thereafter,
we went on the bed in the hall.

20 At that about 3 o'clock or 3:30 Mr. RC arrived. Nobody answered, thereafter Mr.
RC went away then he returned about 3:40 along with the mobile patrol. He
continued and stated after NC refused to go the official Erlene Ferguson handcuffed
her because she was behaving bad and took her inside the mobile.

5 The official Rodel Garcia told me this is a report you had a minor and I was to accompany him to Corozal. At the station we were taken and put in the station. It was like 4:00 in the morning. Then they lock her up in the female cell. They were talking in English while I was sitting on the bench and laughing at me, as they thought I did not understand English. They came to an agreement and lock me up.

10

On 9th August 2020 at 1:00 they called me if I wanted to give a declaration. I said, yes. They took me to the conference room on the second floor of the station. Rodel Garcia explained what was a caution statement. He asked if I wanted a witness and I said yes, AMC, my mother. She presented herself and was taken upstairs with me.

15 Then JP Clifford Casey arrived and then that started the declaration that I gave and yes, as the official said the first caution statement was manually. Then Erlene Ferguson arrived and called a lady and gave her the cellular to record the statement. That was the second caution statement. They read it to me what I have said, they asked if I wanted to change anything, I said, it was okay. I read it, my mother signed,
20 myself, JP Clifford Casey and Rodel Garcia signed it also.

My mother who understand English also explained it to me and I told her yes, it was okay. Rodel Garcia read it over to me and I agreed. They took me to court, and they remanded me for ninety (90) days.

5 The accused called the following witnesses on his behalf –

1. Rafael Chan who stated – On 31st March 2020 at 3:15pm Leonie was with me and we were drinking a few beers. On that day because we are friends we talked about our problems. At that moment he said he wanted to show me something on his phone. He shared me some messages from my cousin where she was saying she
10 wanted to be with Jonnie Patt. He showed the messages she wanted to be with him and get away one night. It was 31st March 2020.

I told him as a friend, I advised him, it is not good, what he is doing as the family does not know that they are going together. We separated at 6:00 p.m.

15 2. The defense also called JLP who stated – I am 51 years old; I am a cane cutter and I live at San Narciso in Corozal. He stated I remember 1st April 2020 when the gentleman RC arrived at 3 o'clock in the morning at his house. When he arrived, he knocked the door, I was already up as at that time I go and cut cane. He was looking for Leonie Patt. I took him as I have two houses. One my wife and I stay. There is
20 another house that has a hall and room whereby daughters stay. I asked what are you looking for, he said my daughter. I called Leonie, I said come in by the light and he saw his daughter. He told me I will take her, and I said what did you do? He said she wanted to come with me. She said I wanted to come with Leonie. He said

5 let's go home, your mother is waiting for you. Then he took her to her house walking.

He further stated when they return from work at midday Mr. RC came looking for Jonnie. I said I don't know any Jonnie. Mr. RC said our son. I called Leonie and
10 said they are looking for you. He continued – Later, he told his son lets go and talk to Mr. RC. I said good night, sir, and I come with deep respects to talk over the problem with my son. Mr. RC told me I have nothing to talk with you about, talk to the mother. I told them that they get married. She told me my daughter is a minor. I don't want to hear anything about Leonie, in a very vexed manner; so they left.

15

He later continued and stated – he remember 8th August 2020. I was there and I have a glass window you can see, I sleep in the first house there is a division with one room, a hammock and a sofa.

When the patrol arrived, I told my wife go out and see, because I will not go out and
20 see no-one. I was not present.

3. The defense also called AMC who stated – On 1st April 2020 on that day Mr. RC came to the house where I sleep. I opened the door, and he asked if Lucio Patt is there. I answered yes, I called my husband Juan Lucio Patt. He came out and asked

5 Mr. RC what are you looking for? He answered my daughter. Then he went opened the door that NC was and yes, she is there. He said what are you looking for girl? Let's go home, you have nothing to do here. They went at 3:00 in the morning. My husband and son went to work.

10 The witness continued – then we went at 6:00 in the night to RC; my husband JLP, went to arrange the problem with my son and NC. We bid the hours and they answered. They seated us in two (2) chairs, my son stayed outside, standing by the door frame; my husband told Mr. RC let's arrange the problem that happen with these kids. I take responsibility I will marry both of them and the problem finish.

15 Mr. RC said it's not me, its ME. The mother said she does not want to hear anything more about my son and does not want to see any of us there anymore. Okay, said my husband there is nothing more to fix up. Thanks for the time you gave us. Don't call me by surprise the next time. So, we left, we got home, we talked with the guy, we don't want any problems, to listen to us.

20

On 8th August 2020 I was sleeping when I saw the lights of the patrol through the glass window where I sleep. I opened the door of my house. I went out to see what the police wanted. The police said they were looking for Leonie Patt. My son

5 lighted the light. I opened the door and told him son they are looking for you. NC
was inside the house. My daughters heard the noise and ran to the room door.
Leonie Patt does not have a room, only a hall in the house. Then the police roughed
up NC, she said she would not go and hanged on my son Leonie Patt and the police
slap her. The father knew nothing about the son. He was asking if that was his son
10 (JLP).

I answered the kid have been taken to the court in Corozal. We got to the station the
police there told me it was not visiting hours. I stayed there until 12:30 a Police
Officer came out, Rodel Garcia said that my son wants to talk, and he wanted his
15 mother to listen to what he was going to say. I was in there until 1:30. The police
told me that is all, you have heard, and it is finished.

4. The defense also called SP who stated – I remember the 8th August 2020. At about
3:30 a.m., the light of the police vehicle I noticed my mother and Mr. RC were
20 talking, they were talking about their daughter (NC) was lost again. At that moment
the hall lights was lit, the door was opened and the police were in front. Then when
I was going to see what my brother had done I heard someone say SP. There was a
curtain, my mother had that was drying it went up and NC come out from there.

5 Then NC went to talk with the police. She hold my brother's hand saying I will not go. She put herself aggressive and then the police slapped her. I must also mention my brother cooperated with the police. That was when they arrested my brother and NC.

Cross-Examination (by Crown)

10 Q. You remember RC came asking for Jonnie and you were in your room?

A. Yes.

Q. You sleep in the house next to your parents, with your sister?

A. Yes.

Q. Where does Jonnie sleeps?

15 A. In the hall.

Q. That Jonnie is the accused in the box?

A. Yes.

Q. Where did you see NC on 1st April 2020?

A. Inside the house.

20 Q. Can you point where you saw NC on 8th August 2020?

A. Inside the same house.

5 **Discussion**

The court notes that a careful reading of the evidence contained in this case shows that the accused Leonie Patt was charged with two (2) counts of unlawful sexual intercourse of the complainant NC; the first charge on the indictment relating to the date of 1st day of April 2020.

10 The second charge on the indictment relating to the 8th day of August 2020 at the village of San Narciso, Corozal District.

Now, having reviewed the evidence before the court it shows that the complainant NC has given evidence stating from the above, that yes, she had sexual intercourse
15 with Leonie Patt also called Jonnie Patt on the above dates of (1) 1st April 2020 and (2) 8th August 2020 in a kitchen at Leonie Patt's residence at his father's home on the above dates in the village of San Narciso, Corozal District.

Further, it is noted that her evidence is supported by that of her mother, ME who
20 found her missing on both occasions and reported her absence to her father on both occasions.

5 The father further corroborates this by his evidence where on the first occasion he went to Leonie Patt's residence called for his father LP and eventually they found his daughter in the sleeping area where Mr. LP's daughters and their brother Leonie Patt slept.

10 A further reading of the evidence shows Mr. RC brought his daughter NC home and handed her over to her mother ME.

The court notes in the mother's evidence she states that NC (her daughter) eventually on the 1st April 2020 answered her (ME) questions to her (NC) and that NC agreed
15 and answered that yes, she had sexual intercourse with Jonnie that night his home when she ME question her about what happened when she (NC) was brought home by her father on 1st April 2020.

As is noted NC in her evidence stated as follows – I remember a day in April 2020
20 Jonnie arrived at home, at my house at about 11:00 p.m. that night. I came out of my house by the front door. Jonnie was waiting for me outside in front of my house. We went to Jonnie's house on a bike. We got to Jonnie's house, we entered the kitchen, Jonnie put on the light, Jonnie was looking for his cigarettes, when he found

5 them, he put the light out. The kitchen is of pimento and straw. He sat me in the
hammock in the kitchen, Jonnie hugged me, he started kissing me, we both stood up,
Jonnie took off my blouse and also my pant. He took off my undies (panties). I took
off his clothes. We laid down on the ground (floor). Jonnie laid to my side, then he
came on top of me. He inserted his penis in my vagina. This lasted about 25 minutes.
10 We stood up and we put back our clothes. It was clear because of the moon, because
the moon also reflected inside, as the window was a bit opened in the kitchen. The
window was about 5 feet from me.

She also stated that on 8th August 2020 at 11:00 p.m. Jonnie arrived at my house. I
15 went out from my house from the front door. I saw Jonnie sitting down in front of
my house. He was 3 feet from me then. The light on the lamppost was shining. We
went to his house on bike. He gave me a ride. At his house we entered the kitchen
that is at Jonnie's house. I sat at the hammock in the kitchen. He sat with me in the
hammock. Next, he starts hugging me. He said I miss you. He started kissing me.
20 We stood up, I took off his clothes. We lay on the ground on my blouse, pants, bra,
my panty.

Jonnie took off his shirt. Pants and his boxers. The shirt of Jonnie was white, the
pants was green, it was a shirt pants.

5 After we lay on the ground, Jonnie came on top of me. He opened my legs, Jonnie inserted his penis in my vagina this lasted about 15 minutes.

We put back our clothes. Jonnie went out to drink some water. We both went outside the kitchen, and we went to where he sleeps with his sisters.

10 The Court here notes that both occasions as narrated above were also covered and accepted first in the evidence of the Prosecution which was in the form of two caution statements which the defendant accepted as given to the police, and as noted the defendant did not object to these forming a part of the Prosecution's case as one (Exhibit RG1) and as accepted. He gave the statement of his own free will.

15

The first statement of 9th August 2020 began at about 12:10 p.m. and finished at about 12:45 p.m. Here in the defendant stated in the presence of his mother (AMC) and the JP Clifford Casey as follows - *"I want to say that I never force the girl, she was my girlfriend, but we hide from family. Family never knows nothing. She agrees with me. Single thing I do with her, she agrees with me. The first time that happened on 1st April 2020 and she agree with me, she came out of her house and follow me. That first time she was the one that wanted to have sex. I was drunk but I know what I am doing, but she wanted to prove if I love her. That's why I did that. Now this is*

5 *what happen she told me I will escape with you. I will chat you and you come meet
me. When that happen, she came out of her house. She tells me I don't love her so
better leave me here I will find somewhere to go, and I will not go back home. I
carried her with me, because I was not crazy to leave her out in the night. So, when
I reach home, we kiss and everything, and she tell me if I want to sex with her and I
10 tell her she really sure of what she is going to do because this is the second time.
So, we had sex, she tells me not to worry my mother come or my father come or the
police I will tell them that you never forced me, and I will not go back with mom at
home. So, when her father came that night 3:05 a.m. in the morning of 8th August
2020 she tells me not to come out. She tells me she will not go home so we gone to
15 bed and sleep. When the police came and bring us here.”*

The Court notes the second caution statement was began at 1:00 p.m. on the said 9th
August 2020 and the accused again in the presence of his mother and the JP Clifford
Casey stated to Cpl. Rodel Garcia as follows – “*I tell the girl she was my girlfriend,
20 but nobody knows about it. This is the second time the 8th August 2020, so the mother
call the police and bring me here, that's all I have to say. I never forced the girl she
was agree with me and the thing she finds me, and I never went to her. The thing is
I love the girl I really love her. I do not know why her mother don't want us to be*

5 *together. She proves me she loves me. Now I am here that's everything I have to say."*

The court (myself) noted that similarly in his defense in his unsworn statement the accused also accepted after giving a rambling story of going to his home on 1st April 2020 with NC and of them having sexual intercourse (e.g.) he having eventually
10 inserting his penis into her vagina that night (e.g.) the accused stated in his unsworn statement – "She said have you put it in. I answered, no. She said what are you waiting for, are you afraid? Then I put it in as she have said. There was nothing to say like I was hurting her. She didn't complain. She told me go ahead. I continued that was about 10 minutes."

15

Here again, the court noted the accused further in his unsworn statement about 8th August 2020, stated he picked NC up at her house about 1:00 in the morning. He took her to his home, to the kitchen area; were from his unsworn statement – *"We started kissing and she told me if I want to have relations with her, I think about it
20 good, she asked me about four (4) times and I answered – are you sure, remember what happened the last time; and she answered yes, and I asked her if your parents come because this time for sure they will report me.*

5 *She told me the last time I remain silent. I did not say anything to my father and
mother; and if my mother and father or police come to look for me I will say that I
wanted to come with you. I asked her two (2) times are you sure of what you are
saying. She told me yes. Then it is when we had relations, but between 5 – 8 minutes
I stopped and she told me what happen, I answered, I don't feel sure. Then we
10 *dressed.*”*

Having looked further at the evidence of Dr. Cristina Valdez again I noted she stated
in her evidence that she examined a patient on 8th August 2020 at 6:13 p.m. at the
Corozal Community Hospital. She examined a patient name NBC, aged 14 years
old. She was accompanied by her mother ME and a Police Officer (female) Ms.
15 Ferguson. They brought the patient complaining she was sexually active.

She stated she examined the patient NC, and she concluded in her evidence to the
court that there was no presence of the hymen. There was a complete loss of the
hymen which covers the vaginal canal. She continued I also inspected the other
20 female organs, and I did not see any lacerations, bruises or bleeding. The doctor
then stated – the loss of the hymen would be caused mainly by a penetration of the
penis into the vaginal canal.

5 Therefore, after considering the above evidence of the Prosecution particularly that
of NC, ME and the defense unsworn statement of the accused (Leonie Patt)
combined with the Prosecution Exhibits RG1 and RG2, I have been led to the
conclusion that indeed the evidence of the Prosecution which the defense accepted
and corroborated does indeed lead this court and myself to conclude that sexual
10 intercourse took place between the complainant (NC) and the accused Leonie Patt
on the occasion of 1st April 2020 and on the occasion of 8th August 2020. This sexual
intercourse was one in which there was penetration, or penetration took place
between NC by Leonie Patt.

15 Therefore, now looking at Section (73) of the Criminal Code, Chapter 101 of the
Laws of Belize which states –

*“Whenever upon the trial for any crime punishable under this code, it is
necessary to prove (carnal knowledge) it shall be deemed complete upon
proof of any, or the least degree of penetration only.”*

20 So, having considered the above-noted section and the above-noted evidences I
hereby rule that there was penetration on both occasions 1st April 2020 and 8th
August 2020. So, the court hereby deems that sexual intercourse has been proven

5 on both occasions in this case by the Prosecution and further accepted by the
Defense.

The court therefore also looked and noted Section 47(2) of the Criminal Code,
Chapter 101 of the Laws of Belize as amended by Act No. 12 of 2014 which states-

10 *“Every person who has unlawful sexual intercourse with a person who is
above the age of 14 years but under the age of 16 commits an offence.”*

CONCLUSION

Therefore, after carefully considering the evidence presented by the Prosecution this
court accepts that the Prosecution has proven all the elements to the court beyond a
15 reasonable doubt.

The defense raise by the accused/defendant is therefore not accepted and fails.

Accordingly, after careful consideration of all the evidence before me, I am satisfied
to the extent that I feel sure that the accused committed the offences of unlawful
20 sexual intercourse on both occasions named in the Indictment.

Consequently, I find the accused Leonie Patt guilty on the charge of –

(1) Unlawful Sexual Intercourse committed on the 1st day of April 2020, and

5 (2) Unlawful Sexual Intercourse committed on the 8th day of August 2020

Given this 27th day of **September 2022.**

10

(H. R. LORD)
Justice of the Supreme Court