

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

ADVOCACY PROGRAMME

YEAR II

CRIMINAL BRIEF

R. v. MICHAEL JACK

NORMAN DAVIS

**PRELIMINARY EXAMINATION HELD IN THE RESIDENT
MAGISTRATE'S COURT FOR THE CORPORATE AREA HOLDEN
AT HALF WAY TREE BEFORE HIS HON. RAYMOND RICHARDS,
RESIDENT MAGISTRATE FOR THE SAID PARISH On THE 6TH
DAY OF DECEMBER 2009.**

REGINA **FOR**
VS **RAPE**
MICHAEL JACK

**AND THIS DEPONENT: FELICIA GENTLE
ON HER OATH SAITH AS FOLLOWS**

My name is Felicia Gentle. I am 23 years old. I am a trained masseuse at the “Relax Spa and Salon”. I started there in January 2007. I live with my grandmother, who raised me, at Portmore Drive in Portmore.

Sometime in February 2008, I met Michael Jack. He came for a massage. We made eye contact and started to talk. He told me he wished me to do his massage. In the course of the massage he told me he had a stressful job as a Manager at the “High Rollers” Bank. He came for a massage from me a few times after that and eventually asked me out for a date.

It developed into a whirlwind and passionate romance. Michael was very charming and considerate. I never met anyone like him before. In March 2008 we began having sexual relations.

He told me that he did not wish to invite me home as yet or go public with the relationship because he was recently divorced with two young daughters who would be distressed by having someone else in his life so soon. For the same reason, he asked me to text him on his cellular phone to see if it was convenient to talk. I accepted Michael's explanations and for these reasons I did not visit Michael at home and I rarely called him there and only if he texted me back

saying it was a convenient time. For these reasons we met at a hotel when we had sex.

Within a few weeks of the relationship Michael told me that he wanted a committed relationship. He offered to move me into a furnished apartment for which he would pay the rent. I accepted this invitation and moved into the apartment in April 2008.

On May 17, 2008 I heard from Patricia Envy, my friend and co-worker that Michael was still married. When he came to visit me that night I confronted him about what I had heard. He confessed it was true but told me his marriage was unhappy and that he needed me. He left when I refused his advances and asked him to leave. He left saying that in no time I would "beg him" to return.

After the quarrel I decided to return the keys to the apartment to Michael as I did not wish him to have any hold on me. I called him at work on May 18, 2008 and asked him to meet me at the apartment urgently. I intended to return the keys and to show him that I had left everything in order but did not tell him this was so to ensure that he turned up. I knew in his state of mind he would not take kindly to my returning the keys to the apartment.

Michael arrived at my house at approximately 8:30 p.m that night. We were alone in the house. He made sexual advances. I told him I was serious about the breakup and attempted to give him the keys for the apartment. He realized that I was serious about the break-up and became very angry and pulled me to the bedroom.

I had never seen him like that and did not expect him to use force on me at all. I told him repeatedly I did not wish to have sex with him any longer. Michael kept saying "I know that you don't mean no" and all I wished was for him to show me that he still loved me. At one point he threatened to tell my employer at the Spa

that I was in a relationship with him and this would cost me my job because this was against the rules. He angrily pinned me to the bed and overcame my resistance. He then had sex with me without my consent.

I did not fight or scream because I still loved Michael and was totally overwhelmed at his unexpected behavior but I kept saying no. I broke down in tears, but Michael's response was to the effect that he knew that deep down inside I still wanted him and the relationship to continue. He left the apartment without taking the keys.

The next day, May 19, 2008 at work in the morning I received a bouquet of roses with an unsigned gift card with Michael's hand writing saying "I am so sorry if I hurt you I never meant to". **WITNESS SHOWN A CARD.** This is the gift card. **Gift card admitted as Exhibit 1.** I became so upset at the reminder of the trauma. I reported sick and left work with the bouquet and card.

I took home the roses and gift card. I spent the next few days at home in emotional conflict as to whether to go to the police and where to go to live. I still loved Michael and did not wish to destroy his family and career. On Sunday, May 23, 2008 my colleague from work Patricia Envy came to visit me at my apartment. She noticed the roses and the card and asked me about it. I broke down in tears and for the first time reported what happened. I told her that Michael Jack had raped me because I broke up with him. She encouraged me to report the matter to the police and to return home to my grandmother.

I reported the matter at the Matilda's Corner Police Station that same night. They sent me to the rape unit where I was examined by a doctor. I did not submit any clothing because by that time I had already discarded the clothing. That weekend I returned home to my grandmother.

On May 24, 2008 I attended the Matilda's Corner Police Station where I saw and I identified Michael Jack to the police.

Cross examination

My grandmother was not pleased that I left the house to be in a relationship with Michael. It is true that I did not offer to return any of the expensive gifts from Michael nor did I refuse any. I knew I was breaching the rules of the Spa in having the relationship with him. Yes it is true that when we had sex it was sometimes forceful. Yes I had a good relationship with his assistant, Miss Faithful. There was nothing said between us about his marriage. When I heard he was married I did tell both (him and her) on the phone that "His wife should know who he really is". That was not a threat to tell her. It was an expression of sympathy for his wife whom he had deceived.

Signed: *Felicia Gentle*
Date: 6/12/2009

Signed: *Raymond Richards*
Resident Magistrate
for the Corporate Area
Date: 6/12/2009

**AND THIS DEPONENT: PATRICIA ENVY
ON HER OATH SAITH AS FOLLOWS**

My name is Patricia Envy I am a masseuse at Relax Spa and Salon. I have worked there for 3 years. I live at 6 Golden View, Kingston 11.

I know Mr. Michael Jack. I was his masseuse for several years prior to February 2008. We had a good professional relationship and he would feel comfortable talking to me about his problems. He would talk to me about his marriage. He told me he loved his wife but he was unhappy with their sex life and that she paid more attention to the children and the house than him. I would counsel him.

I met Felicia Gentle when she came to work at the Spa in January 2007. We became friends quickly and I would visit her occasionally. I visited her at her expensive apartment when she moved there. I suspected that she was obtaining financial assistance but did not enquire into her private business. I became aware that Mr. Jack began to use her as his masseuse. However, I was unaware that they had struck up a relationship initially.

On May 17, 2008 I was at lunch with Felicia at a restaurant. She was in the restroom when her cell phone rang and I answered it. I recognized the voice of Mr. Jack who, apparently thinking that it was Felicia who answered he referred to me as "darling". I told him that it was not Felicia and I would have her return his call. He did not give his name and neither did I indicate who I was. When Felicia returned to the table I told her about the call. I told her that just in case she did not know she should be careful with her heart because Mr. Jack was married. She appeared shocked and admitted that she was having a relationship with him. It is against the rules of the Spa for employees to have relationships with clients and dismissals had occurred in the past for this.

On May 23, 2008 I went to visit Felicia at her apartment as it was the end of the weekend. I could not help but notice roses with a gift card because they were prominent in her entertainment area. I read the gift card because it did not appear to be concealed. I asked her about the contents of the gift card because I was concerned about my friend. I assumed that it was Mr. Jack who had hurt her. She broke down in tears and told me that he had raped her at the apartment because she wished to break up with him. I counseled her to go immediately to the police and to return to her grandmother's house. I accompanied her to the Matilda's Corner Police Station.

Cross-examination

Yes I am a single mother of two. Tips were important to my earnings. Mr. Jack tipped well. It is true that I did not notice anything unusual in Miss Gentle's behaviour in the week of May 17, 2008. I did not encourage Miss Gentle to break off the relationship despite the rules of the Spa.

Signed: 
Date: 6/12/2009

Signed: *Raymond Richards*
Resident Magistrate
for the Corporate Area
Date: 6/12/2009

**AND THIS DEPONENT: DANIELLE MIGHTY
ON HER OATH SAITH AS FOLLOWS:**

I am a Constable of police stationed at the Matilda's Corner Police Station.

On May 23, 2008 at approximately 8:50 p.m a Miss Felicia Gentle came to the police station accompanied by a Miss Patricia Envy. She reported a case of rape against a Mr. Michael Jack, the General Manager of "High Rollers Bank "with whom she said she had an affair

As a result of this report, I took a statement from her and Miss Envy and requested her clothing at the time. She indicated that she had already discarded the clothing in disgust. I accompanied her to Dr. Gilian Smith at the Rape Unit who examined her. I told her to return the next day to the police station after work at about 6:00 p.m.

On May 24, I telephoned Mr. Jack and told him of the allegations. I did not go to his work place so as not to embarrass him. He told me on the phone that he knew Miss Gentle but that he never had sex with her. I asked him to meet me at the station at approximately 6:00 p.m. When he arrived at the station Miss Gentle was there and she identified him. He responded by saying that he had nothing to hide. He admitted then to having an affair with her. He said he lied earlier to me for fear of embarrassment and shame to his family and the bank. I showed him the card Exhibit 1 and he admitted sending it. He said he sent because he broke off the affair.

He went on to say "I am now prepared to stand up to Miss Gentle and her manipulation. I made a mistake by having an affair but all of this is happening because I ended the affair. Hell hath no fury like a woman scorned".

I then arrested, charged and cautioned the accused. In response to the caution he said "I have said all that I have to say now. The truth will set me free."

Signed: *Danielle Mighty*
Date: 6/12/2009

Signed: *Raymond Richards*
Resident Magistrate
for the Corporate Area
Date: 6/12/2009

**AND THIS DEPONENT: GILLIAN SMITH
ON HER OATH SAITH AS FOLLOWS:**

My name is Gillian Smith I am a registered practitioner. On May 23, 2008 I was at the Rape Unit at the University Hospital of the West Indies where I worked when Constable Mighty and a young lady named Felicia Gentle came to my examination room. I was told something and given a history.

I examined her in the presence of Constable Mighty. Her vagina was normal. The Hymen was not present. Her vagina admitted two gloved fingers. I formed the opinion that she was sexually active. There was also some tenderness to her stomach area and above her wrists. There was slight bruising to the inner thighs. Those were my findings.

Signed: *Gillian Smith*
Date: 6/12/2009

Signed: *Raymond Richards*
Resident Magistrate
for the Corporate Area
Date: 6/12/2009

STATEMENT OF MICHAEL JACK

Michael Jack states:

I am 47 years old, General Manager of "High Rollers" Bank. I am happily married to Francine Jack, with two daughters aged 12 and 15 years old.

I met Miss Gentle at the Relax Spa and Salon. My job is stressful and I had been going there over a period of time to get therapeutic massages. I met Miss Gentle for the first time in February 2008 and we struck up a rapport quickly. I was attracted to her as she was to me. She did my massages since then.

We began to date. I explained to Miss Gentle that I was happily married with two daughters so that she understood that if we were to enter into a relationship my marriage came first. On this understanding we began a relationship. We met at a hotel because she understood that it had to be a secret relationship because I would not leave my wife.

It was a passionate relationship. I wished to have an exclusive relationship with her and so I rented a furnished apartment for her. I would meet her at the apartment. I also purchased expensive jewelry and other gifts for her regularly.

Within a short time Miss Gentle became demanding. She wanted me to leave my marriage. I became extremely anxious about where this behavior could lead and although I still loved her decided to break off the relationship.

On May 17, 2008 in the night I went to the apartment and tried to break it gently to her that I could not see her any longer. I told her that she need not rush herself to leave the apartment. She became enraged and accused me of using her. I left immediately on seeing her behavior because I felt she was not in a state to listen to reason.

On May 18, 2008 Miss Gentle called my office in a distressed tone. She threatened to tell my wife everything unless I came to see her there that same night. I thought the situation was getting out of control and so I agreed.

When I arrived, Miss Gentle begged me to make love to her for a last time and she would leave me alone. I initially resisted but she came on to me so strongly and the sex between us was usually good so I was unable to resist my natural response. We had sex by consent. I left believing that the situation had been worked out and she accepted that we could not have a relationship.

The next day, May 19, 2008 I sent her roses with a gift card with a note from me saying "I am so sorry if I hurt you. I never meant to". I was referring to the emotional hurt I felt she was going through because I broke up with her.

On May 24, 2008 I received a call from Constable Danielle Mighty who informed me on the phone that Miss Gentle had alleged that I had raped her at the apartment. I was so shocked that although I admitted knowing Miss Gentle I denied having sex with her. I agreed to go to the police station later that day. I went there and saw her there. Constable Mighty again informed me of the allegation. I then told him that we did have an affair but at no time did I have sex with her without her consent. I was arrested and charged for rape.

I note Patricia Envy's evidence. She was my masseuse before Miss Gentle. I trusted her but not enough to discuss my marriage. I used to tip Miss Envy handsomely which she was very grateful for as she said, she was single mother. I noticed that after I started using Miss Gentle she stopped talking in a friendly way to me at the Spa although I was still warm to her.

Signed: *Michael Jack*

STATEMENT OF EVE FAITHFUL

Eve Faithful states:

I am the Executive Assistant for Mr. Michael Jack, General Manager, "High Rollers" Bank. I was initially his secretary when he was a Supervisor and stayed with him through to Deputy General Manager and then General Manager. I have worked with him approximately ten years.

My work area is immediately next to the entrance door to Mr. Jack's office. If voices are raised in the office I can hear from where I am positioned. Mr. Jack's wife calls him frequently and I would transfer the calls. Mr. Jack always takes her calls no matter how busy he is if even to say to her personally that he will call her back. I have never heard him raise his voice in a conversation with her. She would visit without notice and I frequently sent her flowers on his instructions with gift cards.

During the 10 years I have worked with Mr. Jack, I have never seen evidence of his having an affair before February 2004. I receive all his calls and so I would detect this easily.

In or about March, 2008 I noticed that Mr. Jack was receiving numerous calls from a Felicia Gentle who did not wish to indicate the nature of her business. Mr. Jack authorized me to send through the calls. He had ordered gifts for her through me that month. Later that month he introduced me to the young lady when she came to visit the office. After she left he confessed that he was having an affair with her.

I struck up a telephone relationship with Miss Gentle after this because she apparently realized I could be trusted. I would order gifts and pay rent to the landlord for the apartment in cash given to me by Mr. Jack. She was particularly delighted to get expensive gifts.

Miss Gentle was not all what she appeared to be. In telephone conversations she would try to get information from me about Mr. Jack's personal life especially his relationship with his wife. I am therefore sure, based on these conversations, that she was aware that he was married. One day in a telephone conversation in a half joking but half serious tone she said "One day I'll be your boss' wife instead of that bitch". After a while the telephone calls became too numerous and started interfering with both our jobs. Mr. Jack was becoming irritated. I tried to warn her to be more discreet and less overbearing but she ignored me.

On May 18, 2008 she called in a distressed state because she said Mr. Jack had broken up with her.

I advised Mr. Jack of Miss Gentle's mood before I transferred the call. He called me in the office and put her on the speaker phone. I heard her threaten to tell his wife everything unless he came there to see her that night.

Signed: *Eve Faithful*