



JUDICIARY OF
ENGLAND AND WALES

R v Paul Gadd

Sentencing Remarks of HHJ Alistair McCreath

Southwark Crown Court

27th February 2015

1. Approach

- 1.1 The offences for which I must pass sentence today took place many years ago at a time when, in particular in respect of one of them, the maximum sentence was considerably lower than that which is now available and at a time when the sentencing climate was less severe than it now is.
- 1.2 There is clear guidance as to how I should approach this task, set out in Annex B to the Sexual Offences Definitive Guideline.
- 1.3 I set them out, to the extent that they are relevant to your case.
- 1.4 I must sentence you in accordance with the sentencing regime applicable today, not at the date of the offence. But I am limited to the maximum sentence available at the time of the offence.
- 1.5 I must assess the seriousness of the offence and must be guided as to that by the current guideline which offers assistance to me in the assessment of harm and culpability, as well as giving broad ranges into which sentences should appropriately fall.
- 1.6 I must consider the relevance of the passage of time carefully and decide whether that is an aggravating, mitigating or neutral factor. There may be cases where a lack of offending in the meantime, coupled with evidence of positive good character, might offer some mitigation. Yours is not such a case. You have in fact committed offences since those before me today – your convictions of 1998 for downloading indecent images of children. Further I can find no real evidence that you have done anything in the intervening 40 or so years to atone for these crimes. I shall say a little more about this later. I do, however, accept that this is not a case where the sentence falls to be increased by reason of the passage of time, as might be appropriate where, for

example, an offender has put his victim in fear of the consequences of reporting what happened to her.

2. Applying the Guideline

- 2.1 Where it is necessary to do so, I must consider how the offences you committed would be characterised under modern legislation and modern guidelines.
- 2.2 As to Count 1, given that the victim was 8 years old and you were in a position of trust towards her, the appropriate starting point under the current guidelines would have been 13 years for a full offence of rape but somewhat less given that this was an attempt at rape. There are aspects of this offence (and all the other offences you committed) which make them particularly serious, justifying an increase from the starting point in each case. The maximum sentence available to me on Count 1, however, is one of 7 years imprisonment; that was the decision of Parliament in 1956 when the relevant legislation was passed.
- 2.3 As to Counts 3 and 4, involving digital penetration of the victim's vagina and an act of oral sex upon her, the modern offence would have been assault of a child under 13 by penetration. This also involved a breach of trust. Under the modern guideline, the appropriate starting point would have been 6 years, against a modern maximum of life imprisonment. The maximum sentence, however, for this offence in 1977 and therefore the maximum sentence available to me today is one of 5 years imprisonment.
- 2.4 Count 6 is in a different category. This involved full sexual intercourse with a girl of 12. Under the modern law, this would have amounted to an offence of rape of a child under 13. Given the breach of trust involved in this offence and the fact that the incident lasted for an entire night, the starting point would have been 13 years. The maximum sentence for the historic and modern offences is the same, life imprisonment. The prosecution and the defence are both agreed that the sentencing principles which apply in this case do not permit me to pass a life sentence.
- 2.5 Counts 9 and 10, charged as indecent assaults, have as their modern equivalent the offences of sexual activity with a child. Here again there was breach of trust as well as a significant disparity in age. The maximum sentence available to me for this conduct is 2 years. This is a sufficient penalty, even under the modern guidelines.

3. The harm caused by these offences

- 3.1 The assessment of the harm caused by sexual offending is not easy in the immediate, or near immediate, aftermath of it. But where the offending took place many years ago, it is a great deal easier.

3.2 I have read the impact statements of all three victims. It is clear that in their different ways they were all profoundly affected by your abuse of them. You did all of them real and lasting damage. And you did so for no other reason than to obtain sexual gratification for yourself of a wholly improper kind

4. Totality

4.1 Since these offences were committed against different victims on different occasions, there can be no doubt but the sentences for each group of offences should be consecutive.

4.2 I recognise, however, that I must take care to ensure that the overall sentence you must serve is just and proportionate.

4.3 Accordingly, as I hope will be understood by those who were your victims and by the wider public it is not the individual sentences that ultimately matter. What matters is the total overall sentence, designed to reflect the totality of all of your offending.

5. Count 1

5.1 This was on any view a truly appalling offence. An 8 year old child, a friend of your daughter, was an overnight guest in your home. You went to the room in which these two little girls were sleeping together in a double bed and you made a determined, although ultimately unsuccessful, attempt to rape her. You did so in the presence, sight and hearing of your own daughter. You caused that child deep harm which has persisted throughout her life. It is difficult to overstate the depravity of this dreadful behaviour.

6. Counts 3, 4 and 6

6.1 The 12 year old victim came with her mother to one of your concerts. You invited them both to your hotel and created a situation in which her mother was taken out of your suite of rooms to another place, leaving you with this sexually inexperienced child. All of this happened because and only because of your fame. You kept her in your room all night. You penetrated her vagina with your finger and performed oral sex on her. You had full sexual intercourse with her. She was 12. You were in your 30's. She also has been greatly damaged by this. You gave no thought to the harm you were doing her. Your only thought was for yourself.

7. Counts 9 and 10

7.1 The 13 year old victim of these offences visited your dressing room after a performance. She was left alone with you for a few minutes. You put

her on your lap, you kissed her in a manner that was sexual and touched her vagina, albeit over her clothing. She was an extremely vulnerable child for reasons of which I accept you knew nothing. But I'm quite sure that even if you had known it would have made no difference to you. Whether you knew of her vulnerability or not, your abuse of her caused her particular harm.

8. The mitigation

- 8.1 It is urged on me that I should recognise and give credit for the fact that when you committed the present offences, you were then of good character. Whilst I recognise the fact, it cannot in the circumstances of this case carry any or any significant weight.
- 8.2 I acknowledge that you are no longer young – you are soon to reach the age of 71. As your counsel recognises, this cuts both ways. You have had the benefit of living for nearly 40 years unconvicted of these offences. It cannot carry any weight.
- 8.3 I note that in 2011 you sought out professional help to understand your sexual attitudes and behaviour. After two or three months of treatment, you were re-assessed and found to have benefitted from it and to present a lower risk.
- 8.4 Thereafter, you were permitted to travel abroad. You were now able to present yourself as having what is described as a “treated profile”.
- 8.5 I am in no position to decide what your true motivation was in seeking this treatment, whether it was to come to terms with your past and to change your attitudes and behaviour or it was to persuade the authorities to allow you to travel abroad.
- 8.6 But one thing is certain and important in the context of this sentencing exercise. Whatever changes may have been effected in you by this treatment, they did not include any admission at all on your part of the wrong that you had done, in particular of the offences of which you now stand convicted.
- 8.7 That is why I said earlier in these remarks that I find no evidence of atonement on your part.
- 8.8 As to the other matters of mitigation advanced on your behalf, I have given them such weight as I can.

9. The sentences

- 9.1 The offence of attempted rape was so serious as to justify under the old sentencing regime the maximum available sentence. It hardly needs stating that under the modern regime, 7 years would be a lenient

sentence. But it is all that is available to me. That is the sentence which I pass on Count 1.

- 9.2 On Counts 3 and 4, the sentences are 4 years imprisonment. On Count 6 the sentence is one of 8 years imprisonment. In passing that sentence, I have kept in mind the principle of totality. These sentences will run concurrently with each other but consecutively to the sentence on Count 1.
- 9.3 On Counts 9 and 10, the sentences are 12 months concurrently on each count but consecutive to the other sentences.
- 9.4 The total sentence is, therefore, one of 16 years imprisonment.

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